

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
Informational Statement
LCB FILE NO. R097-23
(NRS 649 Collection Agencies and Debt Buyers)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code (“NAC”) Chapter 649, Collection Agencies and Debt Buyers.

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

The regulation is required as a result of the passage of Senate Bill 276 (“S.B. 276”) during the 82nd Session of the Nevada Legislature. Existing law governs collection agencies and authorizes the Commissioner of the Financial Institutions Division to adopt regulations for the administration and enforcement of existing law.

This regulation is needed for the Division to administer, carry out and enforce the provisions of S.B.276.

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 August 23, 2023, via email, the Division notified 530 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 649, or directly restrict the formation operation, or expansion of a small business that is subject to NRS 649.

In response to the August 23, 2023 solicitation, the Division’s record reflects receipt of forty (40) small business impact surveys. Nine (9) with comments, twelve (12) responded N/A, and nineteen (19) 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 531 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 R097-23 on December 21, 2023. On December 22, 2023, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R097-23, 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 577 individuals, this included its licensees and persons on the rulemaking contact list. The adoption hearing was held on January 25, 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: 61

Testified at the workshop: 6

Submitted written comments: 1

Attendees that signed in at the January 25, 2024 hearing: 35

Testified at the hearing: 1

Submitted written comments: 1

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 #
Andrew Madden	ACA International	madden@acainternational.org
Andrew Pavlik	ACA International	pavlik@acainternational.org
Brian Partridge	Law Office of James R. Vaughan, P.C.	brian@recoveryatty.com
Christina Baker	ACA International	baker@acainternational.org
Colin Winkler	ACA International	winkler@acainternational.org
David Reid	RMAI	Dreid@rmaintl.org
Denise Bauler	CBE Companies	DENISE.BAULER@CBECOMPANIES.COM
Elaine Robledo	GC Services	elaine.robledo@gcserve.com
Fred Wasserspring	Lyon Collection Services	FredW@lyoncredit.com
Jaime Barthel	Professional Service Bureau, Inc.	jaimethel@psbmars.com
James Palmieri	JNR ADJUSTMENT COMPANY	james.palmieri@jnrcollects.com
Jenna Leigh Guyton	Americollect	jennaleigh.guyton@americollect.com
Jon (Marietta) Tromboli	TRS Recovery Services	jon.trimboli@fiserv.com
Katy Zillmer	ACA International	zillmer@acainternational.org
Kelly McCarthy	LoanCare, LLC	kelly.mccarthy@loancare.com
Lindsey Carlston	Professional Service Bureau, Inc.	lindsey.carlston@psbmars.com
Lisa Eastman	Armada Corp of Nevada	leastman@armadacorp.com
Mitchell Guthrie	PlusFour Inc	mguthrie@plusofurinc.com
Patricia Robinson	Szabo Associates, Inc.	probinson@szabo.com
Rajeesh Ramakrishnan	First Credit Services, Inc.	rramakrishnan@fcsbpo.com
Randy Neff	Szabo Associates, Inc.	rneff@szabo.com
Roberta Ohlinger-Johnson	Creditors Rights Attorney Association of Nevada	Robertaohlinger@guglielmolaw.com
Robin Szabo	Szabo Associates, Inc.	robin@szabo.com
Ryan Hassen	Credit Management Company	rhasen@creditmanagementcompany.com
Sara Disher	Meridian	Sdisher@merid.com
Stephanie Hazel	Compu-Link Corporation dba Celink	Stephanie.Hazel@celink.com
		abtomolo@gmail.com
		ana.maxim@credigy.net
		b.partridge@gmail.com
		barthel.jaime@prosb.net
		charlie.fields@pnmac.com
		irma.reyes@fiserv.com
		jen.evancic@resourcemanagement.com
		jhoffman@studentloan.org
		jyoung@bpcollect.com
		khintz@mccarthyholthus.com
		laura.mcshane@cardworks.com
		lviana@pmscollects.com
		michelle.roberts@cardworks.com
		mmapes@awacoll.com
		mpillar@szabo.com
		pbaird@conserve-arm.com
		robert@rsalawaz.com
		robertao@guglielmolaw.com
		sanastassatos@yahoo.com
		scott@jnrcollects.com
		ty.riha@dcmserve.com
		+14023****79
		+14023****79
		+14072****00
		+15599****17
		+15599****17
		+15852****66
		+16142****21
		+17025****39
		+17703****26
		+18002****52
		+18002****52
		+18134****78
		+18593****61
		+18595****13

Attended the January 25, 2024, hearing:

Name	Company or Organization	Email/Phone #
Andy Madden	ACA International	madden@acainternational.org
Brian Partridge	James R. Vaughan PC Law Office	brian@recoveryatty.com
David Reid	Receivables Management Association International	dreid@rmaintl.org
Denise Bauler	The CBE Group, Inc.	DENISE.BAULER@CBECOMPANIES.COM
Lindsey Carlston	PSB	lindsey.carlston@psbmars.com
Lisa Eastman	Armada Corp of Nevada	LEASTMAN@ARMADACORP.COM
Michael Chatelle	Clark County Collection Service	mikechatelle@cccscollect.com
Noni Ross	Grant Mercantile Agency, Inc.	noni@grantmercantile.com
Pat Robinson	Szabo Associates, Inc.	probinson@szabo.com
Randolph Neff	Szabo Associates, Inc.	rneff@szabo.com
Tanya Spurbeck NV Debt Collection Regs		tanyaspurbeck@gmail.com
Yvonne Garcia	Progressive Management SYstems	yvonne@pmscollects.com
		abtomolo@gmail.com
		areli@carraranv.com
		cameron.conroy@navient.com
		cgeil@sos-nv.com
		david.spotts@cardworks.com
		jeannettec@sourcepointmortgage.com
		leo.kendall@mcmcg.com
		leonid.pelts@atradius.com
		michelle.roberts@cardworks.com
		mpillar@szabo.com
		sarah.mullesch@simplicated-inc.com
		sherah.petrarca@caine-weiner.com
		susan.appel@unifund.com
		team@ferrariireeder.com
		ygarciapmscollects.com
		zillmer@acainternational.org
		+15162****06
		+16122****25
		+16262****41
		+17028****86
		+17703****26
		+17752****63
		7026****93

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 21, 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 industry’s biggest concern was the increase in licensing, certificates, and application fees. Even though the increase was minimal and not increased since the current regulation was adopted in 2006, the Division removed the increase for collection agencies and reduced the increase for the compliance managers.

Some comments were toward clarifying language for current statutory language or regulation.

Some comments were more directed towards S.B.276 and not the proposed regulations.

Beneficial effects. The industry is in favor of removing the need to license each branch location and a license required for the main location. The other comments were more directed towards S.B. 276 and not the proposed regulations.

(b) Both immediate and long-term effects.

The immediate effect or long-term economic effect on regulated entities and to the public is the industry is in favor of removing the need to license each branch location and a license required for the main location.

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

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. The Division does not foresee the need for any additional funding or budget increase.

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 Division is proposing a minimal increase in the compliance manager's application and certificate fees, within the allowable amount per statute.

The 1st Year → \$52,160 (Based on the application fee of \$450 and initial licensing fee of \$35.00 for 40 new compliance managers and a certificate renewal fee of \$35 for 936 current certificate holders).

The 2nd Year → \$34,160 (Based on yearly renewal fee of \$35 for excepted 976 certificate holders).

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement, operate, and enforce, and not to over burden small business with high and unnecessary fees.

(Note: all figures provided above are best estimates and/or approximations based on information currently available)

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of November 2, 2023 Workshop on R097-23

Exhibit C – Minutes of January 25, 2024 Adoption Hearing on R097-23

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 SENATE BILL (SB) 276
COLLECTION AGENCIES- DEBT BUYERS
September 12, 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 those engaged in or who desire to engage in the business of extending credit 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 649 and known interested parties. In turn, the Division solicited comments on the proposed regulations for Senate Bill 276 (S.B.276) 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 on 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 and analysis of the authorizing statutory language S.B.276 and 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:

The industry's biggest concern was the increase in licensing, certificates, and application fees. Even though the increase was minimal and not increased since the current regulation was adopted in 2006, the Division removed the increase for collection agencies and reduced the increase for the compliance managers.

Some comments were toward clarifying language for current statutory language or regulation.

Some comments were more directed towards S.B.276 and not the proposed regulations.

(II) BENEFICIAL EFFECTS:

The industry is in favor of removing the need to license each branch location and a license required for the main location. The other comments were more directed towards S.B. 276 and not the proposed regulations.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

The industry's biggest concern was the increase in licensing, certificates, and application fees. Even though the increase was minimal and not increased since the current regulation was adopted in 2006, the Division removed the increase for collection agencies and reduced the increase for the compliance managers.

Some comments were toward clarifying language for current statutory language or regulation.

Some comments were more directed towards S.B.276 and not the proposed regulations.

(II) INDIRECT EFFECTS:

The indirect effect comments more directed towards S.B.276 and not the proposed regulations or just needed clarification, which was provided in the small business impact spreadsheet.

(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 530 small business questionnaires to all known interested parties. It received a total of forty (40) responses to the solicitation. Nine (9) small businesses provided comment, twelve (12) responded with N/A or no impact, and nineteen (19) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed all submitted comments and addressed those comment in the attached summary of response spreadsheet. Some of the comments were more directed towards S.B. 276 and not the proposed regulation, the Division cannot change current law but has drafted the proposed regulation to mitigate concerns from the industry and provide clarification.

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

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. 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.

The Division is proposing a minimal increase in the compliance manager's application and certificate fees, within the allowable amount per statute.

The 1st Year → \$52,160 (Based on the application fee of \$450 and initial licensing fee of \$35.00 for 40 new compliance managers and a certificate renewal fee of \$35 for 936 current certificate holders).

The 2nd Year → \$34,160 (Based on yearly renewal fee of \$35 for excepted 976 certificate holders).

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

(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 the passage of new legislation, S.B. 276. The Division can only lessen the impact on small business by proposing regulation that provides clarification to the industry. The regulation itself 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.



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

<u>NRS 649- Debt Buyers- 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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Will be able to easily add an additional branch location, with the removal of separate branch licensing and renewals.	2 (22.2%)	Direct	Beneficial	No response is required since this comment does not have an adverse impact on small business.
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NAC 649.076 - should be "reasonable and actual" expenses for out of state travel excluding meals and lodging. With the significant increase in fees, meals and lodging should not be an agency expense.	1 (11.1%)	Direct	Adverse	Current regulation allows for these expenses, the new language is providing clarification of the costs the Division may charge a licensee. The licensee does have a choice for the Division to travel onsite to the licensed location or for the Division to conduct the examination in Nevada, unless the licensee is operating with extreme weaknesses and/or at an unsatisfactory level. The reasonable
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				expenses are based off the U.S. General Services Administration (GSA) rates for the travel destination.
Negative financial impact to pay more in fees and costs. Price increases across the board	3 (33.3%)	Direct	Adverse	The Division has not raised the licensing fees since the current fee rates were adopted in 2006. However, after considering comments from small businesses and considering the changes in SB276, which makes all collection agencies the same, thereby, raising the foreign collection agency fees to collection agency fees, the Division will not increase the collection

				agency fees and will reduce the increase for the compliance managers.
Additional paperwork and personnel time to comply with Section 23. Suggest allowing a collection agency to attest that the training and oversight was provided.	1 (11.1%)	Indirect	Adverse	The added requirement creates minimal additional paperwork. The training and documentation of such training is an important compliance step for the collection agency to take.
Sections 7-8 provide both the agency and the remote worker with precise and accurate requirements for remote work and maintaining compliance. Opening up a remote workforce allows new opportunities with current and prospective client portfolios. Revisions of NRS Chapter 649 to permit work from home.	3 (33.3%)	Indirect	Beneficial	No response is required since this comment does not have an adverse impact on small business and permitting remote work is in Senate Bill 276 and not the proposed regulation.

<p>Section 7.3 Many collection agencies have had remote workers in place for more than a year, many of which are in locations which are not close to a branch location. These workers already have been trained, supervised, and monitored in a remote location. Bringing them to a facility to conduct in person training for 7 days adds a burden without significant impact. It would be appropriate to "grandfather" these agents and agencies and waive the "direct oversight and mentoring from a supervisor for at least 7 days" [which we interpret as in-person] for all workers who have been in such remote conditions for more than 30/60/90 days prior to the effective date of the proposed regulations.</p> <p>It would be beneficial to clarify 7 days- does it mean 7 consecutive intervals of eight hours; 7 random intervals of eight hours; any 7 occasions, regardless of duration.</p>	<p>1 (11.1%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>Section 7.3 is in reference to Senate Bill 276 (SB276) and not the proposed regulation. The Division cannot change the language in SB 276.</p> <p>Nevada temporarily allowed collectors to work from home during the COVID-19 pandemic until July 31, 2021. All collectors contacting Nevada consumers and/or collecting on behalf of Nevada clients were required to return to the licensed location on August 1, 2021.</p> <p>The Division interprets this section to mean 7 consecutive 8-hour working days.</p>

<p>Along with overwriting the collection manager requirement for each location and consolidation all the responsibilities under one universal compliance manager relieves financial burden and personnel resources in licensing/renewal process</p>	<p>1 (11.1%)</p>	<p>Direct</p>	<p>Beneficial</p>	<p>The language in Senate Bill 276 and the proposed regulation still requires a compliance manager for each licensed location. The language no longer requires each branch location to be licensed.</p>
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<p>Section 7- NAC 649.081. Would cause a burden to require report of financial standing prepared by accountant.</p>	<p>1 (11.1%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>Current regulation NAC 649.081 already requires a licensed certified public accountant to prepare the financials. The only change the proposed regulation is making to this section is to remove "foreign collection agency" and "certificate" since all collection agencies will be licensed the same and the Division will no longer issue certificates to "foreign</p>
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				collection agencies" but will issue a license as a collection agency.
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Why charging local/domestic small companies more for applications and renewals? The foreign/out of state companies should be charged more.	1 (11.1%)	Indirect	Adverse	Senate Bill 276 removed foreign collection agencies from chapter NRS 649. All out-of-state companies will be licensed as a collection agency, the same as in-state companies. All licensees will be charged the same fees.
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<p>Section 15- Prohibits a compliance manager to work for both a primary and secondary collection agency at the same time, which is inconsistent with NRS 649.305(2)</p>	<p>1 (11.1%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>The Division does not believe the language in current regulation to be inconsistent with the new provisions from Senate Bill 276/NRS 649.305(2). Each licensed collection agency must maintain a licensed compliance manager. The Division would license a primary or secondary location, these are not necessarily branch locations nor does this language prohibit a licensed debt buyer to share a compliance manager with an unlicensed affiliated debt buyer who was approved by the Division to share the license.</p> <p>The section you are concerned</p>
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				<p>with, NRS 649.305(2): Section 15 subsection 3, states, in part, except as otherwise provided in subsection 2 of section 30 of Senate Bill 276(SB276). Subsection 2 of section 30 of SB276 states "a compliance manager must not be employed as a compliance manager by more than one collection agency or employed by a collection agency and an exempt entity at the same time. A compliance manager may be simultaneously employed as a compliance manager by a collection agency and an affiliate of that collection agency."</p> <p>NAC 649.030 "Primary collection agency"</p>
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				<p>defined. “Primary collection agency” means any collection agency which is not a secondary collection agency.</p> <p>NAC 649.040 “Secondary collection agency” defined. (NRS 649.053) “Secondary collection agency” means a collection agency which engages directly or indirectly in the solicitation or encouragement of debtors to pay delinquent debts directly to the debtors’ creditors through the use of machine-derived form letters.</p>
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<p>Lumping collection agencies with debt buyers is not fair. Eliminate collection agencies from this and make it only apply to debt buyers.</p>	<p>1 (11.1%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>Adding debt buyers with collection agencies in NRS 649 was done by the Legislators in Senate Bill 276 and not the proposed regulation. The Division cannot change the language in SB 276.</p>
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SBI Response Summary:
Total Known Interested Parties Solicited: 530

Total Responded with Comments: 9
Total Responded with N/A: 12
Total Responded with over 150 Employees (outside the small business threshold): 19
Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 499

% Responded/Total Solicited (40/530): 7.55%
% Responded with Comments/Total Comments Impacting SBI (9/499): 1.80%

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 S.B.276- NRS/NAC 649**

Date: Thursday, November 2, 2023

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 workshop to consider S.B.276 was called to order Thursday, November 2nd at 10:03 a.m. The purpose of the workshop was to receive input with respect to the proposed regulations pertaining to Chapter 649 of the Nevada Administrative Code ("NAC"), as provided by Senate Bill No. 276, 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:

Sections 3 and 4. There were no comments received on Sections 3 or 4.

Sections 5, 6, 7, and 13. There was one (1) comment received on Section 7.

- Brian Partridge, Law Office of James R. Vaughan. Section 7. The trust account requirement states “as applicable” would like clarification.

Mary Young, FID. “As applicable” is for collection agencies that are collecting on behalf of another, which does not apply to debt buyers. It ties in to SB276, section 34, subsection 5.

Sections 8 through 12. There were no comments received on Sections 8-12.

Sections 14, 15, 16, 17, 19, 20, 21, and 22.

There were two (2) comments received for section 14:

- Andy Madden, ACA International. Would like clarification that the compliance manager must be at the principal place of business, will they be required to be physically onsite at all times, even if all or most collectors are working remotely, or would virtual means satisfy this requirement?

Mary Young, FID. Yes, the compliance manager along with the top officers will be required to be full-time at the physical principal place of business. This is similar to the prior requirement for qualified managers to be at the principal place of business full-time.

- Colin Winkler, ACA International. Regarding “direct supervisory responsibility” for the compliance manager under section 14.1. He doesn’t recall this language in the statute.

Mary Young, FID. This language is current language in the regulation. FID left it as is and did not change this section.

There was one (1) comment received for section 15:

- Brian Partridge, Law Office of James R. Vaughan. Concerned section 15 in regulation requires FID approval for the compliance manager to oversee multiple affiliated entities but SB 276 states that they may.

Mary Young, FID. FID is repealing section 15. NAC 649.220.

Sections 18, 23, 24, and 25.

There were written comments and verbal comments provided for these sections.

Written comments received prior to the workshop:

- The question was “If collection agents and the collection agency are always contacting Nevada debtors from the principal place of business, are they relieved from complying with sections 23, 24, 25, and the associated sections in SB276.”

FID response: These sections are for remote workers only and not for those working at the licensed commercial place of business. Therefore, compliance with sections 23 and 24 are only necessary for remote workers. Section 25 applies to all recorded calls, whether recorded from a remote location or at the principal place of business.

Comments provided during the workshop:

- Robin Szabo, Szabo Associates, stated that FID comments just clarified his questions.
- Fredrick Wasserspring, Lyon Collection Services. Section 18. The term “insured” for depository institutions. Have we gone to the banks to determine what amounts are insured?

Mary Young, FID. It depends on how the account is set-up. We will get back to you. Got back to Mr. Wasserspring via email advising him to contact his bank to make sure how his specific accounts are set-up, if its trust account or for-benefit-of account or some other account.

Sections 26, 27, 28, and 29.

There were no comments received on Sections 26, 27, 28 or 29.

Sections 30 and 31.

- Brian Partridge, Law Office of James R. Vaughan. Section 31, it doesn’t address the bond amount for affiliates sharing a license. The bond is set on the amount held in the trust account but if a debt buyer doesn’t have a trust account, how is this calculated? Is it just for the licensee.

Mary Young, FID. The bond goes by the trust account. It would go by the activity of what our licensee is doing. Some of our licensees do both purchasing debt and third-party collections, it could be all trust accounts together. The max of the surety bond is \$60,000 so a lot of our licensees may choose to get the max amount to be on the safe side. It’s based upon the trust account balances so it will be based upon what we see during an examination or application.

- David Reid, Receivables Management Association International. Wants to make sure he is on the same page as FID regarding affiliates. That passive debt buyers may share a license with affiliated businesses and share a compliance manager. The intent was to allow all the affiliates to share if they did not engage in any collection agency activity except for debt buying.

Mary Young, FID. One manager per licensed entity, the licensed manager goes with the license location. A licensed debt buyer may share a license with affiliated passive debt buyers. It will be based upon each business model.

David Reid, Receivables Management Association International. Concerned about distinguishing debt buyers from collection agencies, when there are multiple closely-affiliated entities involved, with only one entity holding the license.

Mary Young, FID. In general, to be a debt buyer, the entity fully (100%) has to own the debt. In cases of closely-affiliated entities, with some being mere pass throughs with no employees, a case-by-case determination may have to be made in terms of looking at the business model to make sure the correct entity is getting licensed.

David Reid, Receivables Management Association International. Follow-up regarding the compliance manager being onsite full-time.

Mary Young, FID. We didn't change the language in current regulation. A compliance manager must be at the licensed location to oversee the day-to-day operations of the collection agency. A lot of our agencies choose to have a secondary manager to cover vacations and have a back-up but that is a business decision.

Agenda Item 4. Public Comments:

- Fredrick Wasserspring, Lyon Collection Services. Are there any other means on becoming a compliance manager besides testing? He believes there is a compliance program.

Mary Young, FID. SB276 created an exemption for a compliance manager to obtain certification from a non-profit organization instead of taking a test. We don't endorse a specific company, but it has to comply with statute, and we will review the certification. You can contact us to see if the certificate will comply.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Senate Bill 276 and Chapter 649 of the Nevada Administrative Code was closed and adjourned on November 2, 2023, at 10:44 a.m.

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.nv.gov)

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations S.B.276- NRS/NAC 649**

Date: Thursday, January 25, 2024

Time: 1:00 p.m.

Locations:

Physical in-person location:

Nevada State Business Center, Tahoe 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 S.B.276 was called to order Thursday, January 25, 2024, at 1:01 p.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations pertaining to Chapter 649 of the Nevada Administrative Code ("NAC"), as provided by Senate Bill No. 276, 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:

The Division received a comment regarding the requirement for the compliance manager to be available in person at the licensed physical principal place of business instead of working remotely. Prior to SB276, NRS 649 did not allow collectors, the designated manager or the management staff to work remotely. The designated manager was always required to be available full-time at the licensed location. With the changes SB 276 made to NRS 649, collectors are now allowed to work remotely but SB276 did not change the requirement for the managers to be available full-time at the licensed location. The title change for a manager from “qualified manager” to “compliance manager” did not change this requirement. The Division will keep the language in the regulation that compliance managers cannot work remotely, they must be at the licensed place of business. Since this requirement didn’t change NRS 649, agencies must comply with this requirement as they always have.

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

Sections 1 through 10. There were no comments received on Sections 1 through 10.

Sections 11 through 18. There were no comments received on Sections 11 through 18.

Sections 19 through 26.

- David Reid, Receivables Management Association International (RMAI). RMAI was a strong proponent of SB276, and he would agree that the proposed rules generally consistent with SB276. RMAI requests flexibility with enforcement with the compliance manager being at the physical location. The compliance manager goes to lunch, takes vacation, they get sick, go to business conferences. He is sure the intent was not to make the compliance manager be always handcuffed to their desks. He won’t disagree with the interpretation of working from home but hopes FID will have some flexibility and understanding that the with the compliance manager will not being at the desk every single second of the workday. It’s been a pleasure working with FID and the Nevada Legislator. Thank you.

Mary Young, FID. It has been a pleasure to work with you as well. To follow-up on your comment, prior to SB276, there was a requirement for the qualified manager to be at the licensed location, full-time. It’s a business decision on how an agency will comply. We have seen some of our licensee choose to get a secondary manager to fill in the voids for long term absences or vacations. We understand and don’t expect managers to sit at their desk and not take lunch. This is not a new requirement; the change was the title of the manager.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R097-23, which pertains to Chapter 649 of the Nevada Administrative Code, as described in the Legislative Counsel Bureau draft dated December 21, 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 R097-23 pertaining to Senate Bill 276 and Chapter 649 of the Nevada Administrative Code was closed and adjourned on January 25, 2024, at 1:25pm

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 \(nv.gov\)](#)



January 17, 2024

Via Electronic Delivery to fidmaster@fid.state.nv.us

Department of Business and Industry
Financial Institutions Division
3300 West Sahara Avenue, Suite 250
Las Vegas, Nevada 89102

**Comments regarding the proposed adoption of permanent
regulations that pertain to Chapter 649 of the
Nevada Administrative Code (“NAC”)**

Dear Commissioner O’Laughlin:

On behalf of ACA International, the Association of Credit and Collection Professionals, I would like to thank the Financial Institutions Division (“Division”) for providing an opportunity to provide comments on the proposed adoption of permanent regulations that pertain to Chapter 649 of the Nevada Administrative Code.

I. About ACA

ACA International is the leading trade association for credit and collection professionals, representing approximately 1,700 members, including credit grantors, third-party collection agencies, asset buyers, attorneys and vendor affiliates in an industry that employs nearly 125,000 employees worldwide.

ACA members include the smallest of businesses operating in a single state and the largest of publicly held, multinational corporations that operate in every state. Most ACA member debt collection companies, however, are small businesses. According to a recent survey of our

membership, approximately 44 percent of ACA member organizations have fewer than nine employees. Nearly 85 percent of members have 49 or fewer employees and 93 percent of members have 99 or fewer employees.

ACA also represents a diverse workforce. Women comprise nearly 70 percent of the total debt collection workforce, which is itself ethnically diverse. Racial and ethnic minorities account for 31 percent of the total U.S. workforce, but nearly 42 percent of debt collection employees. We are uniquely positioned to connect with, and serve, consumers of all backgrounds.

II. Requested changes to the proposal

ACA respectfully requests the Division consider modifying Section 17 of the proposed regulations and provide additional guidance to the industry as it relates to physical onsite requirements for the Compliance Manager.

The proposed regulation states:

- 1. The person who holds a valid **compliance** manager's certificate and who is the designated **compliance** manager of a collection agency must have direct supervisory responsibility for employees who engage in collections in this State and must participate in the actual **[management, operation and administration] oversight and compliance** of the **[licensed] collection** agency.*
- 2. The **compliance** manager must be available in person at the **principal place of business [address]** of the agency in order to perform his or her required functions and duties.*

Many agencies operate with an entirely remote team of collection agents and managers. This is enabled through secure technology that allows an agency and its compliance team to maintain direct supervision of employees engaging in collect activities. In this now common workplace scenario, would the Division require the compliance manager to be physically onsite at the principal place of business even if there are no collection agents present?

Section 8 of SB276 the legislation states:

- 1. The remote location from which a collection agent works must: (a) Be capable of providing the same degree of oversight and monitoring of the collection agent as if the collection agent was working in the principal place of business or a branch office of the collection agency;*
- 5. A remote location from which a collection agent works shall be deemed to be an extension of the principal place of business or branch office to which the collection agent*

is connected pursuant to paragraph (b) of subsection 1 for the purposes of this chapter and any other relevant purposes.

Would the Division consider a remote location for a compliance manager “to be an extension of the principal place of business” for the purposes of this regulation and any other relevant purposes?

A compliance manager working from a remote location would still be required to comply with all applicable federal and state laws. A remote compliance manager would still be required to comply with all provisions of this proposed regulation, including, without limitation, NRS 649.335, and the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. 2. All security requirements in the proposed regulation would apply to a compliance manager working from a remote location. All remote calls would still be recorded and monitored in real time on a regular basis as required by the proposed regulation. Additionally, each compliance manager holding a compliance manager’s certificate would still be required to notify the Commissioner in writing of any change in his or her residence address within 10 days after the change.

There would not be any reduction in compliance requirements or consumer protections if a compliance manager worked from a remote location and this approach would be in line with industry remote work standards and mirror the approach taken in other states. The Division could even consider adding a provision that would require a compliance manager to be available in person as needed including during any examinations.

If the Division will not consider a compliance manager’s remote location as an extension of the principal place of business, would the Division consider providing additional guidance or “Frequently Asked Questions” to help the industry best comply with the physical onsite requirements.

ACA requests additional guidance on how agencies should handle situations where a compliance manager needs to leave the physical office or is unable to get to the physical office. How should an agency handle:

- A situation where a qualified manager needs to work from a branch office location for any period of time;
- Unexpected absences (short term and long term);
- Anticipated absences (vacation, maternity/paternity leave, training, conferences);
- Short absences throughout a normal workday; and
- A situation where the compliance manager is unable to get to the physical office (shelter-in-place order, natural disaster, road closures...)?

Providing additional guidance in these areas would go a long way in providing clarity on intent and creating consistency for industry.

Thank you for considering these comments and requests. If you have any questions, please feel free to contact me.

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Submitted by:

Andrew Madden
Vice President Government and State Affairs
ACA International
madden@acainternational.org

DRAFT PROPOSED REGULATION OF THE

COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION ("Division")

The following document is the initial draft regulation proposed by the Division. The Division solicited comments from the industry on the proposed regulations pursuant to NRS 233B.0608(1) to determine whether the regulations would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The Division considered all comments and addressed the industry's biggest concern, which was the increase in licensing, certificates, and application fees. The Division revised the fee sections to lessen the financial burden.

The revisions and/or omissions are in the following proposed regulations.

Purpose: To adopt regulations under the Nevada Administrative Code to implement Senate Bill No. 276 (2023), which amends Nevada Revised Statutes Chapter 649 by adding provisions related to debt buyers.

Authority: NRS 649.053

Explanation: Material in *blue bold italics* is new language; material in ~~bold brackets~~ is to be omitted from current regulation. All comments received from the small business impact notice were considered but not all could be addressed. The matters addressed are referenced in this draft as *italics* for revised and matters in brackets ~~omitted material~~ is language to be omitted.

Section 1. *Chapter 649 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 31, inclusive, of this regulation.*

Sec. 2. *NAC 649.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 649.013 to 649. ____, inclusive have the meanings ascribed to them in those sections and sections 2 through 5 of Senate Bill No. 276 and sections 3 and 4 of this chapter.*

Sec. 3. *“Principal place of business” means the physical location where the compliance manager, officers and senior management direct the collection agency business, oversee the day-to-day operations of the collection agency, and all books and records are maintained.*

Sec. 4. *“Affiliate” used in this chapter and Senate Bill 276, has the meaning ascribed to it in NRS 649.375 (2)(a).*

Sec. 5. ~~*[NAC 649.017 “Foreign collection agency” defined. (NRS 649.053) “Foreign collection agency” means a person or entity which holds a certificate of registration pursuant to NRS 649.171.]*~~

Sec. 6. NAC 649.076 Examination, investigation and audit of ~~[foreign]~~ collection agencies. (NRS 649.053, ~~[649.171]~~)

1. A ~~[foreign]~~ collection agency shall allow the examination, investigation or audit of any accounts, books and records by the Commissioner of Financial Institutions at any time. The Commissioner may revoke the ~~[certificate] license~~ of a ~~[foreign]~~ collection agency that does not allow him or her to conduct an examination, investigation or audit of any accounts, books and records.

2. In addition to all fees required by this chapter and chapter 649 of NRS, a ~~[foreign]~~ collection agency shall pay the *reasonable expenses for travel, meals and lodging* ~~[for the actual costs]~~

for travel in connection with any examination, investigation or audit *made at an office or principal place of business located outside this State* conducted by the Commissioner.

Sec. 7. NAC 649.081 Preparation and submission of trust account statements and reports of financial standing. (NRS 649.053, 649.056, ~~649.171,~~ 649.345) Each collection agency ~~and~~ ~~[foreign collection agency]~~ shall provide to the Commissioner of Financial Institutions, annually and before renewal of its license ~~[or certificate, as applicable]~~, a copy of all trust account statements, *as applicable*, and a report of its financial standing which must be prepared by a licensed certified public accountant who is in good standing in the state where the report is prepared.

~~Sec. 8. [NAC 649.086 Public inspection of written instruments filed with Division of Financial Institutions. (NRS 649.053, 649.065) Except as otherwise provided in NAC 649.310 or by specific statute, all papers, documents, reports and other written instruments filed with the Division of Financial Institutions of the Department of Business and Industry pursuant to this chapter and chapter 649 of NRS are open to public inspection unless the Commissioner of Financial Institutions determines that the information is required to be withheld to protect the public welfare or the welfare of a collection agency, foreign collection agency or manager, as applicable.]~~

Sec.9. NAC 649.120 Collection agencies: Fees. (NRS 649.053, 649.295)

1. An application for licensure as a collection agency must be accompanied by a nonrefundable application fee of ~~[\$375] [\$500]~~ \$375
2. The applicant must pay an additional application fee of ~~[\$300] [\$600]~~ \$300 for each ~~[original]~~ license issued. ~~[, of which not more than \$150 may be refunded by the Commissioner of Financial Institutions on a prorated basis if:~~

~~—(a) The applicant withdraws his or her application before the Commissioner takes action on the application;~~

~~—(b) The Commissioner deems the application withdrawn pursuant to NRS 649.196 because the applicant did not submit all required information and fees within the time specified; or~~

~~—(c) The licensee surrenders his or her license during his or her first year of licensure.]~~

3. A collection agency shall pay *a license renewal fee of \$375* ~~[\$500]~~ ~~[the following fees:~~

~~—(a) To renew a license, \$375;~~

~~—(b) For a duplicate license or a license for a transfer of location, \$15;~~

~~—(c) For each application for a permit to operate a branch office of a licensed collection agency, \$190; and~~

~~—(d) To renew a permit to operate a branch office of a licensed collection agency, \$150.]~~

Sec. 10. ~~[NAC 649.130 Branch offices: Filing and contents of application for permit to operate. (NRS 649.053, 649.167) An application for a permit to operate a branch office must be filed with the Commissioner of Financial Institutions on a form provided by the Commissioner. The application must contain:~~

~~—1. The information required by subsection 2 of NRS 649.095 for an application for a license;~~

~~—2. The number of the account maintained pursuant to subsection 2 of NRS 649.355, and the name and address of the bank where the account is maintained; and~~

~~—3. Proof that the manager named in the application holds a current manager's certificate issued by the Commissioner of Financial Institutions.]~~

Sec. 11. ~~[NAC 649.140—Branch offices: Appointment of Commissioner of Financial Institutions as agent for service of process. (NRS 649.053, 649.167)~~

~~—1.—The Commissioner of Financial Institutions will not issue a permit to operate a branch office for which the manager is not a resident of this State until the manager has appointed in writing the Commissioner to be his or her agent, in any action or proceeding against him or her concerning chapter 649 of NRS, upon whom all process may be served. In this writing, the manager must agree that any process against the manager which is served on the Commissioner is of the same legal validity as if it had been served on him or her and state that the appointment continues in force as long as any liability remains outstanding against him or her in this State. The appointment must contain a stipulation agreeing to venue for any proceeding concerning chapter 649 of NRS in any judicial or administrative district in this State without regard to the location of the residence of the manager or the principal place of business of the collection agency. The appointment must be acknowledged before an officer authorized to take acknowledgments of deeds and must be filed in the office of the Commissioner. A copy of the appointment which is certified by the Commissioner is sufficient evidence of the appointment and agreement.~~

~~—2.—When any process is served upon the Commissioner pursuant to this section, the Commissioner shall mail the process by certified mail to the last known address of the manager. Service is complete upon the mailing. The manner of serving process described in this subsection does not affect the validity of any other service authorized by law.]~~

Sec. 12. NAC 649.151 *Compliance* Managers: Fees. (NRS 649.053, 649.205, 649.295)

1. An application for a *compliance* manager's certificate must be accompanied by:
 - (a) A nonrefundable fee of ~~[\$190] [\$500];~~ \$300; and

- (b) A nonrefundable investigation fee of ~~[\$115]~~ **\$150**
2. An applicant must pay an additional application fee of ~~[\$30]~~ ~~[\$40]~~ **\$35** for issuance of the certificate.
 3. The annual renewal fee for a *compliance* manager's certificate is ~~[\$30.]~~ ~~[\$40]~~ **\$35**
 4. For each *compliance* manager's certificate that is reinstated, the holder of the certificate shall pay a fee of ~~[\$45.]~~ ~~[\$60]~~ **\$50.**
 5. An applicant who does not pass the examination and wishes to reapply must pay a reexamination fee of \$100 for each subsequent examination.

Sec. 13. ~~[NAC 649.160—Foreign collection agencies: Fees; reinstatement of expired or revoked certificate; transferability of certificate. (NRS 649.053, 649.171)]~~

~~—1.—An application for a certificate of registration as a foreign collection agency must be accompanied by an application fee of \$500. The Commissioner of Financial Institutions may refund not more than \$300 of the fee on a prorated basis if:~~

~~—(a) The applicant withdraws his or her application before the Commissioner takes action on the application;~~

~~—(b) The Commissioner withdraws the application because the applicant did not submit all information and fees within the time specified; or~~

~~—(c) The foreign collection agency surrenders its certificate of registration during its first year of registration.~~

~~—2.—The holder of a certificate of registration as a foreign collection agency must pay a fee of \$200 to renew the certificate of registration.~~

~~—3.—A certificate of registration as a foreign collection agency must not be reinstated after it expires or has been revoked by the Commissioner.~~

~~—4.— A certificate of registration as a foreign collection agency is not transferable.~~

Sec. 14. NAC 649.210 Responsibilities. (NRS 649.053, 649.056, 649.305)

1. The person who holds a valid *compliance* manager's certificate and who is the designated *compliance* manager of a collection agency must have direct supervisory responsibility for employees who engage in collections in this State and must participate in the actual *oversight and compliance* ~~[management, operation and administration]~~ of the licensed agency.
2. The *compliance* manager must be available in person at the *principal place of* business ~~[address]~~ of the agency in order to perform his or her required functions and duties.

Sec.15. NAC 649.220 Restrictions on service for multiple agencies. (NRS 649.053, 649.056)

1. No person may serve as *compliance* manager of more than one primary collection agency at the same time.
2. No person may serve as *compliance* manager of more than one secondary collection agency at the same time.
3. *Except as otherwise provided in subsection 2 of section 30 of Senate Bill 276, [A#]* at the discretion of the Commissioner of Financial Institutions, upon application and his or her written approval first obtained, a *compliance* manager of a collection agency may serve as *compliance* manager of one primary collection agency and one secondary collection agency at the same time.
4. The approval may be revoked by the Commissioner at any time, if he or she finds that:
 - (a) Confusion may exist in the mind of the public in dealing with the collection agencies having common management.
 - (b) The various business functions of the collection agencies operating under common management are likely to be or are being merged or commingled, or are otherwise being

conducted, in the Commissioner's opinion, in a manner which may be deleterious or damaging to the best interests of the public or the collection agency industry.

(c) Improper or abusive collection methods are being used by either or both of the collection agencies operating under common management.

(d) Either or both of the collection agencies operating under common management are not conducting their affairs in compliance with chapter 649 of NRS or any of the regulations of the Commissioner adopted under that chapter.

(e) Insufficient time is being devoted by the manager to the affairs of one or the other collection agencies operating under common management.

Sec. 16. NAC 649.230 Notification of change of employment. (NRS 649.053, 649.056)

Each *compliance* manager holding a manager's certificate issued pursuant to chapter 649 of NRS shall notify the Commissioner of Financial Institutions in writing of any change of employment within 10 days after the change.

Sec. 17. NAC 649.260 Use of fictitious names. (NRS 649.053, 649.056, 649.365)

1. A collection agency, or its *compliance* manager, agents or employees, shall not use a fictitious name in the collection of a debt unless that name has been filed with the Commissioner of Financial Institutions on a form provided by the Commissioner.

2. A *compliance* manager, agent or employee who has filed for the use of a fictitious name shall not use that fictitious name in association with another collection agency unless the Commissioner of Financial Institutions has been notified in writing of the change in association.

~~— [3. The Commissioner of Financial Institutions shall, within 5 days after receiving a form or notice pursuant to this section, acknowledge its receipt.]~~

Sec.18. NAC 649.270 Depositories used for maintenance of certain separate accounts. (NRS 649.053, 649.056, 649.355) Each bank or credit union in which a collection agency maintains a separate account for purposes of NRS 649.355 must be insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to ~~NRS 678.755~~ NRS 672.755.

Sec. 19. NAC 649.310 Failure to file verified answer to complaint; confidentiality of complaint and certain related information. (NRS 649.053, 649.067, 649.385)

1. If a collection agency, ~~foreign collection agency~~ or person with a *compliance* manager's certificate, or an authorized representative of that collection agency ~~foreign collection agency or manager,~~ fails to file a verified answer to a complaint within the time prescribed by the Commissioner of Financial Institutions pursuant to NRS 649.385, the collection agency, ~~foreign collection agency~~ person with a *compliance* manager's certificate, or manager 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 in NRS 649.067 or other specific statute, a complaint filed with the Division of Financial Institutions of the Department of Business and Industry, any documents filed with the complaint, and any report or information resulting from an investigation of a complaint are confidential.

Sec. 20. NAC 649.320 Revocation or suspension of license: Violation of certain provisions of federal law. (NRS 649.053, 649.395) The Commissioner of Financial Institutions will consider a violation by any collection agency, *compliance manager* or collection agent of any of the provisions of 15 U.S.C. §§ 1692b to 1692j, inclusive, as those sections existed on July 1, 1986, to be an act or omission inconsistent with the faithful discharge of the duties or obligations of a

collection agency, *compliance manager* or collection agent and grounds for the suspension or revocation of the license of the collection agency, *compliance manager* or collection agent.

Sec. 21. NAC 649.330 Revocation or suspension of license or certificate: Violation of certain regulations or statutes; procedures. (NRS 649.053, ~~649.171~~, 649.215, 649.395) The Commissioner of Financial Institutions may revoke or suspend the license of a collection agency ~~[the certificate of registration of a foreign collection agency]~~ or a *compliance manager*'s certificate if the collection agency, ~~[foreign collection agency]~~ or *compliance manager* violates any provision of this chapter or *chapter 649 of NRS* ~~[NRS 649.305 to 649.375, inclusive]~~, including, without limitation, a provision that imposes a fee or assessment. A revocation or suspension of a license or certificate must be made in accordance with the procedures set forth in chapter 649 of NRS.

Sec. 22. NAC 649.340 Fine for failure to submit required report. (NRS 649.053, 649.297) The holder of a license or a *compliance manager*'s certificate who fails to submit a report required pursuant to this chapter or chapter 649 of NRS on or before the applicable due date for the report will be fined \$10 per day until the report is properly submitted to the Commissioner of Financial Institutions.

Sec. 23. *For purposes of section 7 of Senate Bill 276, upon request from the Office of the Commissioner, the collection agency shall provide to the Division the signed agreement, the training program provided to the collection agent, including the dates the collection agent received the training, the dates the collection agent received direct oversight and mentoring from a supervisor, and the date the collection agent begun working from a remote location.*

Sec. 24. *Upon request from the Office of the Commissioner, the collection agency shall provide to the Division, its documented plan, policies and procedures for compliance with section 8 and 9 of Senate Bill 276.*

Sec. 25. *Upon request from the Office of the Commissioner, the collection agency shall provide to the Division, any recorded telephone calls, including the record of collection agents who are authorized to work from a remote location with the information required in section 10 subsection 4 of Senate Bill 276.*

Sec. 26. *The physical principal place of business of a licensee must be located in the United States and comply with NAC 649.250.*

Sec. 27. *A collection agent of a licensee working from a remote location must be located in the United States.*

Sec. 28. *For the purposes of section 26.5 subsection 4 of Senate Bill 276, the certifications must be valid and satisfactory to the Commissioner in order for the Commissioner to waive the compliance manager examination.*

Sec. 29. *The Commissioner may request any information or documentation deemed necessary to perform an examination or investigation of an applicant, licensee or certificate holder.*

Sec. 30. *For the purposes of section 6 and 49 of Senate Bill 276, the unique identifier license number and certificate numbers shall be posted on the home page of the collection agencies website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents.*

Sec. 31. 1. *For the purposes of section 18 subsection 4 of Senate Bill 276:*

- (a) Subject to subsection (b) of this section, a licensed debt buyer may share a single license with affiliated debt buyers, if those affiliates are passive debt buyers and do not employ persons to collect claims.*
- (b) A licensee must receive prior approval from the Division to add any such affiliate to its license.*
- (c) A licensee must submit a listing of its affiliated companies with the annual report of conditions due on April 15th, and at any time requested by the Commissioner.*
- (d) A licensee sharing its license with an affiliate is responsible and liable for the actions of its affiliate if those affiliates violate any provision of this chapter or chapter NRS 649, during that time that the licensee is affiliated with any such affiliate.*
- (e) A licensee must promptly request the Division remove an affiliated company from its license.*