

**ADOPTED REGULATION OF THE COMMISSIONER  
OF FINANCIAL INSTITUTIONS**

**LCB File No. R101-01**

Effective November 15, 2001

**NOTICE OF ADOPTION OF REGULATION**

The Financial Institutions Division of the Nevada Department of Business and Industry adopted the regulations assigned LCB File No. R101-01 which pertain to chapter 677 of the Nevada Administrative Code on October 1, 2001. A copy of the regulations as adopted is attached hereto.

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

AUTHORITY: §§1-10, NRS 677.247 and 677.380.

**Section 1.** Chapter 677 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

**Sec. 2.** *“Commissioner” has the meaning ascribed to it in NRS 677.065.*

**Sec. 3.** *“Deposit” has the meaning ascribed to it in NRS 677.075.*

**Sec. 4. 1.** *Before the commissioner will approve a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247, the licensee must, in addition to satisfying the requirements of subsection 2 of NRS 677.247:*

*(a) Create and maintain reserves of not less than 5 percent of deposits in a form set forth in subsection 1 of NRS 677.230;*

*(b) File with the commissioner a fidelity bond pursuant to NRS 677.170 that provides fidelity coverage on each officer, director and employee of at least \$300,000;*

*(c) Maintain stockholders' equity of not less than \$500,000 plus an additional \$50,000 for each branch office of the thrift company of the licensee;*

*(d) Agree to forego entering into a contract for the insurance of deposits with a private insurer that is an affiliated business organization unless the contract has been approved by the commissioner and the commissioner of insurance; and*

*(e) Comply with any applicable provisions of federal law.*

*2. If the commissioner withdraws his approval from a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 because a licensee or private insurer who is a party to the contract violates a provision of this chapter or chapter 677 of NRS, the licensee or private insurer may request a hearing before the commissioner. The commissioner will schedule and hold such a hearing pursuant to chapter 233B of NRS.*

*3. If the commissioner of insurance withdraws his approval from a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 because a licensee or private insurer who is a party to the contract violates a provision of Title 57 of NRS or the regulations adopted pursuant thereto, the licensee or private insurer may request a hearing before the commissioner of insurance pursuant to NRS 679B.310.*

*4. As used in this section:*

*(a) "Affiliated business organization" means a business organization, including, without limitation, a corporation or partnership that controls, is controlled by or is under common control with the business organization of a licensee.*

*(b) "Stockholders' equity" has the meaning ascribed to it in NRS 677.125.*

**Sec. 5. 1. Before the commissioner will approve a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247, a private insurer must:**

**(a) Be licensed in this state by the commissioner of insurance;**

**(b) Be rated within one of the five highest rating categories by a national rating service or hold a certificate of authority as an acceptable surety on federal bonds issued by the Secretary of the Treasury pursuant to 31 C.F.R. § 223.3; and**

**(c) Agree to:**

**(1) Submit quarterly and annual financial statements to the commissioner and the commissioner of insurance;**

**(2) Maintain an investment portfolio that includes assets of sufficient liquidity to reimburse depositors fully and promptly for any losses which the depositors may incur, including, without limitation, cash, reinsurance and lines of credit; and**

**(3) Create and maintain reserves of not less than 15 percent of the amount of the insured deposits in the form of:**

**(I) Cash;**

**(II) United States treasury bills or notes;**

**(III) Short-term certificates of deposit;**

**(IV) Money market accounts;**

**(V) Lines of credit; or**

**(VI) The investments set forth in NRS 355.140.**

**2. As used in this section, “short-term” means having a maturity of 2 years or less.**

**Sec. 6. 1.** *In determining whether a private insurer is acceptable to issue a contract for the insurance of deposits, the commissioner will consider:*

- (a) The value of the insurer's capital;*
- (b) The qualifications of the directors, officers and managers of the insurance company;*
- (c) The insurer's articles of incorporation and its bylaws and all amendments thereto;*
- (d) The insurer's policies for investments; and*
- (e) The form of all insurance contracts entered into by the insurer, including contracts for reinsurance.*

**2.** *After a private insurer obtains the approval of the commissioner and the commissioner of insurance to issue a contract for the insurance of deposits, the commissioner, after consultation with the commissioner of insurance, may, for cause, require the insurer to establish and maintain, for such a time as the commissioner may require, an additional reserve, in cash or United States treasury bills or notes, in an amount fixed by the commissioner. If required, the reserve must be kept in an account approved by the commissioner in a federally insured financial institution located in this state.*

**Sec. 7. 1.** *A licensee who has obtained a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247 shall, before accepting a deposit from a person, require that person to sign and date a form which contains a disclosure written in substantially the following form:*

*Your deposit is not insured by the Federal Deposit Insurance Corporation or any other federal or state entity. The deposits with this thrift company are insured only by a private insurer. The name of the private insurer that is*

*insuring your deposit is.....(insert name of private insurer). You are advised to fully consider this issue before depositing money with this company.*

*2. The disclosure set forth in subsection 1 must be printed in at least 8-point bold type.*

*The licensee may place the disclosure on a form that contains other information if the block for the signature and date are in close proximity to the text of the disclosure.*

*3. The licensee shall:*

*(a) Provide a copy of the form with the signed disclosure to each person who deposits money with the thrift company of the licensee;*

*(b) Retain the original form with the signed disclosure for at least 6 years after the form is signed;*

*(c) Present the original or a copy of the disclosure upon request by the commissioner or an employee of the division of financial institutions designated by the commissioner;*

*(d) Post a placard with the disclosure printed on it in at least 14-point bold type:*

*(1) At the main entrance to the principal office and each branch office of the thrift company of the licensee; and*

*(2) In a conspicuous place at each teller's window located at the principal office and each branch office of the thrift company of the licensee; and*

*(e) Comply with any other applicable disclosure requirements set forth in federal law.*

**Sec. 8.** *The commissioner may request that the commissioner of insurance:*

*1. Conduct an examination, in the manner set forth in chapter 679B of NRS, of a private insurer that issues a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247; and*

*2. Report the results of the examination to the commissioner within 60 days of receipt of such a request.*

**Sec. 9.** *1. A private insurer that issues a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 shall notify the commissioner within 3 business days after the private insurer has knowledge of any change:*

*(a) In the ownership of 10 percent or more of the outstanding voting stock of the private insurer if the private insurer is a corporation; or*

*(b) Of the partners of the private insurer if the private insurer is a partnership.*

*2. Within 60 days after receipt of a notice of change pursuant to subsection 1, the commissioner will approve or disapprove the continuance of the insurance of deposits by the private insurer.*

*3. If the commissioner disapproves the continuance of the insurance of deposits by the private insurer, the private insurer may request a hearing before the commissioner. The commissioner will schedule and hold such a hearing pursuant to chapter 233B of NRS.*

**Sec. 10.** NAC 677.010 is hereby amended to read as follows:

677.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 677.020 to 677.110, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS  
AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
LCB FILE NO. R101-01**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 677.

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

LCB File No. R101-01 was noticed by sending out a “Notice of Workshop to Solicit Comments on Proposed Regulation” to all licensed thrift companies in the State of Nevada on July 12, 2001. LCB File No. R101-01 was also noticed by sending out a “Notice of Intent to Act Upon a Regulation” to all licensed thrift companies in the State of Nevada on August 14, 2001 (in addition to the public postings as required by law). Written comments were allowed with respect to both the workshop and the public hearing that were held. No written comments were received. The only oral testimony relating to the proposed regulation was in full support thereof. No specific comments were obtained. A copy of the minutes from said meetings may be obtained by calling the Financial Institutions Division of the Department of Business and Industry at (775) 684-1830 or by writing to: Commissioner L. Scott Walshaw, Financial Institutions Division, 406 East Second Street, Suite 3, Carson City, Nevada 89701-4758.

**2. The number of persons who:**

- (a) **Attended each hearing:** Workshop – 1 person; Public Hearing – 2 people.
- (b) **Testified at each hearing:** Workshop – 1 person; Public Hearing – 2 people.
- (c) **Submitted to the agency written comments:** None.

**3. 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.**

By letter dated July 12, 2001, the Financial Institutions Division mailed a request for comment to all licensed thrift companies in the State of Nevada. No written comments were received. The only comments obtained were verbal ones in support of the proposed regulation at the workshop and at the public hearing. However, no detailed response was obtained. A copy of the small business impact statement and the minutes from the workshop and the public hearing may be obtained by calling the Financial Institutions Division of the Department of Business and Industry at (775) 684-1830 or by writing to: Commissioner L. Scott Walshaw, Financial Institutions Division, 406 East Second Street, Suite 3, Carson City, Nevada 89701-4758.

**4. 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 regulation was adopted with the changes recommended by the LCB. No further changes were warranted as the only comments received were in support of the LCB changes.

**5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each must include:**

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

#### EFFECTS ON THRIFT COMPANIES

The Financial Institutions Division does not believe that the proposed regulation will have any adverse immediate or long-term effects on the thrift companies that it regulates. The Financial Institutions Division already has the authority to charge a specific licensee for any special audit, examination, or investigation that it conducts. NRS 677.435; NAC 677.310(4). Any regulation in this area can only apply to one licensee because of the grandfather provision set forth in NRS 677.247(2)(a).

The Financial Institutions Division believes that the regulation will have a beneficial effect on the one thrift company that will now be able to accept deposits using a private insurer of deposits, which may increase the business of the one thrift company.

The Division does not believe that that examination fees will increase immediately or in the long-term because of this regulation.

#### EFFECTS ON THE PUBLIC

The regulation may have a beneficial immediate and long-term effect on the public by allowing more choices of depository institutions. The Division does not believe that there are any adverse effects to the public as the regulation sets forth clear standards for the requirements of the private insurer of deposits.

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

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

**7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There is no overlap or duplication of other state or local law. To a certain extent, the proposed regulations may overlap with 12 U.S.C. § 1831t(b) (2001) (relating to notices required of depository entities having private insurance for deposits). In general, there may be an overlap of the other requirements of 12 U.S.C. § 1831t (2001). The regulating federal authority over 12 U.S.C. § 1831t (2001) is the Federal Trade Commission. The overlap of state and federal regulations are necessary to further protect the public. For example, the Financial Institutions Division is requiring certain disclosures that the federal law does not require.



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

The proposed regulation does not contain provisions more stringent than federal law.

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

This regulation does not provide or involve a new fee, so there is not a total amount expected to be collected or used.