

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

LCB File No. R132-08

August 15, 2008

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

AUTHORITY: §§1 and 2, NRS 649.053, 649.056 and 649.205; §§3 and 5, NRS 649.053 and 649.056; §4, NRS 649.020 and 649.053; §§6 and 11, NRS 649.053; §§7 and 8, NRS 649.053 and 649.295; §9, NRS 649.053, 649.205 and 649.295; §10, NRS 649.053 and 649.171.

A REGULATION relating to collection agencies; providing requirements for the confidentiality of financial records; revising definitions related to collection agencies; providing requirements for the collection of interest; revising certain fees; repealing provisions requiring certain individuals to obtain exemptions; and providing other matters properly relating thereto.

Section 1. Chapter 649 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *Notwithstanding the provisions of NAC 649.086, any application and financial records submitted by a person pursuant to the provisions of this chapter or chapter 649 of NRS, any financial records or other documents submitted by a licensee pursuant to an audit or examination conducted by the Division of Financial Institutions of the Department of Business and Industry and any report of examination by the Division are confidential and may be disclosed only to:*

1. The Division;

2. *An authorized employee of the Division who needs the records for purposes relating to the administration of this chapter or chapter 649 of NRS; or*

3. *A person or governmental entity that is authorized to obtain the records pursuant to an order issued by a court of competent jurisdiction.*

Sec. 3. *All holders of a certificate of registration as a foreign collection agency must maintain their accounts, books and records in accordance with the requirements of subsections 2, 3 and 4 of NRS 649.355.*

Sec. 4. *A person who purchases an assignment of a claim is a collection agency pursuant to this chapter if:*

1. *The person purchasing the claim has any obligation to make payments to the seller of the claim after the assignment is made; and*

2. *The person purchasing the claim seeks to make collection or obtain payment of the claim.*

Sec. 5. *If a licensee intends to charge interest authorized by law when the contract with the debtor is silent as to the intent to charge interest, the licensee must:*

1. *Maintain a complete copy of the contract creating the debt in its files prior to the collection of any interest;*

2. *State in clear and unambiguous language that interest will be collected in the collection contract with the customer and must state how that interest is to be distributed; and*

3. *Disclose the amount of interest collected on the claim to the customer in its written accounting pursuant to NRS 649.334.*

Sec. 6. *NAC 649.017 is hereby amended to read as follows:*

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649.017 "Foreign collection agency" means a person or entity which holds a certificate of registration pursuant to NRS 649.171 ~~and is a citizen of the United States or lawfully entitled to remain and work in the United States.~~

Sec. 7. NAC 649.060 is hereby amended to read as follows:

649.060 1. The Commissioner of Financial Institutions will charge and collect a fee of ~~1560~~ \$100 per hour from each collection agency for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 649 of NRS.

2. The Commissioner will bill each collection agency upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. In addition to any other fee allowed by this chapter or chapter 649 of NRS, and except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus 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.

3. Failure of a collection agency to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 8. NAC 649.120 is hereby amended to read as follows:

649.120 1. An application for licensure as a collection agency must be accompanied by a nonrefundable application fee of ~~375~~ \$500.

2. The applicant must pay an additional application fee of ~~300~~ \$600 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 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 license during his first year of licensure.

3. A collection agency shall pay the following fees:

(a) To renew a license, ~~[\$375;]~~ \$500;

(b) For a duplicate license or a license for a transfer of location, ~~[\$15;]~~ \$20;

(c) For each application for a permit to operate a branch office of a licensed collection agency, ~~[\$190;]~~ \$250; and

(d) To renew a permit to operate a branch office of a licensed collection agency, ~~[\$150;]~~ \$500.

Sec. 9. NAC 649.151 is hereby amended to read as follows:

649.151 1. An application for a manager's certificate must be accompanied by:

(a) A nonrefundable fee of ~~[\$190;]~~ \$500; and

(b) A nonrefundable investigation fee of ~~[\$115;]~~ \$150.

2. An applicant must pay an additional application fee of ~~[\$30]~~ \$40 for issuance of the certificate.

3. The annual renewal fee for a manager's certificate is ~~[\$30;]~~ \$40.

4. For each manager's certificate that is reinstated, the holder of the certificate shall pay a fee of ~~[\$45;]~~ \$60.

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. 10. NAC 649.160 is hereby amended to read as follows:

649.160 1. An application for a certificate of registration as a foreign collection agency must be accompanied by ~~an~~ *a nonrefundable* application fee of ~~(\$500.)~~ \$600. The Commissioner of Financial Institutions may refund not more than ~~(\$300)~~ \$150 of the fee on a prorated basis if:

- (a) The applicant withdraws his 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. 11. NAC 649.105 is hereby repealed.

TEXT OF REPEALED SECTION

649.105 Exemption from requirement to obtain license. A person who is not required to obtain a license as set forth in NRS 649.075 must obtain an exemption from the Commissioner of Financial Institutions certifying that he is not required to obtain a license. The exemption must be obtained before he engages in collection activities governed by chapter 649 of NRS.