

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

**MINUTES OF PUBLIC HEARING**

**May 22, 2012**

A public hearing set forth by the Commissioner of the Financial Institutions Division regarding proposed changes to and the implementation date for all form contracts under Chapter 97 of the Nevada Administrative Code (NAC) was held on May 22, 2012 at the Grant Sawyer Building 555 E. Washington Ave., Suite 4412, Las Vegas, NV 89101 with video-conference at Legislative Counsel Bureau 401 S. Carson St., Suite 2134 Carson City, NV 89701.

Financial Institutions Division's Staff in Attendance:

**Las Vegas:**

Commissioner: George E. Burns

Deputy Commissioner: Carla C. Kolebuck

Acting Supervisory Examiner: Matt O'Brien

Division Counsel: Deputy A.G, Daniel Edihara

**Carson City:**

Division's CPA: Christopher Schneider

**1-A) Call to Order**

Commissioner Burns commenced the public hearing of Chapter 97 of the Nevada Administration Code (NAC) and stated the agenda for the hearing on May 22, 2012 10:00 AM

**1-B) Public Comments**

No public comments were received.

**2) Possible Action Regarding Vehicle Form Contracts**

**2-A-1**

Commissioner Burns stated the proposed changes to the form contracts set forth in NAC Chapter 97, as specifically set forth in Version A, addressing disclosures and itemization, formatting consistencies and typographical corrections. He noted that the first of the seven forms is the Credit Application for any vehicle sale, found on pages 1-7 of Version A, to which there were no proposed changes. He then referenced the second form, the Contract of Sale and Security Agreement with Payment of Simple Interest, indicating the various proposed changes to the form

and noting the applicable page numbers in Version A where the proposed changes may be found. He then stated that substantially similar proposed changes are incorporated into the other five form contracts: (i) Contract for Sale and Security Agreement for Sale of Vehicle with Pre-Computed or Add-on Interest; (ii) Contract for Sale and Security Agreement for Sale of Vehicle with Larger Final Payment and Option to Refinance; (iii) Contract for Sale and Security Agreement for Lease of Vehicle with lessee Entitled to Refinance residual Payment; (iv) Contract for Sale and Security Agreement for Sale of Recreational Vehicle with Simple Interest; and (v) Contract for Sale and Security Agreement for Recreational Vehicle with Precomputed or Add-on Interest, and further noted the page numbers where such forms may be found in Version A.

### **2-A-2**

Commissioner Burns asked if there were any public comments on such proposed changes not yet made.

No public comment was received.

### **2-A-3**

Commissioner Burns stated that the Financial Institutions Division hereby adopts the proposed changes to the form contracts pursuant to NAC Chapter 97 as set forth in Version A, subject to the decision regarding proposed changes to the form contracts set forth in Version B.

### **2-B-1**

Commissioner Burns stated that proposed revisions to the form contracts pursuant to NAC Chapter 97, as specifically set forth in Version B, accommodate the use of multiple-page documents, electronic contracting and digital record storage, and are inclusive of the proposed changes set forth in Version A. He then noted that the first of the seven forms is the Credit Application for any vehicle sale, found on pages 1-7 of Version B, and that there were no proposed changes to such form. He then referenced the second form, the Contract of Sale and Security Agreement with Payment of Simple Interest, and indicated the proposed changes incorporated into Version B, other than those incorporated into Version A, include removing all references to a single-page document. For instance, all references to “above” and “on the reverse side” throughout the forms are deleted and replaced with the term “on page \_\_\_” in English and Spanish, as applicable. He further referenced new language proposed to accommodate electronic records and electronic signatures, and to permit assignment of the contract electronically, reciting verbatim the proposed new language and noting the applicable page references in Version B. He then indicated that substantially similar proposed changes are incorporated into the other five form contracts: (i) Contract for Sale and Security Agreement for Sale of Vehicle with Pre-Computed or Add-on Interest; (ii) Contract for Sale and Security Agreement for Sale of Vehicle with Larger Final Payment and Option to Refinance; (iii) Contract for Sale and Security Agreement for Lease of Vehicle with lessee Entitled to Refinance residual Payment; (iv) Contract for Sale and Security Agreement for Sale of Recreational Vehicle with Simple Interest;

and (v) Contract for Sale and Security Agreement for Recreational Vehicle with Precomputed or Add-on Interest, and noted the page numbers where such forms may be found in Version B.

## **2-B-2**

Commissioner Burns asked if there were any public comments.

## **2-B-3**

John Sande IV on behalf of the Nevada Franchised Auto Dealers Association stated that they are supportive of the proposed changes set forth in Versions A and B and of e-contracting. He also stated that they are going to be working with their partners and the Commissioner to implement e-contracting and believes this to be a good first step.

## **2-B-4**

Danielle Fagre Arlowe with the American Financial Services Association stated that every state other than Nevada permits e-contracting due to an existing form contract that did not contemplate e-contracting. She further stated that Nevada has since adopted the Uniform Electronic Transactions Act in 2001. She stated that she believes e-contracting has consumer benefits in addition to other benefits, such as a more effective and a quicker way for consumers to contract.

## **2-B-5**

Dan Wulz with the Legal Aid Center of Southern Nevada stated that he had concerns with adequate consumer disclosure but these concerns should be addressed with consumers receiving a hard copy of the contract prior to consummation. The only concern he had was with the “one document” rule. He stated that the electronic version allows multiple pages, but that instead of stating “on page \_\_,” it should state “on page \_\_\_ of \_\_\_” indicating the total amount of pages in the document. This would alleviate his concerns with the “one document” rule, and he would like to see it implemented.

## **2-B-6**

Wayne Frediani, Executive Director of the Nevada Franchised Auto Dealers Association, stated that they support the changes set forth in Version B and e-contracting.

## **2-B-7**

Hearing no further public comment, Commissioner Burns stated that the Financial Institutions Division adopts the proposed changes to the form contracts pursuant to NAC Chapter 97 as set forth in Version B, subject to changing the language references of “above” and “on the reverse side” throughout the contracts from “on page \_\_\_” to the term, “on page \_\_\_ of \_\_\_.” He additionally stated that the Division would make the changes to the forms and post them on the

Division's website. He further stated that the Financial Institutions Division rescinds the adoption of Version A in favor of Version B incorporating changes to permit e-contracting.

#### **2-C-1**

Commissioner Burns stated that the next matter concerned the date of implementation for all form contracts contained in NAC Chapter 97 and requested any public comments.

#### **2-C-2**

John Humenik with Reynolds & Reynolds Company stated that he would like to have October 1 as the implementation date so they have time to make the changes into a developed version and have time to submit the revised forms to all lending institutions for approval.

#### **2-C-3**

Wayne Frediani, Executive Director of Nevada Franchised Auto Dealers Association, stated that he agrees with Reynolds & Reynolds requesting an implementation date of October 1, in order to have the time necessary to implement the form changes.

#### **2-C-4**

Hearing no further public comment, Commissioner George Burns stated that the Financial Institutions Division prescribes an implementation date of October 1, 2012 pursuant to NAC Chapter 97 for contract forms used for an application for credit and for the sale of a vehicle if the sale is governed by the provisions of NRS 97.299.

### **3) Additional Public Comment**

John Sande IV thanked the Commissioner and staff for all their time, efforts and cooperation involved in making the changes to the form contracts.

### **4) Adjournment**

Meeting adjourned on May 22, 2012 at 10:23 AM.