

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

(Money Transmission)

LCB File No. ____ - ____

August 30, 2023

Purpose: To adopt regulations under the Nevada Administrative Code to implement Assembly Bill No. 21 (2023), which amends Nevada Revised Statutes Chapter 671 by adding provisions related to money transmission.

Authority: NRS 671.030

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

Section 1. *Chapter 671 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.*

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in this chapter have the meanings ascribed to them in those sections and sections 4 through 32 of Assembly Bill 21.*

Sec. 3. *All licensees shall create and maintain an information security program to safeguard the nonpublic personal information of customers to the extent required by 16 C.F.R. Part 314 (the "Safeguards Rule"). The Division may review, to the extent applicable, licensee's information security programs, risk assessments, incident response plans, and other required elements of the Safeguards Rule.*

Sec. 4. ~~[NAC 671.005—“Licensee” defined. (NRS 671.030)—As used in this chapter, unless the context otherwise requires, “licensee” means any person licensed pursuant to this chapter and chapter 671 of NRS.]~~

~~Sec. 5. [NAC 671.007—Requirements for issuance of license to business entity. (NRS 671.030, 671.055)—If an application for a license is submitted by a business entity, the Commissioner will not issue a license to the applicant unless each partner, principal officer, director and trustee, whichever are applicable to the business entity, satisfies the requirements of NRS 671.055.]~~

Sec. 6. NAC 671.020 Fees: Application for license. An application for a license submitted pursuant to NRS 671.050 must be accompanied by:

1. A nonrefundable *application* fee of ~~[\$375]~~ \$500; and
2. A *license* fee of ~~[\$300]~~ \$400, ~~[prorated by the Commissioner].~~

Sec. 7. NAC 671.030 Fees: Renewal of license; reinstatement of expired license.

1. A licensee shall pay annually to the Division a fee of ~~[\$300]~~ \$400 for the renewal of his or her license.
2. If the Commissioner reinstates an expired license, the licensee shall pay a reinstatement fee of ~~[\$300]~~ \$400 in addition to the renewal fee prescribed in subsection 1.

~~Sec.8. [NAC 671.040—Fees: Application and license for agent of licensee. (NRS 671.030, 671.090)—An agent who must be licensed pursuant to NRS 671.090 shall pay to the Division:~~

- ~~—1.—An application fee of \$250; and~~
- ~~—2.—A license fee of \$250.]~~

Sec. 9. NAC 671.075 Maintenance of separate custodial or trust account and related records. (NRS 671.030)

1. Every licensee shall at all times maintain a separate custodial or trust account in a bank or credit union that is *federally or privately insured* in which must be deposited all money collected

by the licensee. ~~[The account must be maintained in a bank or credit union located in this State and bear some title]~~ *The title of the account must be* sufficient to distinguish it from the licensee's personal or general checking account and to designate it as a trust account, such as "customer's trust ~~[fund]~~ account" *or "for the benefit of customers."* The account must at all times contain sufficient money to pay all money due or owing to all customers, and no disbursement may be made from the account except to customers or to pay costs advanced for those customers, except that a licensee may periodically withdraw from the account such money as may accrue to the licensee from collections deposited or from adjustments resulting from costs advanced and payments made directly to customers.

2. Every authorized delegate shall at all times maintain a separate custodial or trust account in a bank or credit union that is federally or privately insured in which must be deposited all money collected on behalf of the licensee. The title of the account must be sufficient to distinguish it from the authorized delegate's personal or general checking account and to designate it as a trust account or for the benefit of account, such as "for the benefit of [licensee's name]." An authorized delegate must remit and handle money, credits and monetary value in accordance with the terms of the contract with the licensee.

~~[2.]~~ 3. Every licensee *and authorized delegate* maintaining a separate custodial or trust account shall keep a record of all money deposited in the account, which must indicate clearly the date and from whom the money was received, the date deposited, the dates of withdrawals and other pertinent information concerning the transaction, and which must show clearly for whose account the money is deposited and to whom the money belongs. The records and money are subject to inspection by the Commissioner or an authorized representative of the Commissioner. The records

must be maintained ~~[at the premises in this State at which the licensee is authorized to conduct business.]~~ *in accordance with NRS 671.*

~~[3.]~~ 4. The licensee *and authorized delegate* shall reconcile each custodial or trust account established pursuant to subsection 1 on a monthly basis.

~~[4.]~~ 5. If the Commissioner finds that a licensee's *or authorized delegates* records are not maintained pursuant to subsections 2 and 3, the Commissioner may require the licensee *or authorized delegate* to deliver an audited financial statement prepared from the records of the licensee *or authorized delegate* by a certified public accountant who *is in good standing in the state where the report is prepared.* ~~[holds a certificate to engage in the practice of public accounting in this State.]~~ The statement must be submitted within 60 days after the Commissioner requests it. The Commissioner may grant a reasonable extension for the submission of the financial statement if an extension is requested before the statement is due.

~~[5.]~~ 6. If money in a custodial or trust account of a licensee *or authorized delegate* becomes presumed abandoned pursuant to NRS 120A.500, the licensee shall comply with the provisions of chapter 120A of NRS with respect to the money.

Sec. 10. ~~[NAC 671.090—Inspection of documents filed with Division. (NRS 671.030) Except as otherwise provided in NAC 671.100 and 671.130 and NRS 671.170, all papers, documents, reports and other written instruments filed with the Division pursuant to this chapter and chapter 671 of NRS are open to public inspection unless the Commissioner determines that the information is required to be withheld to protect the public welfare or the welfare of a licensee.]~~

Sec. 11. NAC 671.095 Confidentiality of records. (NRS 671.030) *In addition to the records deemed confidential in sections 37 and 78 of Assembly Bill 21, [An] an* application for a license

and financial records ~~[, if any,]~~ submitted by an applicant pursuant to the provisions of this chapter and chapter 671 of NRS, financial records or other documents submitted by a licensee pursuant to an audit or examination conducted by the Division and any report of examination made by the Division are confidential and may be disclosed only to:

1. The Division, an authorized employee of the Division or an agency of this State, any other state or the Federal Government that is investigating the activities of an applicant or a licensee; or
2. Any person if the Commissioner determines, in the Commissioner's sole discretion, that the public interest in disclosure of the information outweighs the interest of the applicant or licensee.

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