

STATE OF NEVADA



DEPARTMENT OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION

**NOTICE OF INTENT TO ACT UPON A REGULATION  
AND HEARING AGENDA**

**Notice of Hearing for the Adoption of Regulations**

The State of Nevada, Department of Business and Industry, Financial Institutions Division (“Division”) will hold a public hearing on Friday **March 1, 2024, at 11:30 a.m.** via Webex conference and in-person. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of permanent regulations that pertain to Chapter 671 of the Nevada Administrative Code (“NAC”).

Date: March 1, 2024

Time: 11:30 a.m. PST

To join by Webex, join the Webex meeting by clicking on the link below:

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m4bb72fb963a8c0c9b1f5245f4f5628bc>

Meeting number (access code): 2488 206 3999

Meeting password: AB21AH

To join by telephone, call the toll-free number:

1-844-621-3956 United States Toll-Free

For those wishing to participate in-person, the following physical location is being made available:

Nevada State Business Center  
Tahoe Room, 4<sup>th</sup> Floor  
3300 W. Sahara, Avenue  
Las Vegas, Nevada 89102

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation and the adoption of Chapter 671 of the Nevada Administrative Code (“NAC”), LCB File No. R121-23, dated January 8, 2024.

The following information is provided pursuant to the requirements of the Nevada Revised Statutes (“NRS”) 233B.0603:

**LCB File No. R121-23**

A regulation relating to financial services; requiring a person licensed to engage in the business of money transmission to develop, maintain and implement an information security program to safeguard certain customer information; increasing certain fees related to the licensure of persons engaged in the business of money transmission; revising provisions related to the confidentiality of certain documents submitted when applying for a license to engage in the business of money transmission; requiring certain money or credits presumed abandoned to comply with the Uniform Unclaimed Property Act; repealing certain provisions relating to money transmission; and providing other matters properly relating thereto.

1. Need for and purpose of the proposed regulation:

The regulation is required as a result of the passage of Assembly Bill 21 (“A.B. 21”) during the 82<sup>nd</sup> Session of the Nevada Legislature. Existing law governs money transmission and authorizes the Commissioner of the Financial Institutions 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 A.B.21.

2. Description of proposed regulation and the manner in which approved or revised text of the proposed regulation prepared by the Legislative Counsel Bureau (“LCB”) may be obtained.

The regulation proposed for adoption is stated in the attached Proposed Regulation of the Commissioner of the Financial Institutions Division, LCB File No. R121-23. This includes:

- Amend existing fee amounts.
- Amend and/or remove current regulation language to align with AB21.
- Other matters properly related thereto.

Access to the approved or revised text of the proposed regulation prepared by the LCB pursuant to NRS 233B.063 may be obtained by visiting the website of the Nevada Legislature at <http://www.leg.state.nv.us>, click “Register of Administrative Regulations” on the right-hand side of the home page, click “Numerical Index” appearing under the category “2023 Regulations.” Access may then be obtained by scrolling down the list of LCB File Numbers to seek “R121-23” or by performing a search function specifying LCB File Number “R121-23” and clicking upon the item(s).

3. Statement of estimated economic effect of the proposed regulation on the business of financial product or service providers and upon the public.

The estimated economic effect of the proposed regulation on the business which it is to regulate:

a. Adverse effect:

- i. Immediate effect- The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division removed this requirement from the regulation since AB21 allows for a statutory trust to be required if needed.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

- ii. Long-term effect- The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division removed this requirement from the regulation since AB21 allows for a statutory trust to be required if needed.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

b. Beneficial effect:

- i. Immediate effect- The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada. This allows licensees the option to seek a banking relationship with banks outside of Nevada, with a depository institution in the same state as the licensee, as long as the depository institution is federally or privately insured.
- ii. Long-term effect- The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada. This allows licensees the option to seek a banking relationship with banks outside of Nevada, with a depository institution in the same state as the licensee, as long as the depository institution is federally or privately insured.

The Division has determined that the proposed regulation does not have an adverse economic impact on small business.

4. Statement identifying the methodology used by the Division in determining the impact of the proposed regulation upon a small business.

The Division reviewed the proposed regulation and preliminarily determined that it will not impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business, because the proposed regulation does not require additional expense for the licensee to operate. The raise in the application and licensing fee is minimal and the Division reached zero adverse comments regarding this small increase.

The Division vetted this preliminary determination by soliciting comments on the issue as part of the small business impact questionnaire and of its notice of workshop for the proposed regulation and in its e-mail notification to current licensees under the impacted chapter of the NRS, as well as the Division's regulatory action contact list. Additionally, the notice of workshop and small business impact statement was posted on the Division's website, the State's official website, the Nevada Legislature's website and at the public location of the Division's office in Las Vegas. Following the first and second workshops and consideration of the comments received during the workshops, and the twelve (12) responses to the small business impact questionnaire (five (5) small businesses provided comment, two (2) responded with N/A or no impact, and five (5) responded with no comment because they were over the small business threshold of 150 employees), the Commissioner concluded that the proposed regulation does not impose a significant and direct burden upon a small business or restrict the formation, operation, or expansion of a small business.

5. 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.

6. Overlap or duplication with other state, local governmental or federal agencies.

To our knowledge, the proposed regulation does not duplicate any existing federal laws. AB21, the Money Transmission Modernization Act has been fully or partially implemented in approximately 17 other states and legislation is planned to or currently begin introduced in approximately 5 other states. The goal is for all 50 states.

7. Existence of federal law requirement for proposed regulation or whether proposed regulation includes more stringent provisions than required by federal regulation governing same activity

The proposed regulation does not duplicate any existing federal, state, or local standards regulating the same activity.

8. Establishment of new fee or increase to existing fee.

The Division is proposing a minimal increase in application and licensing fees, up to the maximum allowable amount in statute.

**The 1<sup>st</sup> Year → \$65,600** (Based on the application fee of \$500.00 and initial licensing fee of \$400.00 for excepted 20 new licensees and the renewal fee of \$400.00 for the current 119 licensees).

**The 2<sup>nd</sup> Year → \$73,600** (Based on yearly renewal fee of \$400.00 for 119 current licensees and 20 new licensees from year one, and application fee of \$500.00 and initial licensing fee of \$400 for an excepted 20 new licensees in year two.)

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.

## COMMENTS AND WRITTEN SUBMISSIONS

Persons wishing to comment upon the proposed action of the Financial Institutions Division may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Financial Institutions Division at [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us) or at 3300 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102. Written submissions must be received by the Division on or before **February 22, 2024**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Financial Institutions Division may proceed immediately to act upon any written submissions.

## COPIES OF PROPOSED REGULATION

A copy of this notice and the proposed regulation to be adopted will be on file at the Nevada State Library & Archives, 100 N. Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation to be adopted will be available at the Division's website at [www.fid.nv.gov](http://www.fid.nv.gov)

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed or emailed to members of the public upon request. A reasonable fee may be charged for copying.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation as far in advance as possible via email [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us)

Note that NRS 233B.064(2) provides as follows:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This Hearing Notice has been sent to all interested persons on the Division's mailing list for administrative regulations and posted at the following locations:

Posted at the Division's principal office/in-person physical location- 3300 W. Sahara, Ave., Las Vegas, Nevada 89102

Posted online to the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>

Posted online to the State of Nevada Public Notice website: <https://notice.nv.gov>

**NOTICE OF PUBLIC MEETING  
TO CONDUCT A HEARING FOR ADOPTION  
OF REGULATIONS OF THE COMMISSIONER OF THE FINANCIAL  
INSTITUTIONS DIVISION  
LCB FILE No. R121-23  
AND  
MEETING AGENDA**

The State of Nevada, Financial Institutions Division (“Division”), 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 is proposing the adoption of regulations to Chapter 671 of the Nevada Administrative Code (“NAC”). The proposed regulations are required as a result of the passage of Assembly Bill 21 (“A.B. 21”) during the 82nd Session of the Nevada Legislature. Existing law governs money transmission and authorizes the Commissioner of the Financial Institutions to adopt regulations for the administration and enforcement of existing law. A public meeting on this matter has been set for Friday, **March 1, 2024, at 11:30 a.m.**, via Webex conference and in-person.

Date: March 1, 2024

Time: 11:30 a.m. PST

To join by Webex, join the Webex meeting by clicking on the link below:

<https://businessnv2.webex.com/businessnv2/j.php?MTID=m4bb72fb963a8c0c9b1f5245f4f5628bc>

Meeting number (access code): 2488 206 3999

Meeting password: AB21AH

To join by telephone, call the toll-free number:

1-844-621-3956 United States Toll-Free

For those wishing to participate in-person, the following physical location is being made available:

Nevada State Business Center  
Tahoe Room, 4<sup>th</sup> Floor  
3300 W. Sahara, Avenue  
Las Vegas, Nevada 89102

The purpose of the meeting is to conduct a hearing of all interested persons regarding the following proposed regulation and for the Division to take possible action on the regulation's adoption. Please submit any written comments no later than **February 22, 2024**.

**LCB File No. R121-23**

A regulation relating to financial services; requiring a person licensed to engage in the business of money transmission to develop, maintain and implement an information security program to safeguard certain customer information; increasing certain fees related to the licensure of persons engaged in the business of money transmission; revising provisions related to the confidentiality of certain documents submitted when applying for a license to engage in the business of money transmission; requiring certain money or credits presumed abandoned to comply with the Uniform Unclaimed Property Act; repealing certain provisions relating to money transmission; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the meeting or by visiting the Division's website at [www.fid.nv.gov](http://www.fid.nv.gov) or by contacting the Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120. A reasonable fee for copying may be charged. Members of the public who would like additional information about the proposed regulation may contact Mary Young, Deputy Commissioner, at (702)486-4120, or via e-mail to [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us)

Notice of the meeting was provided via electronic means to all persons on the e-mail lists for noticing of administrative regulations maintained by the Division and licensees this regulation affects. This *Notice of Public Meeting* was posted to the agency's website at [Proposed Regulations \(nv.gov\)/](http://ProposedRegulations.nv.gov/), the Nevada Legislature's website at <http://www.leg.state.nv.us>.

**HEARING AGENDA**

The State of Nevada, Department of Business and Industry, Financial Institutions Division  
March 1, 2024 • 11:30 a.m.

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation pertaining to Chapter 671 of the Nevada Administrative Code ("NAC"). LCB File No. R121-23, dated January 8, 2024.

1. Open Hearing: R121-23.
2. Public comment.
3. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R121-23- NAC chapter 671

4. Adoption of Proposed Regulation R121-23 (For Possible Action)
5. Public Comment.
6. Close Hearing: R121-23. (Adjournment)



Supporting public material for this workshop may be requested from Mary Young, Deputy Commissioner, Financial Institutions Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 or fidmaster@fid.state.nv.us

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker. Members of the public are encouraged to submit written comments for the record.

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

**LCB File No. R121-23**

January 8, 2024

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

AUTHORITY: §§ 1, 2 and 5-7, NRS 671.030 and section 36 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 100; § 3, NRS 671.030 and 671.050, as amended by section 68 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 119 and section 36 of assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 100; § 4, NRS 671.030 and 671.070, as amended by section 70 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 122.

A REGULATION relating to financial services; requiring a person licensed to engage in the business of money transmission to develop, maintain and implement an information security program to safeguard certain customer information; increasing certain fees related to the licensure of persons engaged in the business of money transmission; revising provisions related to the confidentiality of certain documents submitted when applying for a license to engage in the business of money transmission; requiring certain money or credits presumed abandoned to comply with the Uniform Unclaimed Property Act; repealing certain provisions relating to money transmission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Assembly Bill No. 21 (A.B. 21) of the 2023 Legislative Session: (1) eliminated provisions relating to persons who engage in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits; and (2) set forth provisions relating to persons who engage in the business of money transmission. (Chapter 23, Statutes of Nevada 2023, at page 93) This regulation makes various changes to the Nevada Administrative Code relating to the enactment of A.B. 21.

Existing law provides for the licensure and regulation by the Commissioner of Financial Institutions of persons engaged in the business of money transmission. (Chapter 671 of NRS) **Section 1** of this regulation requires that a person licensed to engage in the business of money transmission must develop, implement and maintain an information security program to safeguard the nonpublic personal information of a customer as required by the federal Standards for Safeguarding Customer Information (the “Safeguards Rule”), 16 C.F.R. Part 314, and permits the Division of Financial Institutions to review any program or element implemented pursuant to the Safeguards Rule.

Existing law governs when certain forms of property are presumed abandoned. (NRS 120A.500, as amended by section 7 of Assembly Bill No. 55, chapter 179, Statutes of Nevada 2023, at page 1052) **Section 2** of this regulation provides that if any money or credits received for transmission by a licensee or authorized delegate are presumed abandoned, the licensee or authorized delegate shall comply with the relevant provisions of the Nevada Revised Statutes relating to abandoned property with respect to said money or credits.

Existing law requires an applicant for a license to engage in the business of money transmission to submit with an application: (1) a nonrefundable application fee of not more than \$500; and (2) a fee of not less than \$200 or more than \$400, prorated on the basis of the licensing year as provided by the Commissioner. (NRS 671.050, as amended by section 68 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 119) Existing regulations provide that an application for such a license must be accompanied by: (1) a nonrefundable fee of \$375; and (2) a fee of \$300, prorated by the Commissioner. (NAC 671.020) **Section 3** of this regulation provides instead that such an application must be accompanied by: (1) a nonrefundable application fee of \$500; and (2) a license fee of \$400, prorated by the Commissioner.

Existing law provides that a license may be renewed upon approval of the Commissioner if a licensee files an application for the renewal that is accompanied by a fee of not more than \$400. Existing law further provides that if the application or fee for renewal is not filed within the required time, the Commissioner may reinstate the expired license if the licensee files the renewal application, the fee for renewal and a fee of not more than \$400 for late renewal. (NRS 671.070, as amended by section 70 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 122) Existing regulations require a licensee to pay annually a fee of \$300 for the renewal of his or her license. Existing regulations further provide that if the Commissioner reinstates an expired license, the licensee is required to pay a reinstatement fee of \$300 in addition to the renewal fee. (NRS 671.030) **Section 4** of this regulation provides instead that: (1) the fee to renew a license is \$500; and (2) the late renewal fee to reinstate an expired license is \$400, in addition to the renewal fee.

Existing regulations prohibit, under certain circumstances, a person from engaging in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits in this State. (NAC 671.070) **Section 5** of this regulation instead prohibits, under certain circumstances, a person from engaging in the business of money transmission in this State in order to conform to changes in terminology made pursuant to A.B. 21. (Chapter 23, Statutes of Nevada 2023, at page 93)

Existing law provides, with certain exceptions, that: (1) certain information and documents relating to applicants, licensees or authorized delegates; and (2) reports of investigations, examinations and certain other reports are confidential. (Section 37 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 101 and NRS 671.170, as amended by section 78 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 128) Existing regulations provide that: (1) an application for a license and financial records submitted by an applicant; (2) financial records or other documents submitted by a licensee pursuant to an audit or examination; and (3) any report of examination made by the Division of Financial Institutions of the Department of Business and Industry are confidential and may be only disclosed 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.

(NAC 671.095) **Section 6** of this regulation provides instead that such information is confidential and may only be disclosed as authorized pursuant to the relevant provisions of the Nevada Revised Statutes. **Section 7** of this regulation makes a conforming change to repeal from the Nevada Administrative Code the requirement that, with certain exceptions, all papers, documents, reports and other written instruments filed with the Division be open to public inspection. (NAC 671.090)

A.B. 21 repealed provisions relating to: (1) obtaining a license to engage in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits; and

(2) certain agents of a licensee who also have to obtain such a license. (Section 84 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 132) **Section 7** repeals from the Nevada Administrative Code obsolete provisions relating to the requirements for the issuance of such a license to a business entity or an agent of a licensee. (NAC 671.007, 671.040)

A.B. 21 also: (1) requires that a licensee maintain at all times permissible investments that meet certain requirements, including that the permissible investments, even if commingled with other assets of the licensee, be held in trust for the benefit of purchasers and holders of the outstanding money transmission obligations of the licensee; and (2) repealed the prohibition on a licensee or his or her agent from commingling money received from the sale or issuance of checks or for the purpose of transmission with the other assets of the licensee or agent. (Section 45 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 105, and section 84 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 132) **Section 7** repeals a requirement from the Nevada Administrative Code that every licensee at all times maintain a separate custodial or trust account in which must be deposited all money collected by the licensee. (NAC 671.075)

Finally, **section 7** repeals the definition of the term “licensee” which is already defined in the Nevada Revised Statutes. (Section 14 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 132; NAC 671.005)

**Section 1.** Chapter 671 of NAC is hereby amended by adding thereto a new section to read as follows:

*1. A licensee shall develop, implement and maintain an information security program to safeguard the nonpublic personal information of a customer as required by the Standards for Safeguarding Customer Information, 16 C.F.R. Part 314. The Division may review any information security program, risk assessment, incident response plan or element implemented by a licensee pursuant to the Standards for Safeguarding Customer Information, 16 C.F.R. Part 314.*

2. *As used in this section, “information security program” means the administrative, technical or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of or otherwise handle customer information.*

**Sec. 2.** *If any money or credits received for transmission by a licensee or authorized delegate are presumed abandoned pursuant to NRS 120A.500, as amended by section 7 of Assembly Bill No. 55, chapter 179, Statutes of Nevada 2023, at page 1052, the licensee or authorized delegate must comply with the provisions of chapter 120A of NRS with respect to the money or credits.*

**Sec. 3.** NAC 671.020 is hereby amended to read as follows:

671.020 An application for a license submitted pursuant to NRS 671.050 , *as amended by section 68 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 119*, 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. 4.** NAC 671.030 is hereby amended to read as follows:

671.030 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]~~ *late renewal* fee of ~~[\$300]~~ *\$400* in addition to the renewal fee prescribed in subsection 1.

**Sec. 5.** NAC 671.070 is hereby amended to read as follows:

671.070 A person shall not engage in the business of ~~[selling or issuing checks or of~~

~~receiving for transmission or transmitting money or credits]~~ *money transmission* in this State

unless:

1. The person possesses each license, certificate and permit required by this chapter, chapter 671 of NRS and a local governmental entity; and
2. The location of the business complies with any applicable planning and zoning ordinances.

**Sec. 6.** NAC 671.095 is hereby amended to read as follows:

671.095 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.] as authorized pursuant to section 37 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 101, and NRS 671.170, as amended by section 78 of Assembly Bill No. 21, chapter 23, Statutes of Nevada 2023, at page 128.~~

**Sec. 7.** NAC 671.005, 671.007, 671.040, 671.075 and 671.090 are hereby repealed.

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TEXT OF REPEALED SECTIONS

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**671.005 “Licensee” defined.** As used in this chapter, unless the context otherwise requires, “licensee” means any person licensed pursuant to this chapter and chapter 671 of NRS.

**671.007 Requirements for issuance of license to business entity.** 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.

**671.040 Fees: Application and license for agent of licensee.** 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.

**671.075 Maintenance of separate custodial or trust account and related records.**

1. Every licensee shall at all times maintain a separate custodial or trust account in a bank or credit union 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 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.” 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 licensee 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.

3. The licensee shall reconcile each custodial or trust account established pursuant to subsection 1 on a monthly basis.

4. If the Commissioner finds that a licensee's records are not maintained pursuant to subsections 2 and 3, the Commissioner may require the licensee to deliver an audited financial statement prepared from the records of the licensee by a certified public accountant who 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. If money in a custodial or trust account of a licensee 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.

**671.090 Inspection of documents filed with Division.** 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.



**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY  
THE FINANCIAL INSTITUTIONS DIVISION (Division)  
TO ASSEMBLY BILL (AB) 21  
MONEY TRANSMITTERS  
September 13, 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 engage in or who desire to engage in the business of money transmission, 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 671 and all known interested parties. In turn, the Division solicited comments on the proposed regulations for Assembly Bill 21 (A.B.21) 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 dated November 13, 2023, along with a Notice of Workshop for November 28, 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 A.B.21 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 requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processors as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

**(II) BENEFICIAL EFFECTS:**

The industry is in favor of the Division removing the requirement to maintain a trust or custodial bank account in the state of Nevada. This allows licensees the option to seek a banking relationship with banks outside of Nevada, with a depository institution in the same state as the licensee, as long as the depository institution is federally or privately insured.

**(2) Both Direct and Indirect effects:**

**(I) DIRECT EFFECTS:**

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processor as money transmitters in this state, A.B.21 just provides clarification and definition.

The other comments were more directed at A.B. 21 and not the proposed regulation, or items already in current law, which the proposed regulations just expand and support the statutory language.

## **(II) INDIRECT EFFECTS:**

The industry's biggest concern was requiring all money transmitters to maintain a custodial or trust account since certain business models did not have a need for these accounts. Certain business models do not hold funds or credits for another and it's difficult to establish such a bank account without a business need for such account. To address this concern, the Division amended the proposed regulation to allow licensees to request an exemption from this provision if the information and documentation provided to the Division is sufficient to determine such exemption should be granted.

The next concern was from the payroll processing industry. Their comments were more focused on A.B.21 defining payroll processors and clarifying a payroll processor needs a license as a money transmitter in this state. However, the Division already license payroll processor as money transmitters in this state, A.B.21 just provides clarification and definition.

### **(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 249 small business questionnaires to all known interested parties. It received a total of twelve (12) responses to the solicitation. Five (5) small business provided comment, two (2) responded with N/A or no impact, and five (5) 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.

### **(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 application and licensing fees, up to the maximum allowable amount in statute.

**The 1<sup>st</sup> Year → \$65,600** (Based on the application fee of \$500.00 and initial licensing fee of \$400.00 for excepted 20 new licensees and the renewal fee of \$400.00 for the current 119 licensees).

**The 2<sup>nd</sup> Year → \$73,600** (Based on yearly renewal fee of \$400.00 for 119 current licensees and 20 new licensees from year one, and application fee of \$500.00 and initial licensing fee of \$400 for an excepted 20 new licensees in year two.)

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, A.B. 21. 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.



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

<u>AB21- Money Transmission- 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/Miti gation</u>
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<p>A custodial, trust account should not be required for money transmitters dealing only in cryptocurrency assets, holding no customer cash liabilities. If a cryptocurrency company does not offer cash custody or have customer cash liabilities, a licensee cannot get a bank account for purposes other than the intended use of the account. Therefore, a licensee cannot get a custody/trust account without a business need for such account, and in return cannot comply with Nevada law.</p> <p>It is difficult for MSBs to establish banking relationships in the first place and particularly difficult when the requirement does not align to our business model.</p> <p>It is suggested the regulations provide the Commissioner of the FID the authority to grant exceptions to regulatory requirements where appropriate according to the business model of a prospective institutional applicant. Such as business models where the licensee can demonstrate when the funds are not customer funds. Some other state jurisdictions have granted similar exceptions.</p> <p>Because of the need of a trust account, the state examiners are rigidly bound by this requirement and have cited us for illegal comingling in the trust account in the past. This has forced us to incur additional follow-up examination costs (direct and indirect) as well as outside counsel costs to address with the Commissioner to find a reasonable outcome.</p>	<p>2 (40.00% )</p>	<p>Direct</p>	<p>Adverse</p>	<p>The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.</p>
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<p>There should be exceptions to tangible net worth requirements for companies that are publicly traded on the NYSE or NASDAQ.</p>	<p>1 (20.00% )</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21 and not in the proposed regulation. The Division cannot change language in AB21 and AB21 does not allow for an exemption from the tangible net worth provision.</p>
<p>Sec. 9. NAC 671.075 Maintenance of separate custodial or trust account and related records. While the intent is clear from subsequent language that this requirement pertains to the custody of customer funds, this section vaguely refers only to "money collected," rather than specifically limiting it to assets collected and held on behalf of customers. For purposes of this section, it should also be clear that this refers to fiat currency. More importantly, a company which does not accept, receive or otherwise hold fiat money belonging to customers, has already been subject to burdensome requests from regulatory bodies in states with similarly vague language seeking to enforce a requirement that is not applicable to a specific business model. In every instance, the regulators have agreed with the company that a trust/custodial account is not necessary since they do not accept or hold customer funds (USD); however, the decision has always been treated as an exception.</p> <p>The proposed language (i.e., "shall at all times maintain a separate custodial or trust account") focuses on the requirement to have an account, rather than on the protection of customer assets. Suggest clarifying the above requirement so that such an account is required only to the extent a business accepts or holds fiat monies on behalf of its customers. For example: "Funds collected or held on behalf of customers must, at all times, be kept in a custodial or trust account, separate from the licensee's own general or operating accounts, at a federally or privately insured bank or credit union." Language such as this would make it easier for licensees that do not collect any such funds on behalf of customers to avoid having to try to maintain empty and unused bank accounts.</p>	<p>1 (20.00% )</p>	<p>Indirect</p>	<p>Adverse</p>	<p>The Division has added proposed language in the regulation, which will allow for a licensee to request an exemption from the Division.</p>

<p>The proposed rule for authorized delegates to maintain a separate custodial or trust account will negatively affect our ability to obtain new authorized delegates. This requirement will be an unnecessary burden on our authorized delegates and will duplicate efforts since the licensee is already segregating these funds.</p>	<p>1 (20.00% )</p>	<p>Direct</p>	<p>Adverse</p>	<p>This is a requirement per AB21, the Division cannot change the language in AB21. The Division drafted regulations to further expand and support the provisions in AB21. In addition, current law NRS 671 required an agent/authorized delegate to remit funds to a licensee or deposit into the licensee's account not later than the third business day following its receipt, and these funds collected by the agent/authorized delegate could not be commingled with its operating account or other assets. Therefore, these funds were to be held in trust until remitted to the</p>
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				licensee. This 3-day rule has been removed but the trust account remains.
Removing the requirement for a local bank in favor of an FDIC insured national bank allows licensees to consolidate treasury management to be more effective and incur fewer costs.	1 (20.00% )	Direct	Beneficial	No response is required since this comment does not have an adverse impact on small business.
Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.	1 (20.00% )	Direct	Adverse	Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission"



			<p>and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the proposed regulation, the Division cannot change the language in AB21. Even without this definition, the Division would continue to license payroll processors under NRS 671 such as other states do.</p>
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<p>Section 20, 2., which states that the definition of money transmission "includes payroll processing services." Section 26, which defines the term "payroll processing services". If payroll processors are classified as money transmitters, they are subject to licensing, capital requirements and restrictions, examination and reporting designed for an entirely different industry, serving different customer base and posing risks not present among payroll processors. This will increase costs for payment processors, including obtaining a surety bond.</p>	<p>1 (20.00% )</p>	<p>Indirect</p>	<p>Adverse</p>	<p>Before AB21 was adopted, payroll processors were required to obtain a license under NRS chapter 671. The new language in AB21 (Money Transmission Modernization Act-MTMA) provides more detail than current language by defining certain terms such as "money transmission" and "payroll processing services" but it did not change the fact that payroll processors always needed a license under NRS chapter 671.</p> <p>In addition, section 20.2 is language in AB21 not the proposed regulation, the Division cannot change the language in AB21. Even without this</p>
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				definition, the Division would continue to license payroll processors under NRS 671 such as other states do.
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**SBI Response Summary:**

Total Known Interested Parties Solicited: 249

Total Responded with Comments: 5

Total Responded with N/A: 2

Total Responded with over 150 Employees (outside the small business threshold): 5

Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 242

% Responded/Total Solicited (12/249): 4.82%

% Responded with Comments/Total Comments Impacting SBI (5/242): 2.07%