

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

SANDY O'LAUGHLIN
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations S.B.276- NRS/NAC 649**

Date: Thursday, January 25, 2024

Time: 1:00 p.m.

Locations:

Physical in-person location:

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

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The hearing to consider S.B.276 was called to order Thursday, January 25, 2024, at 1:01 p.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations pertaining to Chapter 649 of the Nevada Administrative Code ("NAC"), as provided by Senate Bill No. 276, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on December 22, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

The Division received a comment regarding the requirement for the compliance manager to be available in person at the licensed physical principal place of business instead of working remotely. Prior to SB276, NRS 649 did not allow collectors, the designated manager or the management staff to work remotely. The designated manager was always required to be available full-time at the licensed location. With the changes SB 276 made to NRS 649, collectors are now allowed to work remotely but SB276 did not change the requirement for the managers to be available full-time at the licensed location. The title change for a manager from “qualified manager” to “compliance manager” did not change this requirement. The Division will keep the language in the regulation that compliance managers cannot work remotely, they must be at the licensed place of business. Since this requirement didn’t change NRS 649, agencies must comply with this requirement as they always have.

Each section of the proposed regulation being adopted today was read into the record.

Sections 1 through 10. There were no comments received on Sections 1 through 10.

Sections 11 through 18. There were no comments received on Sections 11 through 18.

Sections 19 through 26.

- David Reid, Receivables Management Association International (RMAI). RMAI was a strong proponent of SB276, and he would agree that the proposed rules generally consistent with SB276. RMAI requests flexibility with enforcement with the compliance manager being at the physical location. The compliance manager goes to lunch, takes vacation, they get sick, go to business conferences. He is sure the intent was not to make the compliance manager be always handcuffed to their desks. He won’t disagree with the interpretation of working from home but hopes FID will have some flexibility and understanding that the with the compliance manager will not being at the desk every single second of the workday. It’s been a pleasure working with FID and the Nevada Legislator. Thank you.

Mary Young, FID. It has been a pleasure to work with you as well. To follow-up on your comment, prior to SB276, there was a requirement for the qualified manager to be at the licensed location, full-time. It’s a business decision on how an agency will comply. We have seen some of our licensee choose to get a secondary manager to fill in the voids for long term absences or vacations. We understand and don’t expect managers to sit at their desk and not take lunch. This is not a new requirement; the change was the title of the manager.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R097-23, which pertains to Chapter 649 of the Nevada Administrative Code, as described in the Legislative Counsel Bureau draft dated December 21, 2023.

Agenda Item 5. Public Comments:

There were no comments during this general public comment period.

Agenda Item 6. Close Workshop (Adjournment):

The adoption hearing for R097-23 pertaining to Senate Bill 276 and Chapter 649 of the Nevada Administrative Code was closed and adjourned on January 25, 2024, at 1:25pm

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.nv.gov)



January 17, 2024

Via Electronic Delivery to fidmaster@fid.state.nv.us

Department of Business and Industry
Financial Institutions Division
3300 West Sahara Avenue, Suite 250
Las Vegas, Nevada 89102

**Comments regarding the proposed adoption of permanent
regulations that pertain to Chapter 649 of the
Nevada Administrative Code (“NAC”)**

Dear Commissioner O’Laughlin:

On behalf of ACA International, the Association of Credit and Collection Professionals, I would like to thank the Financial Institutions Division (“Division”) for providing an opportunity to provide comments on the proposed adoption of permanent regulations that pertain to Chapter 649 of the Nevada Administrative Code.

I. About ACA

ACA International is the leading trade association for credit and collection professionals, representing approximately 1,700 members, including credit grantors, third-party collection agencies, asset buyers, attorneys and vendor affiliates in an industry that employs nearly 125,000 employees worldwide.

ACA members include the smallest of businesses operating in a single state and the largest of publicly held, multinational corporations that operate in every state. Most ACA member debt collection companies, however, are small businesses. According to a recent survey of our

membership, approximately 44 percent of ACA member organizations have fewer than nine employees. Nearly 85 percent of members have 49 or fewer employees and 93 percent of members have 99 or fewer employees.

ACA also represents a diverse workforce. Women comprise nearly 70 percent of the total debt collection workforce, which is itself ethnically diverse. Racial and ethnic minorities account for 31 percent of the total U.S. workforce, but nearly 42 percent of debt collection employees. We are uniquely positioned to connect with, and serve, consumers of all backgrounds.

II. Requested changes to the proposal

ACA respectfully requests the Division consider modifying Section 17 of the proposed regulations and provide additional guidance to the industry as it relates to physical onsite requirements for the Compliance Manager.

The proposed regulation states:

- 1. The person who holds a valid **compliance** manager's certificate and who is the designated **compliance** manager of a collection agency must have direct supervisory responsibility for employees who engage in collections in this State and must participate in the actual **[management, operation and administration] oversight and compliance** of the **[licensed] collection** agency.*
- 2. The **compliance** manager must be available in person at the **principal place of business [address]** of the agency in order to perform his or her required functions and duties.*

Many agencies operate with an entirely remote team of collection agents and managers. This is enabled through secure technology that allows an agency and its compliance team to maintain direct supervision of employees engaging in collect activities. In this now common workplace scenario, would the Division require the compliance manager to be physically onsite at the principal place of business even if there are no collection agents present?

Section 8 of SB276 the legislation states:

- 1. The remote location from which a collection agent works must: (a) Be capable of providing the same degree of oversight and monitoring of the collection agent as if the collection agent was working in the principal place of business or a branch office of the collection agency;*
- 5. A remote location from which a collection agent works shall be deemed to be an extension of the principal place of business or branch office to which the collection agent*

is connected pursuant to paragraph (b) of subsection 1 for the purposes of this chapter and any other relevant purposes.

Would the Division consider a remote location for a compliance manager “to be an extension of the principal place of business” for the purposes of this regulation and any other relevant purposes?

A compliance manager working from a remote location would still be required to comply with all applicable federal and state laws. A remote compliance manager would still be required to comply with all provisions of this proposed regulation, including, without limitation, NRS 649.335, and the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. 2. All security requirements in the proposed regulation would apply to a compliance manager working from a remote location. All remote calls would still be recorded and monitored in real time on a regular basis as required by the proposed regulation. Additionally, each compliance manager holding a compliance manager’s certificate would still be required to notify the Commissioner in writing of any change in his or her residence address within 10 days after the change.

There would not be any reduction in compliance requirements or consumer protections if a compliance manager worked from a remote location and this approach would be in line with industry remote work standards and mirror the approach taken in other states. The Division could even consider adding a provision that would require a compliance manager to be available in person as needed including during any examinations.

If the Division will not consider a compliance manager’s remote location as an extension of the principal place of business, would the Division consider providing additional guidance or “Frequently Asked Questions” to help the industry best comply with the physical onsite requirements.

ACA requests additional guidance on how agencies should handle situations where a compliance manager needs to leave the physical office or is unable to get to the physical office. How should an agency handle:

- A situation where a qualified manager needs to work from a branch office location for any period of time;
- Unexpected absences (short term and long term);
- Anticipated absences (vacation, maternity/paternity leave, training, conferences);
- Short absences throughout a normal workday; and
- A situation where the compliance manager is unable to get to the physical office (shelter-in-place order, natural disaster, road closures...)?

Providing additional guidance in these areas would go a long way in providing clarity on intent and creating consistency for industry.

Thank you for considering these comments and requests. If you have any questions, please feel free to contact me.

.

Submitted by:

Andrew Madden
Vice President Government and State Affairs
ACA International
madden@acainternational.org