

**PROPOSED REGULATION OF THE
EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT
OF EMPLOYMENT, TRAINING AND REHABILITATION**

LCB File No. R128-09

November 13, 2009

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

AUTHORITY: §§1-12, NRS 612.607, as amended by section 5 of Assembly Bill No. 338, chapter 51, Statutes of Nevada 2009, at page 148.

A REGULATION relating to economic development; establishing a program to provide grants to nonprofit private entities to be used to make loans to veterans and senior citizens to start small businesses; establishing provisions for the administering and repayment of loans made under the program; establishing criteria for the qualification of nonprofit private entities to receive grants under the program; and providing other matters properly relating thereto.

Section 1. Chapter 612 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *As used in sections 3, 4 and 5 of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Program” means the program established pursuant to section 6 of this regulation.*

Sec. 4. *“Start-up business” means a small business that has been in operation for 6 months or less.*

Sec. 5. *“Veteran” has the meaning ascribed to it in 38 U.S.C. 101(2).*

Sec. 6. *The Administrator shall establish a program to disburse grants of money to nonprofit private entities organized under the provisions of chapter 81 or 82 of NRS to be used exclusively to assist start-up businesses which are at least majority owned and controlled by one or more veterans or one or more senior citizens.*

Sec. 7. 1. *A nonprofit private entity that applies for a grant pursuant to the program must do so in the manner prescribed by the Administrator. The Administrator:*

(a) Shall, at a minimum, require the submission of the financial statements of the nonprofit private entity for the 3 years immediately preceding the date of the application; and

(b) May require the nonprofit private entity to demonstrate to the satisfaction of the Administrator fiduciary responsibility, principles of accounting practices and fiscal mechanisms consistent with safeguarding public funds and the public interest.

2. Any grant which is awarded to a nonprofit private entity is subject to audit and review by the Division.

Sec. 8. 1. *A nonprofit private entity which administers the disbursement of money received as a grant pursuant to the program may approve an individual loan of up to \$5,000 to a start-up business without the approval of the Administrator. The Administrator may waive the loan limit prescribed in this subsection for a loan not exceeding \$10,000.*

2. A loan may not be made to:

(a) An applicant for a loan by the person responsible for approving the loan on behalf of the nonprofit private entity if the person approving the loan has a dating relationship with the applicant or is a relative of the applicant within the third degree of consanguinity or affinity;

(b) A start-up business owned wholly or in part by any person who is an employee of the nonprofit private entity or under a contract of service to the nonprofit private entity; or

(c) A start-up business which has not complied with the provisions of sections 6 to 18, inclusive, of Assembly Bill No. 146, chapter 381, Statutes of Nevada 2009, at page 2027, or which fails to demonstrate compliance with applicable requirements governing contributions or industrial insurance pursuant to the provisions of chapter 612 or 616C of NRS.

3. An applicant for a loan pursuant to this section must submit to the nonprofit private entity a business plan which clearly identifies and explains the intended use of the loan in the manner prescribed by the nonprofit private entity.

4. An applicant for a loan may not have more than one loan which is obtained pursuant to this section and which is in repayment, except that a borrower who has repaid such a loan pursuant to section 9 of this regulation may apply for another loan for the purposes of expanding the business if the business still qualifies as a start-up business.

5. Any legally organized business entity which receives a loan from a nonprofit private entity pursuant to this section:

(a) May use the money for business-related costs, including, without limitation, costs associated with the start-up of the business and licensing and permitting; and

(b) May not, in any manner, use any portion of the money for expenses commonly considered personal in nature.

6. As used in this section, “dating relationship” has the meaning ascribed to it in NRS 284.0533.

Sec. 9. 1. *Except as otherwise provided in subsection 3, both principal and interest on a loan made under the program must be repaid to the nonprofit private entity not later than 4 years after the date on which the loan is made. The nonprofit private entity administering the loan must establish a payment schedule and agreement with the borrower. The schedule and agreement must provide that:*

(a) The first year of repayment of a loan is free from interest;

(b) A loan which is not repaid in full by the end of the first year is subject to an interest rate of 5 percent simple interest per annum; and

(c) The failure of the borrower to repay the principal and interest on the loan may result in collection proceedings to the extent allowable under the applicable laws and regulations of this State.

2. *Any interest earned by the nonprofit private entity pursuant to subsection 1:*

(a) Must be deposited in a separate account established and maintained by the nonprofit private entity for the purpose of administering loans; and

(b) Must not be commingled with any other money.

3. *The Administrator may forgive the outstanding balance of a loan if:*

(a) The Administrator determines that the loan was not secured either in whole or in part by fraud or misrepresentation of the borrower;

(b) The borrower demonstrates an inability to repay the loan; and

(c) The recovery of the loan would be against equity and good conscience, as determined by the Administrator.

Sec. 10. 1. *A nonprofit private entity may be entitled to reimbursement for administrative costs incurred as a result of administering a loan under the program, but any such reimbursement must not exceed 10 percent of the total amount of all grants awarded to the nonprofit private entity for the purposes of making loans under the program.*

2. *A claim for reimbursement pursuant to subsection 1 must be made:*

(a) *In accordance with generally accepted accounting principles; and*

(b) *On a form prescribed by the Administrator.*

Sec. 11. *The Administrator shall ensure that all loans made under the program are disbursed by qualified nonprofit private entities. Qualifications must be identified using information submitted by the nonprofit private entity pursuant to section 7 of this regulation. In determining whether a nonprofit private entity is qualified to receive a grant under the program, the Administrator may consider, without limitation:*

1. *The experience and past performance of the nonprofit private entity in delivering training and counseling in the areas of financial services;*

2. *The experience and past performance of the nonprofit private entity in the management of public funds or loans;*

3. *The ability of the nonprofit private entity to provide services on a statewide or regional basis;*

4. *Evidence of an established lending process, including, without limitation, underwriting guidelines and collection policies and procedures for delinquent accounts;*

5. *The length of time the nonprofit private entity has been providing financial services to the public or private sector; and*

6. The aging of the current loan portfolio of the nonprofit private entity.

Sec. 12. *1. A nonprofit private entity which administers a loan shall establish a process by which an applicant may appeal the denial of an application for a loan under the program. The appeal process must provide for the creation of a panel or committee that is responsible for holding regular meetings in a manner sufficient to ensure the timely resolution of any appeal filed with the nonprofit private entity.*

2. Any records relating to an appeal described in subsection 1 must be made available to the Division for inspection.