

# STATE OF NEVADA



## **Department of Business & Industry Financial Institutions Division**

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The Financial Institutions Division (FID) is charged with the enforcement of regulations and licensing of thirteen types of financial entities, including depository, lending, collection and money transmission activities. Additionally, certain individuals operating within these licensed entities are themselves required to be licensed or subject to personal background investigations.

Background investigations are conducted on entities and individuals having substantial control of a licensed company's activities. Laws governing each type of license set different percentage controlling factors which determines the requirements to perform a background investigation.

This pamphlet attempts to address the most often asked questions preliminary to seeking licensing by FID. It in no way is all encompassing nor does it address every situation for possible licensing. Every person seeking to engage in an activity that is possibly subject to licensing by FID should carefully review the applicable Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC). Most libraries within Nevada have available copies of both Statutes and Regulations. Individual copies of the applicable NRS and NAC are included in the application packages for each type of license, and can be obtained by sending the appropriate fee listed on the reverse of this pamphlet.

Various NRS or NAC prohibits using within a company's name, or advertising the words Bank, Banking, Banker (or foreign language equivalent), Trust, Credit Union, or Deposit. Additionally, The Secretary of State, Counties, Cities and Municipalities have been requested not to permit incorporation authorization, issuance of business licenses or fictitious business names, where the name of the company or the type of activities the

company will engage in, indicates that it may be subject to FID licensing, without first having the potential activities of the company reviewed by FID.

**DEPOSITORY INSTITUTIONS:** Bank and Savings & Loan licensees must have their deposits insured by the FDIC. Thrift Companies and Credit Unions have the option of having their deposits insured either by FDIC/NCUA or a Private Deposit Insurer that has been approved by the FID Commissioner. Interstate Branching is permitted under certain conditions. Banks may not directly engage in sale of Insurance (other than sale of credit insurance, credit property insurance and annuities) or Security Brokerage activities.

**BANKS (NRS & NAC 657-668):** A Nevada State chartered bank must have sufficient capitalization to meet FDIC's minimum qualification for insurance of accounts. That amount is generally a minimum of \$2,000,000, substantially in excess of Nevada's capitalization requirements. A "background" investigation and prior approval by FID is required for any entity having, or seeking "change of control" of 25% or more of the voting stock of the bank. A 5% to 24% control of the bank must be reported to FID and could also result in a background investigation. All Directors and Chief Executive Officers must also submit to a background investigation. Each Director must own, unencumbered, at least \$1,000 fair market value of the stock of the bank. All Banks must maintain a surety bond covering all Officers and Employees.

**SAVINGS & LOAN ASSOCIATIONS (NRS & NAC 673):** In addition to matters listed under banks, S & Ls are required to provide Commissioner of FID with Surety Bond equal to 5% of total assets, not to exceed \$3,000,000 covering all employees.

**CREDIT UNIONS (NRS & NAC 678):** No dividends may be paid out until "Regular Reserves" equal 7.5% of outstanding loans & risk assets. Thereafter transfers from gross income must be made annually until 6% of loans and risk assets is achieved. Fidelity Bond covering officer & employees, in an amount prescribed by NAC, must be maintained by Credit Union.

**THRIFT COMPANY (NRS & NAC 677):** Activities similar to those of Industrial Loan Companies in other States. In addition to matters listed above for banks, Thrifts must provide FID with Fidelity bond on each officer, director & employee for at least \$100,000. Officers and majority of directors must be citizens of Nevada. President must have at least 10 years experience in a regulated financial institution; manager at least 2 years experience.

**MORTGAGE COMPANY (NRS & NAC 645B):** Anyone who holds himself out as being able to make or arrange loans secured by real estate, or as being able to buy or sell notes secured by real estate in, into or from Nevada must have a mortgage company license, or be specifically exempted from that license. A licensed real estate broker or agent does not automatically qualify to engage in mortgage activities. There is no separate license for mortgage broker, funder or mortgage banker. All licensed mortgage companies must have a "qualified employee" to oversee the day to day operations of the company.

That individual must have at least 2 years of prior verifiable mortgage lending experience, and undergo a background investigation. Employees of the mortgage company do not need to be separately licensed, but must conduct all their activities at the physical licensed location of the mortgage company. An out of Nevada mortgage company location cannot be licensed.

**EXEMPT MORTGAGE COMPANY:** Although there are ten provisions for exemption (NRS 645B.015) almost all exemptions fall into two categories. The first are Federal or State Chartered Bank, S & Ls, Credit Unions or Thrifts. The other is a mortgage company that is FNMA approved Seller & Service, HUD & VA approved lender, and does not maintain investors trust accounts; all four conditions must be met to qualify for the exemption. Copies of all three lender approvals and a certification from an independent CPA that the company does not maintain the trust accounts is required. The exemption application may be obtained from FID at no cost. The completed application must be sent in with a \$200 application fee. If the exemption is granted, subsequent annual exemption renewals are \$100. A current CPA certification is required at each annual renewal. Exempt mortgage companies are not required to maintain a physical location in Nevada.

**INSTALLMENT LOAN COMPANY (NRS & NAC 675):** The engaging in the making of or arranging a loan other than those secured by Real Estate require an installment Loan License. The company must have a solvent financial condition, at least \$50,000 in liquid assets for use in the operation of the business, and the principals must demonstrate ability to conduct installment loan lending activities. Companies providing the financing of the sale of their own product through a “retail installment sales contract” are not required to obtain an Installment Loan License. Those entities which purchase existing retail installment sales contracts (not secured by real estate) do not need to obtain a license.

**TRUST CO.(NRS & NAC 669):** A Trust Co. must have an initial minimum capitalization of \$300,000 actually paid in, and maintain a Fidelity bond of \$25,000 or more on all officers and employees. Banks and S & Ls qualifying to operate in Nevada do not need separate Trust Co. license. Some provisions of state banking law apply to a licensed trust company.

**ESCROW AGENCY (NRS & NAC 645A):** Includes collection of payments by a third person on a loan secured by real estate. Agencies who are also title insurers are licensed by the State Insurance Dept. Licensees or principals may not hold an active real estate license. Agency must maintain physical office in Nevada. \$50,000 Surety Bond must be deposited with Commissioner.

**ESCROW AGENT (NRS & NAC 645A):** Separate Agent license required for each agent of agency. May not serve as agent for more than one agency. \$50,000 surety bond required, but may be included in agency bond by reflecting agent within bond.

**COLLECTION AGENCY (NRS & NAC 649):** Physical office required in Nevada. License required for solicitation by telephone or mail to attempt to collect a debt in Nevada on behalf of a Nevada client. An out of Nevada Collection Agency attempting to collect into Nevada on behalf of an out of Nevada client is exempt from licensing, provided those activities are limited to interstate communication (e: telephone, fax, or mail). Background investigation required on principal owning or acquiring control of company. A surety bond must be filed with the commissioner. The amount of the bond is between \$25,000 and \$50,000, determined by the amount of average monthly collections received by the agency. Trust accounts must be maintained in a Nevada Bank. All printed forms require prior approval by FID.

**COLLECTION MANAGER (NRS & NAC 649):** Every Collection Agency must have a Licensed Collection Agency Manager available to oversee the day-to-day activities. Manager must have at least 2 years prior collection agency experience (at least 1 year in previous 18 months). Pass written test covering NRS & NAC 649, Federal Fair Debt Collection Practices Act, allowable interest (NRS Chapter 99), trust account maintenance, and statement balancing. Test required to be given at least twice a year (usually March & September).

**DEBT ADJUSTER (NRS & NAC 676):** Covers arrangements by a third party between debtor & creditor for repayment of debt. Furnish surety bond to Commissioner \$10,000 to \$50,000 determined by monthly amounts processed. Background investigation required of all principals owning or acquiring control of the company. Trust account required to be maintained in Nevada bank. May not operate a Collection Agency.

**MONEY TRANSMITTER (NRS & NAC 671):** Includes instruments for, and electronic transmission of, money. Certified company financial statement reflecting net worth over \$100,000. Background investigation required of principals owning or seeking control of company. Surety bond to Commissioner required for \$10,000 to \$250,000 depending on number of offices/agents. Trust account must be in a Nevada Bank.

**DEVELOPMENT CORP. (NRS & NAC 670):** Provide credit for rehabilitation of existing business and industry. Minimum capital of \$500,000. Generally provides SBA loans.

**ECONOMIC REVITALIZATION CORP. (NRS & NAC 670A):** Ventures by Nevada Banks, S & Ls, Credit Unions, and Nevada Corporations with assets over \$20 million to prorate credit for economic revitalization and diversification.

**SURETY OR FIDELITY BOND:** Where a licensee is required to pledge a bond to the Commissioner of FID, a Letter of Credit or Cash in lieu of bond may be pledged (NRS 100.065). When a Surety Bond is issued, or renewed by an out of State Insurance Company the bond must be “countersigned” by a Nevada Registered Insurance Agent (NRS 680A.300).

**EXAMINATIONS:** It is the policy of FID to conduct at least annual examinations of all licensees. Depository institutions are charged a fee based on their total assets. Non-depository institutions are charged an examination fee based on the number of “man-hours” required to perform the examination, at a rate commensurate with the experience level required of the examiner to perform the appropriate type of license examination (see “examination fees” within this pamphlet).

**VEHICLE CONTRACT (NAC 97):** NRS 97.299 requires FID to prescribe by regulation the language to be used in the application and contract for use of financing a vehicle, when that vehicle is being financed by an auto dealer. A copy of the regulation may be obtained from FID for a cost of \$25.00.

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