

STATE OF NEVADA



STEVE SISOLAK
Governor

TERRY REYNOLDS
Director

SANDY O'LAUGHLIN
Commissioner

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 Department of Business and Industry, Nevada Financial Institutions Division Chapter 598B of the Nevada Administrative Code- Equal Opportunity for Credit.

The State of Nevada, Department of Business and Industry, Office of the Director (“Director” or “Department”) will hold a public hearing on **November 4, 2020, at 10:00 a.m.** via Webex videoconference and teleconference. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of permanent regulations that pertain to chapter 598B of the Nevada Administrative Code (“NAC”).

Date: November 4, 2020

Time: 10:00 a.m. – noon

When it’s time, join the Webex meeting by clicking on “Join meeting” link below:

[Join meeting](#)

Meeting number (access code): 146 165 7381

Meeting password: SB311HEARING

Or join by phone: 1-844-621-3956 United States Toll Free

Additional options to join:

Join from a video system or application

Dial 1461657381@businessnv2.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial 1461657381.businessnv2@lync.webex.com

Governor Steve Sisolak signed an emergency directive related to how public bodies in the state of Nevada must operate public meetings to ensure the safety of all Nevadans during the COVID-19 crisis. The directive suspends the requirement that there must be a physical location designated for meetings of a public body where members of the public are permitted to attend and participate in-person. Any public body that holds a meeting pursuant to this Executive Order must find an alternative way for the public to participate without having to be physically present. In addition, the directive states that if a public body holds a meeting by teleconference or videoconference, there must be a way for members of the public to provide public comment.

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation and the adoption of Chapter 598B of the Nevada Administrative Code (“NAC”), LCB File No. R097-20, dated August 21, 2020.

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

LCB File No. R097-20

A regulation relating to equal opportunity for credit; interpreting the phrase “no credit history” for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; 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 Senate Bill (“SB”) 311 during the 80th Session of the Nevada Legislature. This regulation intends to clarify and align SB 311 with current federal law pertaining to discrimination based on marital status of a person who seeks to obtain credit.

This regulation is needed to ensure all Nevada borrowers are afforded an equal opportunity to obtain credit from a creditor in compliance with both state and federal laws.

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 Authority: SB 311.

The regulation proposed for adoption is stated in the attached Proposed Regulation of the Commissioner of the Financial Institutions Division, LCB File No. R097-20. The proposed regulation includes measures to implement the requirement of SB 311 and align state law with federal law relating to equal opportunity for credit. This includes:

- Defining no credit history;
- Clarifying that the provisions of the controlling statute NRS 598B.135 does not apply to a creditor with regard to an application for credit if certain factors are met; and
- Requiring the Commissioner of the Financial Institutions Division to interpret NRS 598B.135 so that he rights of the applicants and the responsibilities of creditors are equal to the respective rights and responsibilities under federal law.

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>, hovering over the term “Law Library,” hovering over the term “Nevada

Register,” clicking upon the term “Browse,” and then clicking upon the term “Numerical Index” appearing under the category “2020 Regulations.” Access may then be obtained by scrolling down the list of LCB File Numbers to seek “R097-20” or by performing a search function specifying LCB File Number “R097-20” 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 Division does not foresee any adverse effects of the proposed regulation, whether direct or indirect, to either the creditors or to the public.

ii. Long-term effect- The Division does not foresee any adverse effects of the proposed regulation, whether direct or indirect, to either the creditors or to the public.

b. Beneficial effect:

i. Immediate effect- This regulation intends to clarify and align SB 311 with current federal law pertaining to discrimination based on marital status of a person who seeks to obtain credit. This regulation would provide that all Nevada borrowers have an opportunity to obtain credit from a creditor in compliance with both state and federal laws.

ii. Long-term effect- This regulation intends to clarify and align SB 311 with current federal law pertaining to discrimination based on marital status of a person who seeks to obtain credit. This regulation would provide that all Nevada borrowers have an opportunity to obtain credit from a creditor in compliance with both state and federal laws.

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 clarifies and aligns SB 311 with current federal law.

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 NRS Chapters 675, 604A, state-chartered depository institutions, and industry organizations that extend credit and 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 locations of the Division’s offices in Las Vegas and Reno, and all other public locations required by NRS 233B. Following the conducted workshop and consideration of the comments received from three entities and individuals during the workshop and comments from seventeen entities who

responded to the small business impact questionnaire, 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
Since this regulation intends to clarify and align SB 311 with current federal law pertaining to discrimination based on marital status of a person who seeks to obtain credit, the Division anticipates the cost of enforcement of the proposed regulation to be absorbed into the workloads of existing staff.
6. Overlap or duplication with other state, local governmental or federal agencies
This regulation will align with current federal law pertaining to equal opportunity for credit.
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
This regulation will align with current federal law pertaining to equal opportunity for credit.
8. Establishment of new fee or increase to existing fee
There are no fees associated with this regulation.

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 or at 3300 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102. Written submissions must be received by the Division on or before **October 28, 2020**. 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 and at the Division's offices at:

Southern Nevada
Financial Institutions Division
3300 West Sahara Avenue, Suite 250
Las Vegas, NV 89102

Northern Nevada
Financial Institutions Division
1755 East Plumb Lane, Suite 243
Reno, NV 89502

It will also be made available in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. 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 to members of the public upon request. A reasonable fee may be charged for copying.

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:

Attn: Public Posting
Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Attn: Public Posting
Capital Building, Main Floor
101 North Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Attn: Public Posting
Churchill County Library
553 S. Maine Street
Fallon, Nevada 89406

Attn: Public Posting
Las Vegas – Clark County Library
7060 W. Windmill Lane
Las Vegas, Nevada 89113

Attn: Public Posting
Elko County Library
720 Court Street
Elko, Nevada 89801

Nevada State Business Center
3300 W. Sahara Avenue
Las Vegas, Nevada 89102

Attn: Public Posting
Nevada Dept. of Business & Industry
1830 College Parkway, Suite 100
Carson City, Nevada 89706

Attn: Public Posting
Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada 89101

Attn: Public Posting
Nevada DETR
2800 E. St. Louis Avenue
Las Vegas, Nevada 89104

Attn: Public Posting
Douglas County Public Library
1625 Library Lane
P.O. BOX 337
Minden, Nevada 89423

Attn: Public Posting
Tonopah Public Library
167 S. Central Street
P.O. Box 449
Tonopah, Nevada 89049

Attn: Public Posting
Storey County Clerk
26 S. B Street, Drawer D
Virginia City, Nevada 89440

Attn: Public Posting
Goldfield Public Library
Corner of Crook Ave. & Fourth St
P.O. Box 430
Goldfield, Nevada 89013

Attn: Public Posting
Goldfield Public Library
Corner of Crook Ave. & Fourth St
P.O. Box 430
Goldfield, Nevada 89013

Attn: Public Posting
Eureka Branch Library
80 S. Monroe Street
P.O. Box 293
Eureka, Nevada 89316

Attn: Public Posting
Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Attn: Public Posting
Lincoln County Library
63 Main Street
P.O. Box 330
Pioche, Nevada 89043

Attn: Public Posting
Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Attn: Public Posting
Pershing County Library
1125 Central Avenue
P.O. BOX 781
Lovelock, Nevada 89419

Attn: Public Posting
Downtown Reno Library/Washoe County
301 S. Center Street
P.O. Box 2151
Reno, Nevada 89501

Attn: Public Posting
White Pine County Library
950 Campton St.
Ely, Nevada 89301

Attn: Public Posting
Lander County
625 South Broad Street
P.O. Box 141
Battle Mountain, Nevada 89820

Attn: Public Posting
Carson City Library
900 N. Roop Street
Carson City, Nevada 89701

Attn: Public Posting
Mineral County Public Library
110 1st Street
Hawthorne, Nevada 89415

Nevada Public Notice website:
www.notice.nv.gov

Nevada Legislature website:
www.leg.state.nv.us/App/Notice/A/

**NOTICE OF PUBLIC MEETING
TO CONDUCT A HEARING FOR ADOPTION
OF REGULATIONS OF THE COMMISSIONER OF THE FINANCIAL
INSTITUTIONS DIVISION
LCB FILE No. R097-20
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 598B of the Nevada Administrative Code (“NAC”). The proposed regulations are required as a result of the passage of Senate Bill 311 (S.B.311) during the 80th Session of the Nevada Legislature adjourned sine die on June 3, 2019. A public meeting on this matter has been set for **10:00 a.m. on November 4, 2020**, via Webex videoconference and teleconference:

Date: November 4, 2020

Time: 10:00 a.m. – noon

When it’s time, join the Webex meeting by clicking on “Join meeting” link below:

[Join meeting](#)

Meeting number (access code): 146 165 7381

Meeting password: SB311HEARING

Or join by phone: 1-844-621-3956 United States Toll Free

Additional options to join:

Join from a video system or application

Dial [1461657381@businessnv2.webex.com](tel:1461657381@businessnv2.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial [1461657381.businessnv2@lync.webex.com](tel:1461657381.businessnv2@lync.webex.com)

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 **October 28, 2020**.

LCB File No. R097-20.
Equal Opportunity for Credit

A regulation relating to equal opportunity for credit; interpreting the phrase “no credit history” for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; 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 Internet Web site at <http://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

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 Internet Web site at http://fid.nv.gov/Opinion/Proposed_Regulations/, the Nevada Legislature's Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

Southern Nevada
Financial Institutions Division
3300 West Sahara Avenue, Suite 250
Las Vegas, NV 89102

Attn: Public Posting
Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Attn: Public Posting
Capital Building, Main Floor
101 North Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Attn: Public Posting
Churchill County Library
553 S. Maine Street
Fallon, Nevada 89406

Northern Nevada
Financial Institutions Division
1755 East Plumb Lane, Suite 243
Reno, NV 89502

Nevada State Business Center
3300 W. Sahara Avenue
Las Vegas, Nevada 89102

Attn: Public Posting
Nevada Dept. of Business & Industry
1830 College Parkway, Suite 100
Carson City, Nevada 89706

Attn: Public Posting
Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada 89101

Attn: Public Posting
Nevada DETR
2800 E. St. Louis Avenue
Las Vegas, Nevada 89104

Attn: Public Posting
Churchill County Library
553 S. Maine Street
Fallon, Nevada 89406

Attn: Public Posting
Las Vegas – Clark County Library
7060 W. Windmill Lane
Las Vegas, Nevada 89113

Attn: Public Posting
Elko County Library
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Elko, Nevada 89801

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P.O. Box 430
Goldfield, Nevada 89013

Attn: Public Posting
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P.O. Box 430
Goldfield, Nevada 89013

Attn: Public Posting
Eureka Branch Library
80 S. Monroe Street
P.O. Box 293
Eureka, Nevada 89316

Attn: Public Posting
Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Attn: Public Posting
Lincoln County Library
63 Main Street
P.O. Box 330
Pioche, Nevada 89043

Attn: Public Posting
Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Attn: Public Posting
Pershing County Library
1125 Central Avenue
P.O. BOX 781
Lovelock, Nevada 89419

Attn: Public Posting
Douglas County Public Library
1625 Library Lane
P.O. BOX 337
Minden, Nevada 89423

Attn: Public Posting
Tonopah Public Library
167 S. Central Street
P.O. Box 449
Tonopah, Nevada 89049

Attn: Public Posting
Storey County Clerk
26 S. B Street, Drawer D
Virginia City, Nevada 89440

Attn: Public Posting
Downtown Reno Library/Washoe County
301 S. Center Street
P.O. Box 2151
Reno, Nevada 89501

Attn: Public Posting
White Pine County Library
950 Campton St.
Ely, Nevada 89301

Attn: Public Posting
Lander County
625 South Broad Street
P.O. Box 141
Battle Mountain, Nevada 89820

Attn: Public Posting
Carson City Library
900 N. Roop Street
Carson City, Nevada 89701

Attn: Public Posting
Mineral County Public Library
110 1st Street
Hawthorne, Nevada 89415

Nevada Public Notice website:
www.notice.nv.gov

Nevada Legislature website:
www.leg.state.nv.us/App/Notice/A/

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Financial Institutions Division

November 4, 2020 • 10:00 a.m.

Governor Steve Sisolak signed an emergency directive related to how public bodies in the state of Nevada must operate public meetings to ensure the safety of all Nevadans during the COVID-19 crisis. The directive suspends the requirement that there must be a physical location designated for meetings of a public body where members of the public are permitted to attend and participate in-person. Any public body that holds a meeting pursuant to this Executive Order must find an alternative way for the public to participate without having to be physically present. In addition, the directive states that if a public body holds a meeting by teleconference or videoconference, there must be a way for members of the public to provide public comment.

The purpose of this public hearing is to receive final comments from all interested persons regarding this permanent regulation and the adoption of Chapter 598B of the Nevada Administrative Code (“NAC”), LCB File No. R097-20, dated August 21, 2020.

1. Open Hearing: R097-20.
2. Public comment.
3. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R097-20

Equal Opportunity for Credit

A regulation relating to equal opportunity for credit; interpreting the phrase “no credit history” for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; and providing other matters properly relating thereto.

4. Adoption of Proposed Regulation R097-20 (For Possible Action)
5. Public Comment.
6. Close Hearing: R097-20. (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. R097-20

August 21, 2020

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

AUTHORITY: §§1-4, NRS 233B.040, 598B.090 and 598B.135.

A REGULATION relating to equal opportunity for credit; interpreting the phrase “no credit history” for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits discrimination on the basis of marital status with respect to any aspect of a credit transaction. (NRS 598B.100) Existing law also provides that, for certain applicants for credit who have no credit history, it is discrimination on the basis of marital status for a creditor to fail to comply with a request of an applicant to have the applicant’s credit history deemed to be the same as the credit history of the applicant’s spouse or former spouse as established during the marriage. (NRS 598B.135) These provisions regarding applicants with no credit history, codified as NRS 598B.135, were enacted during the 2019 Legislative Session as section 3 of Senate Bill No. 311 and are similar to a requirement in federal regulations. (12 C.F.R. § 1002.6(b)(6)(iii))

Section 2 of this regulation interprets the phrase “no credit history” for the purposes of NRS 598B.135. **Section 3** of this regulation clarifies the circumstances under which NRS 598B.135 does not apply to a creditor. **Section 4** of this regulation clarifies the scope of the rights of applicants and responsibilities of creditors as provided in NRS 598B.135.

Section 1. Chapter 598B of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *As used in NRS 598B.135, the Commissioner of Financial Institutions will interpret the phrase “no credit history” to mean that the credit report of the applicant does not contain any information concerning any credit transaction.*

Sec. 3. *The provisions of NRS 598B.135 do not apply to a creditor with regard to an application for credit if:*

- 1. The creditor cannot comply with NRS 598B.135 without violating federal law.*
- 2. The creditor cannot legally obtain the credit history of the spouse or former spouse of the applicant as needed to comply with NRS 598B.135.*
- 3. The credit history of the spouse or former spouse of the applicant which is needed to comply with NRS 598B.135 is not available to the creditor for any reason beyond the control of the creditor, including, without limitation, when the necessary credit history is no longer retained by a credit reporting agency.*

Sec. 4. *Except as otherwise provided in section 3 of this regulation, the Commissioner will interpret NRS 598B.135 so that the rights of applicants and the responsibilities of creditors for the purposes of NRS 598B.135 shall be deemed to be coextensive with the respective rights and responsibilities under 12 C.F. § 1002.6(b)(6)(iii).*

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY
THE FINANCIAL INSTITUTIONS DIVISION (Division)
TO SENATE BILL (SB) 311 (Title 52, Chapter 598B)
EQUAL OPPORTUNITY FOR CREDIT
August 13, 2020**

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 those engaged in or who desire to engage in the business of extending credit 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 (NRS) 675, 604A, state-chartered depository institutions, and industry organizations that extend credit and the Division's regulatory action contact list. In turn, the Division solicited comments on the proposed regulations for SB 311 (Title 52, Chapter 598B) 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 August 31, 2020 along with a Notice of Workshop for September 16, 2020. 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
Fax: (702) 486-4563
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 took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language (Senate Bill 311) 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:

There are no fees or costs imposed by SB 311 or the proposed regulation.

(II) BENEFICIAL EFFECTS:

There are no fees or costs imposed by SB 311 or the proposed regulation.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

There are no fees or costs imposed by SB 311 or the proposed regulation.

(II) INDIRECT EFFECTS:

There are no fees or costs imposed by SB 311 or the proposed regulation.

(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 has received a total of twenty-six (26) responses to the solicitation sent to all interested parties. The Division has considered and analyzed all submitted comments and addressed those comment in the attached summary of response spreadsheet. Some of the comments were more directed towards SB 311 and not the proposed regulation. The proposed regulation intends to correct conflicts with state and federal law regarding discrimination based upon marital status.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The Division does not foresee any additional cost or fees associated with the proposed regulation. The proposed regulation intends to correct conflicts with state and federal law regarding discrimination based upon marital status.

(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 proposed regulation does not provide for a new fee or increase to an existing fee.

(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 our knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity. The proposed regulation intends to correct conflicts with state and federal law regarding discrimination based upon marital status.

(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, SB 311. There are no fees or costs associated with SB 311 or the proposed regulation. The proposed regulation intends to correct conflicts with state and federal law regarding discrimination based upon marital status.

To the best of my knowledge, the information contained in this Small Business Impact Statement was prepared properly and accurate.



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

<u>SB311 Equal Opportunity for Credit- Direct or Indirect Impact Item</u>	<u>Number/ and %</u>	<u>Direct or Indirect</u>	<u>Adverse or Beneficial</u>	<u>NFID Answer/Mitigation</u>
Creditors are not permitted to access a credit report where there is no permissible purpose or consent from the non-applicant. The requirement violates the FCRA, and because creditors are not permitted to obtain information about a non-applicant spouse or former spouse based solely on the applicant's request, it violates the ECOA/Regulation B prohibition on requesting information on an applicant's spouse or former spouse.	4 (15%)	Direct	Adverse	Language of proposed regulation NAC 598B section 3 (1) should correct the issue.
Violates privacy rights and data security rules by requiring creditors to obtain and disseminate private financial information about an applicant's spouse or former spouse without that person's knowledge or consent.	3 (11%)	Direct	Adverse	Language of proposed regulation NAC 598B section 3 (2) should correct the issue.
Interpreting the phrase "no credit history". Licensee interprets that the phrase to mean no record of payment history as available through the major credit reporting agencies	1 (3%)	Indirect	Adverse	Language of proposed regulation NAC 598B section 2 defines specifically the meaning of "no credit history" with respect to NRS 598B.135
Suggests Sec.4 reference to the Equal Credit Opportunity Act and the Fair Credit Reporting Act and the specific regulations promulgated under both acts as well as any similar state-equivalent requirements in addition to the reference to 12 C.F.R. Section 1002.6(b)(6)(iii).	1 (3%)	Indirect	Adverse	Language of proposed regulation NAC 598B 3 (1) is referenced in section 4 as is relates to federal laws.

As NRS 598B.135 as written, would cause additional overhead costs and costs associated with pulling credit reports of other individuals, analyzing said credit reports and training to ensure compliance with state and federal law. Complying with NRS 598B.135 increases litigation and compliance risk associated with creditor's business operations	4 (15%)	Direct	Adverse	Costs associated with SB311 are representative of the Bill rather than the proposed regulation NAC 598B.
If online lenders are exempt, it will be beneficial	1 (3%)	Direct	Beneficial	Any and all lenders extending credit to Nevada residents are required to have a license, there is no exemption for online lending.
If online lenders are not exempt, it will have an adverse impact due to the need to develop a system to request, track, store and analyze the spousal credit reports.	1 (3%)	Direct	Adverse	Online lenders are not exempt from NRS 598B.135
Section 2 defines "no credit history" but does not define credit transaction. Lenders review and rely on credit report information that is not transactional per se. Example, whether the applicant has any outstanding judgments or bankruptcies is reported as part of the public records section of consumer credit reports. The failure to define credit transaction will lead to confusion and difficulty applying the regulation where an applicant does not have any reportable trade-line transactions on their credit report due to the age of the transactions but have reportable public records that bears on their creditworthiness.	1 (3%)	Direct	Adverse	SB311 as it relates to NRS 598B.135 for discrimination based upon marital status. SB311 is not intended to identify loan commitments.

Section 3 - Given that lenders complying with NRS 598B.135 cannot do so without violating the Fair Credit Reporting Act or Equal Opportunity Act, this section serves the purpose of placing an additional burden on lenders to demonstrate why the request violates federal law. Further, each lender accused of violation of NRS 598B.132 is in the position of defending its reliance of well settled federal law. In order to ensure that its processes are defensible, lenders will incur significant expenses but with no meaningful offsetting benefit to consumers.	1 (3%)	Direct	Adverse	Language of proposed regulation NAC 598B section 3 (1) should correct the issue.
Unclear how a lender may go about ascertaining that an applicant is seeking to use a spouse of former spouse's credit history. Nor does it provide clarity of what type of information lenders must gather from applicants in order to determine whether they are seeking to avail themselves of NRS 598B.135. The additional information gathering and analysis that would be required is operationally burdensome and expensive for small businesses.	1 (3%)	Direct	Adverse	Section 3 of the proposed regulation NAC 598B defines the creditors responsibilities.
Section 4, the term "coextensive" is ambiguous and will result in confusion for both applicants and lenders. If the intent is to clarify that NRS 598B.135 does not impose requirements in excess of the federal regulations, the language should be clarified to explicitly state that.	1 (3%)	Indirect	Adverse	Terminology of "coextensive" carries specificity within section 4 as it relates to 12 C.F.R § 1002.6(b)(6)(iii).
NRS 598B.135 and the proposed regulations does not address whether lenders will need to send special notices to Nevada residents who seek benefits under its provisions, but who do not qualify for those benefits.	1 (3%)	Indirect	Adverse	The proposed regulation does not preclude or replace any disclosure required by federal law.
The regulation does not address how lenders can determine whether Nevada residents are asking to use credit history from a spouse or former spouse.	1 (3%)	Indirect	Adverse	Creditors internal processes are outside of the proposed regulations.

It doesn't address the question of whether it would remain applicable if a remarried applicant seeks to use the credit history of a former spouse.	1 (3%)	Indirect	Adverse	The proposed language in section 2 defines the meaning of "no credit history" with respect to NRS 598B.135. SB311 section 2 defines "marital status"
The bill conflicts with Federal law such as FCRA and ECOA, the lender may be exposed to potential litigation from consumers who claim we are not complying with state law. Costs to defend legal actions can be excessive.	1 (3%)	Direct	Adverse	The language in the proposed regulation should correct this issue.
Third party vendor relationships that have contractual requirements to conform to Federal law. This may lead to conflict with vendors or cancellation of contracts. Reputation risks from consumers	3 (11%)	Indirect	Adverse	Vendor relations is outside of proposed regulation NAC 598B.
Anytime that a new law expresses certain rights and provides penalties for credit review activities or where categories of discrimination are expanded, a lending business is involved in higher rate/risk loans and can expect to eventually face claims of violation which will require time and effort in investigating and handling.	1 (3%)	Indirect	Adverse	This is a comment directed towards SB311 that was passed by the legislators in the 2019 legislative session and codified into law- NRS 598B. The language in the proposed regulation intends to correct conflicts with state and federal law regarding discrimination based upon marital status.
<u>SBI Response Summary:</u> Total Solicited: 200 Total Responded: 26 % Responded: 13%				