

STATE OF NEVADA



BRIAN SANDOVAL  
*Governor*

DEPARTMENT OF BUSINESS AND INDUSTRY

**FINANCIAL INSTITUTIONS DIVISION**

BRUCE BRESLOW  
*Director*

GEORGE E. BURNS  
*Commissioner*

**NOTICE OF INTENT TO ACT UPON A REGULATION**

**Notice of Public Hearing for the Adoption of Regulation Amendments**

**The Department of Business and Industry, Nevada Financial Institutions Division  
Chapters 604A, 649, 658, 669, 671, 673, 675, 676A, 677, and 678 of the  
Nevada Administrative Code**

The State of Nevada, Financial Institutions Division ("Division"), 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, (702) 486-4120 is proposing amendments to Chapters 604A, 649, 658, 669, 671, 673, 675, 676A, 677, and 678 of the Nevada Administrative Code (NAC), LCB File No. R054-16 dated May 3, 2016. This public hearing will be conducted subject to the Open Meeting Law (NRS 241.020) and the public hearing on the proposed regulation amendments will be held at the following locations through simultaneous videoconference:

Date: Tuesday, July 26, 2016

Time: 8:30 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4412  
Las Vegas, NV 89101

In Carson City: Nevada State Legislative Building  
401 S. Carson St.  
Room 2135  
Carson City, NV 89701

The purpose of this Public Hearing is to receive final comments from all interested persons regarding the proposed adoption of regulation amendments to the Nevada Administrative Code, LCB File No. R054-16 dated May 3, 2016.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation amendments. The purpose of the proposed regulation amendments are:

*To establish a reasonable hourly fee to cover only actual costs of the Nevada Financial Institutions Division (NFID) operations to supervise the industries for which it is statutorily responsible for and not to exacerbate any additional financial and regulatory burden upon existing small businesses. NFID is fully funded by assessments and the examination fees from the institutions it regulates and does not take any of its revenue from the General Fund. NFID only assesses or charges its licensees for the actual costs of its operations and to maintain the reserves necessary to properly regulate and supervise the industries for which it is statutorily responsible in a safe and sound manner. As such, no NFID revenue becomes part of the General Fund. This self-funded operation and budget ensures the pursuit of excellence in financial institution regulation, examination, and supervision. An hourly examination fee of \$75/hour needs to be adopted in order to equitably balance the Depository Assessment and the Non-Depository Examination Fees based on utilization of FID resources.*

2. The proposed regulation amendments are permanent and a copy of the proposed regulation amendments can be obtained by contacting:

*Office of the Commissioner  
Financial Institutions Division  
2785 E. Desert Inn Road, Suite 180  
Las Vegas, NV 89121  
Email: FIDMaster@fid.state.nv.us  
Voice: (702) 486-4120  
Fax: (702) 486-4563*

3. The estimated economic effect of the regulation amendments on small business and on the public is addressed below:

(a) Both Adverse and Beneficial effects.

(I) ADVERSE EFFECTS:

*Published examination fees did exist previously for supervision, examinations, investigations, audits, and hearings on Depository/Non-Depository Institutions regulated by NFID, but not at a standardized rate (ranging from \$30 to \$100/per hour depending on the specific industry), nor has been updated in some cases for over 20 years. Those institutions that have the lowest rates (Money Transmitters and Installment Lenders at \$30/hour) will most likely experience the highest impact of all NFID licensed small businesses in some financial manner or form. The new (Proposed) NFID examination fee will be changed to \$75 per hour for each hour spent by the staff of the Division to conduct an examination and develop the report of examination.*

*Majority of the comments received from small business (38/53 or ~ 72%) stated that there will be no adverse economic impact.*

**(II) BENEFICIAL EFFECTS:**

*Upon consideration of all the comments, the NFID has concluded that the proposed regulation amendments could result in some economic impact upon small business and the proposed regulations could possibly affect the formation, operation, or expansion of a small business seeking to provide these services. Through well thought out and coordinated examination scheduling and procedures with NFID licensed small businesses, NFID can directly lessen the impact on small businesses.*

*It was noted from a few of the regulated industries that the proposed regulatory amendments would more fairly distribute the cost of the FID to the users of the FID. Utilization of FID resources (and associated expenditures) has shifted from 50% - 50% to depositories 25% - non-depositories 75%.*

*Majority of the comments received from small business (51/53 or ~ 96%) stated that there will be no beneficial economic impact.*

**(b) Immediate and long term effects.**

**(I) IMMEDIATE:**

*The Nevada Financial Institutions Division (NFID) is fully funded by fees from the institutions it regulates, and does not receive any of its revenue from the General Fund. The NFID only assesses or charges its licensees for the actual costs of its operations and to maintain the reserves necessary to properly regulate and supervise the industries for which it is statutorily responsible in a safe and sound manner. As such, no NFID revenue becomes part of the General Fund. This self-funded operation and budget ensures the pursuit of excellence in financial institution regulation, examination, and supervision. An hourly examination fee of \$75/hour needs to be adopted because it is the lowest NFID determined cost based amount possible to cover the time to conduct examinations and prepare the reports of examination.*

*This cost based business model is directly responsible for maintaining a financial institutions system for Nevada citizens that is safe and sound through consistent and equitable regulation, examination, supervisory enforcement, and supervision that drives the economic success of main street Nevada. This business model also protects Nevada consumers and defends the overall public interest by ensuring financial institutions comply with laws and regulations.*

*NFID has made every effort to reach out early and to all institutions it regulates in order to facilitate a joint effort to establish a reasonable hourly fee to cover only actual costs of its operations to supervise the industries for which it is statutorily responsible and not to exacerbate any additional financial and regulatory burden upon existing small businesses.*

**(II) LONG TERM:**

*The proposed regulation amendments could in extreme cases force some small businesses to terminate their operations.*

*Majority of the comments received from small business (48/53 or ~ 91%) stated that there will be no indirect adverse economic impact and there would be insignificant (1/53 or ~2%) indirect beneficial economic impact. A few small businesses did state a concern that there*

*are already too many obstacles to starting a new business, doing business in Nevada, and the increase in exam fees will just add additional burden.*

4. The methods used by the Financial Institutions Division in determining the impact on a small business (pursuant to subsection 3 of NRS 233B.0608) is listed below:

*NFID has provided ample opportunity for the public and the regulated industries to provide input and comments regarding the proposed regulation amendments, including the economic impact the proposed regulation amendments may have on small business. No modifications to the proposed regulation amendments have been made as a result of this small business impact. A workshop will be held on July 8, 2016 allowing for further input by licensees and the public regarding the proposed regulation amendments and how they will impact the regulated industry. These comments will be taken to consideration for further revisions to the proposed regulation amendments to reduce the economic impact. NFID has received a total of 80 responses (12% response rate; 80/664) to the small business impact solicitation sent to licensees and all interested parties. NFID has considered and analyzed all submitted comments as detailed above.*

5. The estimated cost to the Financial Institutions Division for enforcement of the proposed regulation amendments is below:

*There is no estimated cost to the Financial Institutions Division for enforcement of the proposed regulation amendments.*

6. A description of any regulations of other state or local government agencies which the proposed regulation amendment overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

*To our (NFID) knowledge the proposed regulation amendments do not duplicate any existing federal, state, or local standards regulating the same activity. There are a total of ten (10) NFID regulations that will be revised.*

7. If the regulation amendments are required pursuant to federal law, a citation and description of the federal law.

*The proposed regulation amendments are not required by federal law.*

8. If the regulation amendments include provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

*To our (NFID) knowledge the proposed regulation amendments do not include provisions which are more stringent than federal regulations that regulate the same activity. There are a total of ten (10) NFID regulations that will be amended.*

9. The date, time, and place where, and the manner in which interested persons may present their views regarding the proposed regulation amendments.

*Persons wishing to comment upon the proposed action of the Nevada Financial Institutions Division may appear and make oral comment at the scheduled public hearing to be held on July 26, 2016 as detailed in this notice, or may address their comments, data, views or arguments, in written form to the Office of the Commissioner, Financial Institutions Division, 2785 E. Desert Inn Road, Suite 180, Las Vegas, NV 89121 or Email: [FIDMaster@fid.state.nv.us](mailto:FIDMaster@fid.state.nv.us), Voice: (702) 486-4120, Fax: (702) 486-4563.*

10. All addresses where the text of the rule may be inspected and copied.  
*See attached list at the end of this Notice of Public Hearing.*

11. 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.

12. In order to equitably balance the Depository Assessment and the Non-Depository Examination Fees based on utilization of FID resources, it is being proposed to amend all applicable regulations to reflect a standardized per hour examination fee of \$75.00. The proposed amendments provide for a reasonable hourly fee to equitably cover only actual costs of NFID operations. To further facilitate the goal of maintaining fees at the lowest level possible, NFID has not asked for any additional state funding or staff.

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. Written submissions must be received by Financial Institutions Division on or before July 19, 2016 (7 Days Prior to Hearing). 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 submission.

A copy of this notice of intent to act upon a regulation and the regulation amendments to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of this notice and regulation amendments to be adopted will be available at the Financial Institutions Division, 2785 E. Desert Inn Road, Suite 180, Las Vegas, NV 89121 and at the Northern Nevada Examination Office, 1755 East Plumb Lane, Suite 243, Reno, Nevada 89502. This notice and the text of the proposed regulation amendments have been submitted to 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 of intent to act upon a regulation will be mailed or e-mailed to all members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

A copy of the regulation amendments for adoption is also attached to this notice. This notice has also been e-mailed to all persons on the Division's mailing list for notice of proposed rulemaking, posted on the Division's web site at <http://www.fid.nv.gov>, posted on the State's Official Website, and posted at the following public locations for inspection by members of the public:

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

Attn: Public Posting  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV 89049  
(167 Central Street)

Attn: Public Posting  
Las Vegas – Clark County Library  
833 Las Vegas Blvd. N.  
Las Vegas, NV 89101

Attn: Public Posting  
Pershing County Library  
P.O. Box 781; (1125 Central Avenue)  
Lovelock, NV 89419

Attn: Public Posting  
Goldfield Public Library  
P.O. Box 430; (Fourth & Crook Sts.)  
Goldfield, NV 89013

Attn: Public Posting  
Washoe County Library  
P.O. Box 2151; (301 S. Center)  
Reno, NV 89501

Attn: Public Posting  
Eureka Branch Library  
P.O. Box 293 (80 South Monroe)  
Eureka, NV 89316

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

Attn: Public Posting  
Humboldt County Library  
85 East 5th St.  
Winnemucca, NV 89445

Attn: Public Posting  
Battle Mountain Branch Library (Lander  
County)  
625 South Broad Street  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Public Posting  
Lincoln County Library  
63 Main St. / P.O. Box 330  
Pioche, NV 89043

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

Department of Business & Industry  
Las Vegas Director's Office  
555 E. Washington Avenue  
Suite 4900  
Las Vegas, NV 89101

Department of Business & Industry  
Carson City Director's Office  
1830 College Parkway,  
Suite 100  
Carson City, NV 89706

Office of the Commissioner  
2785 E. Desert Inn Rd.  
Suite 180  
Las Vegas, Nevada 89121

Northern Nevada Examination Office  
1755 East Plumb Lane  
Suite 243  
Reno, Nevada 89502

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DEPARTMENT OF BUSINESS AND INDUSTRY  
**FINANCIAL INSTITUTIONS DIVISION**

BRUCE BRESLOW  
*Director*

GEORGE E. BURNS  
*Commissioner*

**DATE:** June 23, 2016

**TO:** Whom It May Concern:

**FROM:** Leonard J. Esterly Jr.  
Deputy Commissioner

**SUBJECT:** Notice of Intent to Adopt Regulation Amendments -- Notice for the Hearing of the Adoption of Regulation Amendments to Chapters 604A, 649, 658, 669, 671, 673, 675, 676A, 677, and 678 of the Nevada Administrative Code (NAC), LCB File No. R054-16 dated May 3, 2016.

The proposed regulation amendments included in this memorandum are being proposed for permanent adoption. In order to review the regulations and solicit comments from interested persons, a public hearing will be held at 8:30 a.m. on July 26, 2016, at the Grant Sawyer Office Building in Room 4412, 555 Washington Avenue, Las Vegas, Nevada and by video conference at the Nevada State Legislative Building in Room 2135, 401 S Carson St, Carson City, Nevada.

# NOTICE OF INTENT TO ADOPT REGULATION AMENDMENTS

## NOTICE FOR THE HEARING OF ADOPTION OF REGULATION AMENDMENTS

COMMISSIONER OF THE FINANCIAL INSTITUTIONS  
CHAPTERS OF THE NEVADA ADMINISTRATIVE CODE 604A, 649, 658, 669, 671,  
673, 675, 676A, 677, and 678

(LCB FILE NO. R054-16, dated MAY 3, 2016)

June 23, 2016

The State of Nevada, Financial Institutions Division ("Division"), 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, (702) 486-4120 intends to solicit comments on the proposed regulation amendments revising the hourly fees paid by banks and other financial institutions to the Commissioner of Financial Institutions; revising the method of calculation of an annual fee collected by the Commissioner from certain depository institutions; and providing other matters properly relating thereto.

This meeting will be conducted subject to the Open Meeting Law (NRS 241.020) and the purpose is to solicit comments from interested persons on the regulation amendments to be held at the following locations through simultaneous videoconference:

Date: Tuesday, July 26, 2016

Time: 8:30 am.

In Las Vegas: Grant Sawyer Building  
555 E. Washington Avenue  
Room 4412  
Las Vegas, NV 89101

In Carson City: Nevada State Legislative Building  
401 S. Carson St.  
Room 2135  
Carson City, NV 89701



ACCOMMODATIONS FOR PHYSICALLY HANDICAPPED: Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Members of the public who are disabled and require special assistance or accommodations at the public hearing must notify Leonard Esterly, Deputy Commissioner, at the Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the public hearing. Any questions should be directed to Leonard Esterly, Deputy Commissioner, at (702) 486-4120.

AGENDA: Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda at the discretion of the Financial Institutions Division Commissioner. Items may also be combined for consideration or pulled or removed from the agenda at any time. Persons who may be subject to the provisions of the new law regarding private professional guardians should attend. Public comment may be limited to two (2) minutes per person at the discretion of the Commissioner. The Commissioner may only take action on those items denoted as action items.

1. PUBLIC COMMENTS: Members of the public are encouraged to address the Commissioner regarding any matter. Persons who desire to submit written testimony should submit ten (10) copies to the Deputy Commissioner. Public comment may be limited to two minutes at the public hearing per person at the discretion of the Commissioner.
2. REVIEW LCB APPROVED TEXT OF THE PROPOSED REGULATION REVISIONS (LCB FILE NO. R054-16, DATED MAY 3, 2016):

**A. Section 3:** NAC 658.010 is hereby amended to read as follows:

1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each bank for the supervision and examination of the bank pursuant to chapters 657 to 668, inclusive, of NRS.
2. The fee is based on the portion of the annual [~~appropriation from the State General Fund to~~] *budget approved by the Legislature for expenses related to the operations of the Commissioner and* the Division of Financial Institutions [~~that is attributable to the supervision and examination of banks.~~] *minus all other revenues collected by the Division, not including reserves.* Each bank shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	\$5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	\$6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	\$13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	\$19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	\$59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	\$94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	\$194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	\$404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<b>\$20,000,000,000 or more</b>	<b>\$604,850</b>	<b>\$.01 per thousand of assets exceeding \$20,000,000,000</b>

Any adjustment to the fee ~~[required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund]~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each bank ~~[pursuant to paragraph (a)]~~ bears to the total fee imposed on all banks licensed pursuant to chapters 657 to 668, inclusive, of NRS. ***The fee is calculated as of June 1 of each year based upon the number of banks and the total assets of each bank as of December 31 of the previous year.***

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~[\$60]~~ \$75 per hour.

**B. Section 1:** NAC 604A.090 is hereby amended to read as follows:

1. The nonrefundable application fee required pursuant to NRS 604A.600 is \$400 plus \$100 for each additional license for a branch location at which the applicant proposes to operate under the applicant's license.

2. The additional application fee required pursuant to NRS 604A.600 is \$375 plus \$75 for each additional license for a branch location at which the applicant proposes to operate under his or her license. The Commissioner may refund the fee on a prorated basis if:

(a) An applicant withdraws his or her application before the Commissioner acts on the application;

(b) The Commissioner deems an application to be withdrawn because the applicant fails to submit all information and fees required to complete the application within the period set forth in NRS 604A.600; or

(c) A licensee surrenders his or her license pursuant to NRS 604A.840 during the licensee's first year of licensure.

3. The fee to renew a license required pursuant to NRS 604A.640 is \$375 plus \$75 for each branch location at which the licensee is authorized to operate under the license.

4. The fee for reinstatement of an expired license as set forth in NRS 604A.640 is \$150 plus \$50 for each branch location at which the licensee is authorized to operate under the license.

5. The hourly fee authorized in NRS 604A.740 for supervision, audit, examination, investigation or hearing is ~~[\$60]~~ \$75.

6. The late fee for each day a licensee fails to submit a report required pursuant to the provisions of chapter 604A of NRS, as set forth in NRS 604A.760, is \$10.

7. The Commissioner shall bill each licensee for any fee or assessment imposed pursuant to the provisions of this chapter and chapter 604A of NRS. The licensee shall pay the fee within 30 days after the date the licensee receives the bill. Except as otherwise provided in this subsection, any payment received after the date due

must include a penalty of 10 percent of the fee, plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

**C. Section 2:** NAC 649.060 is hereby amended to read as follows:

1. The Commissioner of Financial Institutions will charge and collect a fee of ~~[\$60]~~ \$75 per hour from each collection agency for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 649 of NRS.
2. The Commissioner will bill each collection agency upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. In addition to any other fee allowed by this chapter or chapter 649 of NRS, and except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.
3. Failure of a collection agency to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**D. Section 4:** NAC 669.010 is hereby amended to read as follows:

1. The Commissioner of Financial Institutions will charge and collect a fee of ~~[\$60]~~ \$75 per hour from each trust company for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 669 of NRS.
2. The Commissioner will bill each trust company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.
3. Failure of a trust company to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**E. Section 5:** NAC 671.010 is hereby amended to read as follows:

1. The Commissioner will charge and collect a fee of ~~[\$30]~~ \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 671 of NRS.
2. The Commissioner will bill each licensee upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the

date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**F. Section 6:** NAC 673.020 is hereby amended to read as follows:

1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each savings and loan association for the supervision and examination of the savings and loan association pursuant to chapter 673 of NRS.

2. The fee is based on the portion of the annual ~~[appropriation from the State General Fund to]~~ *budget approved by the Legislature for expenses related to the operations of the Commissioner and* the Division of Financial Institutions ~~[that is attributable to the supervision and examination of savings and loan associations.]~~ *minus all other revenues collected by the Division, not including reserves.*

Each savings and loan association shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	\$5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	\$6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	\$13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	\$19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more	\$59,850	\$.07 per thousand of

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
more, but less than \$1,000,000,000		assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	\$94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	\$194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	\$404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<b><i>\$20,000,000,000 or more</i></b>	<b><i>\$604,850</i></b>	<b><i>\$.01 per thousand of assets exceeding \$20,000,000,000</i></b>

Any adjustment to the fee [~~required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund~~] must be made in a proportionate amount that is based on the relationship that the fee determined for each savings and loan association [~~pursuant to paragraph (a)~~] bears to the total fee imposed on all savings and loan associations licensed pursuant to chapter 673 of NRS. ***The fee is calculated as of June 1 of each year based upon the number of savings and loan associations and the total assets of each savings and loan association as of December 31 of the previous year.***

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is [~~\$60~~] ***\$75*** per hour.

**G. Section 7:** NAC 675.080 is hereby amended to read as follows:

1. The Commissioner of Financial Institutions will charge and collect a fee of ~~[\$30]~~ **\$75** per hour from each installment loan company for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 675 of NRS.
2. The Commissioner will bill each installment loan company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.
3. Failure of an installment loan company to pay the fee required by subsection 1 as provided in this section constitutes grounds for revocation of its license.

**H. Section 8:** NAC 676A.260 is hereby amended to read as follows:

1. The Commissioner will charge and collect a fee of ~~[\$100]~~ **\$75** per hour from each registered provider for any examination, *audit, investigation or hearing* of the registered provider conducted pursuant to chapter 676A of NRS.
2. The Commissioner will bill each registered provider upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 10 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.
3. Failure of a registered provider to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of the registration of the provider.

**I. Section 9:** NAC 677.310 is hereby amended to read as follows:

1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each thrift company for the supervision and examination of the thrift company pursuant to chapter 677 of NRS.
2. The fee is based on the portion of the annual ~~[appropriation from the State General Fund to]~~ **budget approved by the Legislature for expenses related to the operations of the Commissioner and** the Division of Financial Institutions ~~[that is attributable to the supervision and examination of thrift companies.]~~ **minus all other revenues collected by the Division, not including reserves.** Each thrift company shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	\$5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	\$6,250	0.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	\$13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	\$19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	\$59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	\$94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or More, but less than \$10,000,000,000	\$194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or More, but less than \$20,000,000,000	\$404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<b><i>\$20,000,000,000 or more</i></b>	<b><i>\$604,850</i></b>	<b><i>\$.01 per thousand of assets exceeding \$20,000,000,000</i></b>



Any adjustment to the fee [~~required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund~~] must be made in a proportionate amount that is based on the relationship that the fee determined for each thrift company [~~pursuant to paragraph (a)~~] bears to the total fee imposed on all thrift companies licensed pursuant to chapters 677 of NRS. *The fee is calculated as of June 1 of each year based upon the number of thrift companies and the total assets of each thrift company as of December 31 of the previous year.*

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is [~~\$60~~] \$75 per hour.

J. **Section 10:** NAC 678.150 is hereby amended to read as follows:

1. On or before June 30 of each year, the Commissioner will collect a fee from each credit union for the supervision and examination of the credit union pursuant to chapter 678 of NRS.

2. The fee is based on the portion of the annual [~~appropriation from the State General Fund to~~] *budget approved by the Legislature for expenses related to the operations of the Commissioner and the Division of Financial Institutions [that is attributable to the supervision and examination of credit unions.] minus all other revenues collected by the Division, not including reserves.* Each credit union shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	\$5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	\$6,250	\$.19 per thousand of assets exceeding \$10,000,000

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
\$50,000,000 or more, but less than \$100,000,000	\$13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	\$19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	\$59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	\$94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	\$194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	\$404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<b><i>\$20,000,000,000 or more</i></b>	<b><i>\$604,850</i></b>	<b><i>\$.01 per thousand of assets exceeding \$20,000,000,000</i></b>

Any adjustment to the fee ~~[required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund]~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each credit union ~~[pursuant to paragraph (a)]~~ bears to the total fee imposed on all credit unions licensed pursuant to chapters 678 of NRS. ***The fee is calculated as of June 1 of each year based upon the number of credit unions and the total assets of each credit union as of December 31 of the previous year.***

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~[\$60]~~ \$75 per hour.

3. PUBLIC COMMENTS: Members of the public are encouraged to address the Commissioner regarding any matter. Persons who desire to submit written testimony should submit ten (10) copies to the Deputy Commissioner. Public comment may be limited to two minutes at the public hearing per person at the discretion of the Commissioner.

#### 4. ADJOURNMENT

A copy of the regulations submitted for adoption is attached to this notice and will also be available prior to the hearing on the Internet at: <http://www.fid.nv.gov>. Copies of this notice and/or the regulations will be e-mailed and/or US Mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This notice has been e-mailed to all persons on the Division's mailing list for notice of proposed rulemaking, posted on the Division's web site at <http://www.fid.nv.gov>, posted on the State's Official Website, and posted at the following public locations for inspection by members of the public:

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

Attn: Public Posting  
Tonopah Public Library  
P.O. Box 449  
Tonopah, NV 89049  
(167 Central Street)

Attn: Public Posting  
Las Vegas – Clark County Library  
833 Las Vegas Blvd. N.  
Las Vegas, NV 89101

Attn: Public Posting  
Pershing County Library  
P.O. Box 781; (1125 Central Avenue)  
Lovelock, NV 89419

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

Attn: Public Posting  
Storey County Library  
P.O. Box 14; (95 South R Street)  
Virginia City, NV 89440

Attn: Public Posting  
Goldfield Public Library  
P.O. Box 430; (Fourth & Crook Sts.)  
Goldfield, NV 89013

Attn: Public Posting  
Washoe County Library  
P.O. Box 2151; (301 S. Center)  
Reno, NV 89501

Attn: Public Posting  
Eureka Branch Library  
P.O. Box 293 (80 South Monroe)  
Eureka, NV 89316

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

Attn: Public Posting  
Humboldt County Library  
85 East 5th St.  
Winnemucca, NV 89445

Attn: Public Posting  
Battle Mountain Branch Library (Lander  
County)  
625 South Broad Street  
P.O. Box 141  
Battle Mountain, NV 89820

Attn: Public Posting  
Lincoln County Library  
63 Main St. / P.O. Box 330  
Pioche, NV 89043

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

Department of Business & Industry  
Las Vegas Director's Office  
555 E. Washington Avenue  
Suite 4900  
Las Vegas, NV 89101

Department of Business & Industry  
Carson City Director's Office  
1830 College Parkway,  
Suite 100  
Carson City, NV 89706

Office of the Commissioner  
2785 E. Desert Inn Rd.  
Suite 180  
Las Vegas, Nevada 89121

Northern Nevada Examination Office  
1755 East Plumb Lane  
Suite 243  
Reno, Nevada 89502

# **SMALL BUSINESS IMPACT STATEMENT**

## SMALL BUSINESS IMPACT STATEMENT

### PROPOSED AMENDMENTS TO NAC 604A, 649, 658, 669, 671, 673, 675, 676A, 677, AND NAC 678

14 JUNE 2016

#### 1. Small Business Impact (SBI) 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.

NRS 233B.0382 defines a small business as a business conducted for profit which employs fewer than 150 full-time or part-time employees.

The Nevada Financial Institutions Division (NFID) sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulation amendments, there may be a direct and significant economic burden upon small business or if the regulation amendments will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in a business licensed, and regulated by NFID. As required by NRS 233B.0608, this statement identifies the methods used by NFID in determining the impact of the proposed regulation amendments on small business and provides reasons for the conclusions of NFID followed by the certification by the Commissioner of the Nevada Financial Institutions Division.

NFID established the contact list from the existing NFID licensee database and solicited comments on the proposed regulations by e-mailing the notice and questionnaire to all known licensee e-mail addresses present in the database (approximately 664) as of May 20, 2016, as well as the established regulation notification list. Additionally, a copy of the full text of the proposed regulation amendments and questionnaire was posted to the Division website. The questions on the questionnaire were:

1. How many employees are currently employed by your business?
2. Will any of the proposed regulatory language have an adverse economic effect upon your business?
3. Will any of the proposed regulatory language have a beneficial economic effect on your business?
4. Do you anticipate any indirect adverse effects on your business?
5. Do you anticipate any indirect beneficial effects on your business?
6. Please list any suggestions/general comments pertaining to the proposed regulatory language.

(II) Summary of responses. (Detailed individual small business licensee response spreadsheets and the combined response spreadsheet are available upon request by contacting the Division)

### Summary of All Small Business Licensee Comments Received

Total number of 80 responses received from the 664 SBI Questionnaires distributed by E-mail (~12.0 % )*			
Will any of the proposed regulatory language have a <u>Adverse Economic Effect</u> (Question 2) upon your small business**?	Will any of the proposed regulatory language have a <u>Beneficial Economic Effect</u> (Question 3) upon your small business**?	Do you anticipate any <u>Indirect Adverse Effects</u> (Question 4) on your small business**?	Do you anticipate any <u>Indirect Beneficial Effects</u> (Question 5) on your small business**?
YES – 15 (28%) NO – 38 (72%)	YES – 2 (4%) NO – 51 (96%)	YES – 5 (9%) NO – 48 (91%)	YES – 1 (2%) NO – 52 (98%)

\* Total Number of responses also includes businesses that employ more than 150 employees. There were a total of 27 responses from these companies which accounts for approximately 4.1% (27/664) of all the businesses contacted.

\*\* Small Business is defined as a business conducted for profit which employs fewer than 150 full-time or part-time employees (NRS 233B.0382).

### Small Business Licensee Type & Summary of Comments

<u>Small Business (SB) Licensee Type</u> (Employs Less than 150 FT/PT Employees per NRS 233B.0382)	# of SB Replies	Adverse Economic Effect (Question 2)	Beneficial Economic Effect (Question 3)	Indirect Adverse Effect (Question 4)	Indirect Beneficial Effect (Question 5)
604A → Deferred Deposit/Hi-Interest/Title Loans/Check Cashing	12	4 (33%)	0 (0%)	2 (17%)	0 (0%)
649 → Collection Agency/Foreign Collection Agency	32	7 (22%)	1 (3%)	2 (6%)	0 (0%)
658 → Banks	3	1 (33%)	0 (0%)	0 (0%)	0 (0%)
669 → Trust Companies	4	2 (50%)	1 (25%)	1 (25%)	1 (25%)
671 → Issuer of Instruments for Transmission & Payment of Money	1	1 (100%)	0 (0%)	0 (0%)	0 (0%)
673 → Savings & Loan Association	0	0 (0%)	0 (0%)	0 (0%)	0 (0%)
675 → Installment Loans	1	0 (0%)	0 (0%)	0 (0%)	0 (0%)
676A → Debt Management Services	0	0 (0%)	0 (0%)	0 (0%)	0 (0%)
677 → Thrift Companies	0	0 (0%)	0 (0%)	0 (0%)	0 (0%)
678 → Credit Unions	0	0 (0%)	0 (0%)	0 (0%)	0 (0%)
<b>Total Numbers</b>	<b>53</b>	<b>15 (28.3%)</b>	<b>2 (3.7%)</b>	<b>5 (9.4%)</b>	<b>1 (1.8%)</b>

**(III) Obtain a copy of the summary.**

This Small Business Impact (SBI) Statement was posted on the NFID website dated June 15, 2016 along with a Notice of Workshop for July 8, 2016. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner  
Financial Institutions Division  
2785 E. Desert Inn Road, Suite 180  
Las Vegas, NV 89121  
Email: [FIDMaster@fid.state.nv.us](mailto:FIDMaster@fid.state.nv.us)  
Voice: (702) 486-4120  
Fax: (702) 486-4563  
Website: <http://fid.state.nv.us>**

**(b) The manner in which the analysis was conducted.**

With the decline in the number of Nevada state chartered depository institutions (banks, credit unions, thrifts) from closures and charter consolidations as a result of the financial crisis, and the massive increase in non-depository licensees (trust companies, payday lenders, collection agencies, money transmitters, etc.), the utilization of FID resources (and associated expenditures) has shifted from 50% - 50% to depositories 25% - non-depositories 75%.

In order to establish a more equitable balance between the assessment fees paid by depositories and the exam fees paid by non-depositories, an extensive analysis was conducted by the FID. It has been determined that to accomplish an equitable resource utilization based on a balance between depository assessment fees and non-depository examination fees, the per hour rate for non-depository examinations must increase to a minimum of \$75 (FID study yielded the hourly rate should actually be ~ \$83/hour). This will result in exam fee increases of approximately 25% (\$60 to \$75) for most non-depository licensee types that have not had an exam rate increase in the last 10 years, and 150% (\$30 to \$75) for two (2) non-depository licensee types that have not had an exam rate increase in the last 20 years.

NFID sent a copy of the draft regulation amendments and a SBI Questionnaire to all known affected licensees and interested parties, and as part of the process to garner the most current information from the licensees invited written comment regarding the impact to all affected small businesses (Depository and Non-Depository). NFID took all comments submitted from all sources to include licensees and any/all interested parties into consideration.

NRS 658.101 states criteria relating to the rates that can be charged by the Commissioner for supervision and examination in items 1 and 2 below. Item 3 shows the FID internal analysis to arrive at the proposed hourly exam fee.

1. The Commissioner shall establish by regulation rates to be paid by banks and other financial institutions for supervision and examinations by the Commissioner or the Division of Financial Institutions.
2. In establishing a rate pursuant to subsection 1 (above), the Commissioner shall consider:
  - (a) The complexity of the various examinations to which the rate applies;
  - (b) The skill required to conduct the examinations;
  - (c) The expenses associated with conducting the examination and preparing a report; and
  - (d) Any other factors the Commissioner deems relevant.
3. The equitable amount of the Depository Assessment and the Non-Depository Examination Fee was determined by the proportional utilization of FID resources relative to the Division's annual expenditure budget approved by the Legislature. An analysis for that determination based on FY 2016 data is detailed below:



LICENSEE TYPE	TOTAL FTE EXAM HOURS	% OF TOTAL EXAM HRS
Depository Institutions	9,829	28.5%
Non-Depository Companies	24,539	71.5%
<b>TOTALS</b>	<b>34,368</b>	<b>100%</b>

EXAMINATION FEE PER HOUR CALCULATION	
FID Approved Expenditure Budget FY17 (2016)	\$6,426,744
- Reserves	\$2,761,195
- Other Revenue ( <i>Application Fees, Renewal Fees, etc.</i> )	\$538,632
- AG Assessment ( <i>Assessed Separately by Statute</i> )	\$285,661
<b>Net FID Approved Expenditures</b>	<b>\$2,841,256</b>
<b>Per Hour Exam Fee (Net FID Approved Expenditures / Total FTE Exam Hours) \$82.67</b>	

The proposed regulation amendments also revise existing regulations pursuant to Assembly Bill No. 493 of the 2003 Legislative Session; NFID generally began operating as a self-funding Division rather than pursuant to appropriations from the State General Fund (Chapter 491, Statutes of Nevada 2003, at page 3225; NRS 658.091, 658.098). Sections 3, 6, 9 and 10 of the proposed amendments revise existing regulations to:

1. Comport with that statutory change;
2. Revise the method of calculation of the annual fee for supervision and examinations collected by the Commissioner from banks, savings and loan associations, thrift companies and credit unions; and
3. Prescribe the base amount and any amount exceeding that base amount for a bank, savings and loan association, thrift company or credit union whose total assets are \$20 billion or more.

**(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:**

Published examination fees did exist previously for supervision, examinations, investigations, audits, and hearings on Depository/Non-Depository Institutions regulated by NFID, but not at a standardized rate (ranging from \$30 to \$100/per hour depending on the specific industry), nor has been updated in some cases for over 20 years. Those institutions that have the lowest rates (Money Transmitters and Installment Lenders at \$30/hour) will most likely experience the highest impact of all NFID licensed small businesses in some financial manner or form. The new (Proposed) NFID examination fee will be changed to \$75 per hour for each hour spent by the staff of the Division to conduct an examination and develop the report of examination.

Majority of the comments received from small business (38/53 or ~ 72%) stated that there will be no adverse economic impact.

**(II) BENEFICIAL EFFECTS:**

Upon consideration of all the comments, the NFID has concluded that the proposed regulations could result in some economic impact upon small business and the proposed regulations could possibly affect the formation, operation, or expansion of a small business seeking to provide these services. Through well thought out and coordinated examination scheduling and procedures with NFID licensed small businesses, NFID can directly lessen the impact on small businesses.

It was noted from a few of the regulated industries that the proposed regulatory amendments would more fairly distribute the cost of the FID to the users of the FID. Utilization of FID resources (and associated expenditures) has shifted from 50% - 50% to depositories 25% - non-depositories 75%.

Majority of the comments received from small business (51/53 or ~ 96%) stated that there will be no beneficial economic impact.

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

### **(I) DIRECT EFFECTS:**

The Nevada Financial Institutions Division (NFID) is fully funded by fees from the institutions it regulates, and does not receive any of its revenue from the General Fund. The NFID only assesses or charges its licensees for the actual costs of its operations and to maintain the reserves necessary to properly regulate and supervise the industries for which it is statutorily responsible in a safe and sound manner. As such, no NFID revenue becomes part of the General Fund. This self-funded operation and budget ensures the pursuit of excellence in financial institution regulation, examination, and supervision. An hourly examination fee of \$75/hour needs to be adopted because it is the lowest NFID determined cost based amount possible to cover the time to conduct examinations and prepare the reports of examination.

This cost based business model is directly responsible for maintaining a financial institutions system for Nevada citizens that is safe and sound through consistent and equitable regulation, examination, supervisory enforcement, and supervision that drives the economic success of main street Nevada. This business model also protects Nevada consumers and defends the overall public interest by ensuring financial institutions comply with laws and regulations.

NFID has made every effort to reach out early and to all institutions it regulates in order to facilitate a joint effort to establish a reasonable hourly fee to cover only actual costs of its operations to supervise the industries for which it is statutorily responsible and not to exacerbate any additional financial and regulatory burden upon existing small businesses.

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

The proposed regulation amendments could in extreme cases force some small businesses to terminate their operations.

Majority of the comments received from small business (48/53 or ~ 91%) stated that there will be no indirect adverse economic impact and there would be insignificant (1/53 or ~2%) indirect beneficial economic impact. A few small businesses did state a concern that there are already too many obstacles to starting a new business, doing business in Nevada, and the increase in exam fees will just add additional burden.

## **(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.**

NFID has provided ample opportunity for the public and the regulated industries to provide input and comments regarding the proposed regulation amendments, including the economic impact the proposed regulation amendments may have on small business. No modifications to the proposed regulation amendments have been made as a result of this small business impact input. A workshop will be held on July 8, 2016 allowing for further input by licensees and the public regarding the proposed regulation amendments and how they will impact the regulated industry. These comments will be taken to consideration for further revisions to the proposed regulation amendments to reduce the economic impact. NFID has received a total of 80 responses (12% response rate; 80/664) to the small business impact solicitation sent to licensees and all interested parties. NFID has considered and analyzed all submitted comments as detailed above.

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

There is no estimated cost to the Financial Institutions Division for enforcement of the proposed regulation amendments.

**(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.**

In order to equitably balance the Depository Assessment and the Non-Depository Examination Fees based on utilization of FID resources, it is being proposed to revise all applicable regulations to reflect a standardized per hour examination fee of \$75.00.

The proposed amendments provide for a reasonable hourly fee to equitably cover only actual costs of NFID operations. The total additional amount NFID expects to collect from non-depository companies that utilized 71.5% of the Division resources based on the recent data for examinations (2016 data) is approximately \$245,000 per year. However, there will be a commensurate reduction to the assessment for depository institutions that only utilize 28.5% of Division resources. The examination fees collected will be used by NFID to regulate the financial industries at the most economical and equitable method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to license, examine and supervise, 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 our knowledge the proposed regulation amendments do not duplicate any existing federal, state, or local standards regulating the same activity. There are a total of ten (10) NFID regulations that will be amended.

**(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.**

The impact of the regulation amendments on small businesses is considered to be equitable given the current expenditures of the FID approved by the Legislature, and the resource utilization by depository institutions that pay an assessment based upon asset size and the resource utilization by non-depository companies that pay a per hour examination fee.

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



George E. Burns  
Commissioner

**LCB FILE No. R054-16**

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

**LCB File No. R054-16**

May 3, 2016

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

AUTHORITY: §1, NRS 604A.300 and 604A.740; §2, NRS 649.053, 649.295 and 658.101; §3, NRS 658.096, 658.101 and 658.105; §4, NRS 658.101, 669.250 and 669.270; §5, NRS 658.101, 671.030 and 671.120; §6, NRS 658.101, 673.043 and 673.430; §7, NRS 658.101, 675.170 and 675.400; §8, NRS 676A.730; §9, NRS 658.101, 677.380 and 677.430; §10, NRS 678.250 and 678.270.

A REGULATION relating to financial institutions; revising the hourly fees paid by banks and other financial institutions to the Commissioner of Financial Institutions; revising the method of calculation of an annual fee collected by the Commissioner from certain depository institutions; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Commissioner of Financial Institutions to establish by regulation rates and fees to be paid by banks and other financial institutions for supervision and examinations by the Commissioner or the Division of Financial Institutions of the Department of Business and Industry. (NRS 658.101, 676A.730, 678.270) **Sections 1-7, 9 and 10** of this regulation increase the hourly fees previously set by the Commissioner for an audit, examination, investigation or hearing conducted by the Division of such banks and other financial institutions to \$75 per hour. **Section 8** of this regulation: (1) decreases the hourly fee for such an examination of a registered provider of debt-management services from \$100 to \$75; and (2) prescribes the hourly rate of \$75 for the fees for any such audit, investigation or hearing of a registered provider of debt-management services conducted pursuant to the statutory provisions governing debt-management services.

Pursuant to Assembly Bill No. 493 of the 2003 Legislative Session, the Division generally began operating as a self-funding Division rather than pursuant to appropriations from the State General Fund. (Chapter 491, Statutes of Nevada 2003, at page 3225; NRS 658.091, 658.098) **Sections 3, 6, 9 and 10** of this regulation revise existing regulations to: (1) comport with that statutory change; (2) revise the method of calculation of the annual fee for supervision and examinations collected by the Commissioner from banks, savings and loan associations, thrift companies and credit unions; and (3) prescribe the base amount and any amount exceeding that base amount for a bank, savings and loan association, thrift company or credit union whose total assets are \$20 billion or more.

**Section 1.** NAC 604A.090 is hereby amended to read as follows:

604A.090 1. The nonrefundable application fee required pursuant to NRS 604A.600 is \$400 plus \$100 for each additional license for a branch location at which the applicant proposes to operate under the applicant's license.

2. The additional application fee required pursuant to NRS 604A.600 is \$375 plus \$75 for each additional license for a branch location at which the applicant proposes to operate under his or her license. The Commissioner may refund the fee on a prorated basis if:

(a) An applicant withdraws his or her application before the Commissioner acts on the application;

(b) The Commissioner deems an application to be withdrawn because the applicant fails to submit all information and fees required to complete the application within the period set forth in NRS 604A.600; or

(c) A licensee surrenders his or her license pursuant to NRS 604A.840 during the licensee's first year of licensure.

3. The fee to renew a license required pursuant to NRS 604A.640 is \$375 plus \$75 for each branch location at which the licensee is authorized to operate under the license.

4. The fee for reinstatement of an expired license as set forth in NRS 604A.640 is \$150 plus \$50 for each branch location at which the licensee is authorized to operate under the license.

5. The hourly fee authorized in NRS 604A.740 for supervision, audit, examination, investigation or hearing is ~~+\$60+~~ \$75.

6. The late fee for each day a licensee fails to submit a report required pursuant to the provisions of chapter 604A of NRS, as set forth in NRS 604A.760, is \$10.

7. The Commissioner shall bill each licensee for any fee or assessment imposed pursuant to the provisions of this chapter and chapter 604A of NRS. The licensee shall pay the fee within 30 days after the date the licensee receives the bill. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee, plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

**Sec. 2.** NAC 649.060 is hereby amended to read as follows:

649.060 1. The Commissioner of Financial Institutions will charge and collect a fee of ~~[\$60]~~ \$75 per hour from each collection agency for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 649 of NRS.

2. The Commissioner will bill each collection agency upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. In addition to any other fee allowed by this chapter or chapter 649 of NRS, and except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a collection agency to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**Sec. 3.** NAC 658.010 is hereby amended to read as follows:

658.010 1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each bank for the supervision and examination of the bank pursuant to chapters 657 to 668, inclusive, of NRS.

2. The fee is based on the portion of the annual ~~appropriation from the State General Fund~~ ~~to~~ *budget approved by the Legislature for expenses related to the operations of the Commissioner and the Division of Financial Institutions* ~~that is attributable to the supervision and examination of banks.~~ *minus all other revenues collected by the Division, not including reserves.* Each bank shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	19,850	\$.10 per thousand of assets exceeding \$100,000,000



\$500,000,000 or more, but less than \$1,000,000,000	59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<i>\$20,000,000,000 or more</i>	<i>604,850</i>	<i>\$.01 per thousand of assets exceeding \$20,000,000,000</i>

Any adjustment to the fee ~~required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each bank ~~pursuant to paragraph (a)~~ bears to the total fee imposed on all banks licensed pursuant to chapters 657 to 668, inclusive, of NRS. *The fee is calculated as of June 1 of each year based upon the number of banks and the total assets of each bank as of December 31 of the previous year.*

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~150~~ \$75 per hour.

**Sec. 4.** NAC 669.010 is hereby amended to read as follows:

669.010 1. The Commissioner of Financial Institutions will charge and collect a fee of ~~150~~ \$75 per hour from each trust company for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 669 of NRS.

2. The Commissioner will bill each trust company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a trust company to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**Sec. 5.** NAC 671.010 is hereby amended to read as follows:

671.010 1. The Commissioner will charge and collect a fee of ~~150~~ \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 671 of NRS.

2. The Commissioner will bill each licensee upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

**Sec. 6.** NAC 673.020 is hereby amended to read as follows:

673.020 1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each savings and loan association for the supervision and examination of the savings and loan association pursuant to chapter 673 of NRS.

2. The fee is based on the portion of the annual ~~appropriation from the State General Fund to~~ *budget approved by the Legislature for expenses related to the operations of the Commissioner and the Division of Financial Institutions* ~~that is attributable to the supervision and examination of savings and loan associations.~~ *minus all other revenues collected by the Division, not including reserves.* Each savings and loan association shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A

\$5,000,000 or more, but less than \$10,000,000	5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	94,850	\$.05 per thousand of assets exceeding \$1,000,000,000

\$3,000,000,000 or more, but less than \$10,000,000,000	194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<i>\$20,000,000,000 or more</i>	<i>604,850</i>	<i>\$.01 per thousand of assets exceeding \$20,000,000,000</i>

Any adjustment to the fee ~~{required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund}~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each savings and loan association ~~{pursuant to paragraph (a)}~~ bears to the total fee imposed on all savings and loan associations licensed pursuant to chapter 673 of NRS. *The fee is calculated as of June 1 of each year based upon the number of savings and loan associations and the total assets of each savings and loan association as of December 31 of the previous year.*

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~15601~~ \$75 per hour.

**Sec. 7.** NAC 675.080 is hereby amended to read as follows:

675.080 1. The Commissioner of Financial Institutions will charge and collect a fee of ~~15301~~ \$75 per hour from each installment loan company for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 675 of NRS.

2. The Commissioner will bill each installment loan company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of an installment loan company to pay the fee required by subsection 1 as provided in this section constitutes grounds for revocation of its license.

**Sec. 8.** NAC 676A.260 is hereby amended to read as follows:

676A.260 1. The Commissioner will charge and collect a fee of ~~151001~~ \$75 per hour from each registered provider for any examination, *audit, investigation or hearing* of the registered provider conducted pursuant to chapter 676A of NRS.

2. The Commissioner will bill each registered provider upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 10 percent of the fee for each

month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a registered provider to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of the registration of the provider.

**Sec. 9.** NAC 677.310 is hereby amended to read as follows:

677.310 1. On or before June 30 of each year, the Commissioner of Financial Institutions will collect a fee from each thrift company for the supervision and examination of the thrift company pursuant to chapter 677 of NRS.

2. The fee is based on the portion of the annual ~~appropriation from the State General Fund~~ *to* ~~budget approved by the Legislature for expenses related to the operations of the Commissioner and~~ the Division of Financial Institutions ~~that is attributable to the supervision and examination of thrift companies.~~ *minus all other revenues collected by the Division, not including reserves.* Each thrift company shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	5,000	\$ .25 per thousand of assets exceeding \$5,000,000

\$10,000,000 or more, but less than \$50,000,000	6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than	194,850	\$.03 per thousand of assets exceeding



\$10,000,000,000		\$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<i>\$20,000,000,000 or more</i>	<i>604,850</i>	<i>\$.01 per thousand of assets exceeding \$20,000,000,000</i>

Any adjustment to the fee ~~required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each thrift company ~~pursuant to paragraph (a)~~ bears to the total fee imposed on all thrift companies licensed pursuant to chapter 677 of NRS. *The fee is calculated as of June 1 of each year based upon the number of thrift companies and the total assets of each thrift company as of December 31 of the previous year.*

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~60~~ \$75 per hour.

**Sec. 10.** NAC 678.150 is hereby amended to read as follows:

678.150 1. On or before June 30 of each year, the Commissioner will collect a fee from each credit union for the supervision and examination of the credit union pursuant to chapter 678 of NRS.

2. The fee is based on the portion of the annual ~~appropriation from the State General Fund~~ *budget approved by the Legislature for expenses related to the operations of the Commissioner and the Division* ~~that is attributable to the supervision and examination of credit unions.~~ *minus all other revenues collected by the Division, not including reserves.* Each credit union shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	13,850	\$.12 per thousand of assets exceeding \$50,000,000

\$100,000,000 or more, but less than \$500,000,000	19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	59,850	\$.07 per thousand of assets exceeding \$500,000,000
\$1,000,000,000 or more, but less than \$3,000,000,000	94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
<i>\$20,000,000,000 or more</i>	<i>604,850</i>	<i>\$.01 per thousand of assets exceeding \$20,000,000,000</i>

Any adjustment to the fee ~~required to account for the distribution of unused portions of or increases in the annual appropriation from the State General Fund~~ must be made in a proportionate amount that is based on the relationship that the fee determined for each credit union ~~pursuant to this subsection~~ bears to the total fee imposed on all credit unions licensed pursuant to chapter 678 of NRS. *The fee is calculated as of June 1 of each year based upon the number of credit unions and the total assets of each credit union as of December 31 of the previous year.*

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is ~~60~~ \$75 per hour.