

STATE OF NEVADA



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Governor

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

DATE: August 1, 2016

TO: Legislative Counsel Bureau (LCB) Legal Division

FROM: George E. Burns
Commissioner

SUBJECT: Statement identifying the methods used by the agency in determining the impact of the proposed regulation on a small business and the reasons for the conclusions of the agency per NRS 233B.0608(3).

1. Solicitation of affected small businesses.

Existing law authorizes the Commissioner of the Nevada Financial Institutions Division ("Division") to adopt such regulations as may be necessary to carry out the provisions of all Nevada Revised Statutes (NRS) relating to the hourly fees paid by banks and other financial institutions to the Commissioner (hourly fees authorized for supervision, audits, examinations, investigations or hearings on depository/non-depository institutions); the method of calculation of an annual fee collected by the Commissioner from certain depository institutions; and provide other matters properly relating thereto. The first step in the rulemaking process is to consider the impact of the regulation on small businesses and, if necessary, consult with small business owners and prepare a Small Business Impact (SBI) statement. Before conducting a workshop with all interested parties on the proposed regulation, the Division "made a concerted effort to" determine whether the regulation is 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 (NRS 233B.0608 (1))".

The regulation amendments establish a reasonable hourly fee to cover only actual costs of the Division 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. The regulation amendments also establish a new calculation method for assessments and when combined with more realistic hourly fees, will allow the Division to continue maintaining a fee-funded budget. More importantly, all entities

under supervision move toward more equitable contributions to covering the true costs of their supervision and related activities provided by the Division.

It is important to reemphasize, the Division 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. The Division 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. This fee-funded operation and budget autonomy 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 Division pre-determined cost based amount needed to cover the time to conduct the examination and prepare the report.

The Division established the contact list from the existing licensee database and solicited comments on the proposed regulations by e-mailing the notice, copy of the draft regulations, and SBI 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 and interested parties by e-mailing a notice and questionnaire to formulate the Small Business Impact (SBI) statement. The Division took all comments submitted from all sources to include licensees and any/all interested parties into consideration.

The SBI statement was formulated from the solicited comments resulting from the questionnaire sent to all known affected licensees and interested parties. Public comment was also solicited at the workshop and the public hearing/adoption meeting, and notices were sent to all persons on the Division mailing list requesting notification of all Division regulation updates. The documents were also made available on the Division website (<http://fid.nv.gov>) and mailed to the main library in each county in Nevada.

2. 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 the Division 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 Division. 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 (The Division study yielded the hourly rate of ~\$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 (which equates to a ~1.0% to 2.7% increase per year), and 150% (\$30 to \$75) for two

to \$75) for two (2) non-depository licensee types that have not had an exam rate increase in the last 25 years (which equates to a 5.7% increase per year).


The Division sent a copy of the draft regulation amendments and a SBI Questionnaire to all known affected licensees and interested parties (approximately 664), 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). The Division took all comments submitted from all sources to include licensees and any/all interested parties into consideration.

3. 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 Division 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.

The amendments provide for a reasonable hourly fee to equitably cover only actual costs of the Division's operations. The total additional amount the Division 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 the Division to regulate the licensees 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.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small business and that the information contained in the statement is accurate.



George E. Burns
Commissioner

