

STATE OF NEVADA



BRIAN SANDOVAL
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

DATE: May 13, 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 (Family Trust Companies) 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 Financial Institutions to adopt such regulations as may be necessary to carry out the provisions of the NRS relating to Licensed Family Trust companies and to charge and collect from a Licensed Family Trust company a fee for the supervision and examination (NRS 658.101, 669A.260, and 669A.270). The adopted regulation, NAC 669A (Family Trust Companies) also known as LCB File No. R051-16 (dated March 23, 2016) clarifies the Commissioner of Financial Institutions authority to charge and collect from a Licensed Family Trust company a fee for the supervision and examinations.

NFID 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 a Licensed Family Trust company and to ensure that there is established in this State an adequate and efficient Licensed Family Trust industry.

NFID established the solicitation list from its list of Licensed Family Trust companies, and in-turn, NFID solicited comments on the proposed regulations from this list by e-mailing a notice and questionnaire to formulate the Small Business Impact (SBI) statement. Additionally a copy of the full text of the proposed regulations was included and also posted to the Division website. The SBI statement was formulated from the solicited comments resulting from the questionnaire sent to the Licensed Family Trust industry. Public comment was also solicited at the workshop and the public hearing/adoption meeting, and notices were sent to all persons on the Nevada Financial Institutions Division (NFID) mailing list requesting notification of all FID 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.

NFID sent a copy of the draft regulations and a Small Business Impact (SBI) questionnaire to all known Licensed Family Trust companies (approximately 24) in Nevada and as part of the process to garner the most current information from the licensed family trust industry, and invited written comment regarding the impact to the Licensed Family Trust industry. NFID took all comments submitted into consideration.

3. The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

The NFID has concluded that the impact of the regulation on small businesses will be minimal because the Family Trust industry requested the regulations to achieve the positive direct effects of meeting IRS requirements as a regulated industry and providing additional assurances to family members regarding the safety and soundness of their trust operations.

The new regulation will not affect the formation, operation or expansion of a small business seeking to provide these services. Through well thought out and coordinated administrative language (NAC) with the licensed family trust industry, NFID lessened the impact by establishing a cost based equitable examination fee to moderate the costs to regulate the industry per this new NAC.

The examination fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID has not requested any additional state funding or staff.

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

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY THE FINANCIAL INSTITUTIONS
DIVISION TO TITLE 55, CHAPTER 669A
LICENSED FAMILY TRUST COMPANIES**

5 April 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.

NFID 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 a Licensed Family Trust Company and to ensure that there is established in this State an adequate and efficient Licensed Family Trust industry.

NFID established the solicitation list from its list of Licensed Family Trust companies, and in-turn, NFID solicited comments on the proposed regulations from this list by e-mailing a notice and questionnaire. Additionally a copy of the full text of the proposed regulations was included and also posted to the Division website. This small business impact statement was formulated from the solicited comments resulting from the questionnaire sent to the Licensed Family Trust industry.

(II) Summary of responses.

1) Will any of the proposed regulatory language have an adverse economic effect upon small business? The new regulatory language will impose incremental fees, however, the regulation will overall have a beneficial impact.

2) Will any of the proposed regulatory language have a beneficial economic effect on small business? There will not be a beneficial economic impact as the industry sustains the incremental fees, however, the regulation will overall have beneficial impact.

3) Do you anticipate any indirect adverse effects on your business? None anticipated.

4) Do you anticipate any indirect beneficial effects on your business? The industry believes the proposed regulation will enhance the fiduciary oversight of the business.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the NFID website dated April 5, 2016 along with a Notice of Workshop for May 6, 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
Voice: (702) 486-4120
Fax: (702) 486-4563
Website: <http://fid.state.nv.us>**

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

NFID sent a copy of the draft regulations and a SBI Questionnaire to all known Licensed Family Trust Companies (approximately 24) in Nevada and as part of the process to garner the most current information from the Licensed Family Trust industry, and invited written comment regarding the impact to the Licensed Family Trust industry. NFID took all comments submitted into consideration.

(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:

The new examination fee that did not exist previously will have an impact on Licensed Family Trust companies in some financial manner or form. The NFID examination fee of \$75 per hour will be charged by the Division staff to conduct an examination for each on-site or off-site examination pursuant to NAC 669A. It is estimated an examination will take approximately 64 hours (\$4,800.00) to complete.

If an independent review is opted for instead of a NFID examination, in addition to the \$1,000 fee for NFID administrative review of the independent report required by Section 24 of the regulation, a Licensed Family Trust Company shall pay all the fees and costs incurred by the qualified firm it retains to perform the independent review.

(II) BENEFICIAL EFFECTS:

Upon consideration of all the comments, the NFID has concluded that the proposed regulations will have a minimal economic impact upon small business and the proposed regulations probably will not affect the formation, operation or expansion of a small business seeking to provide these services. Through well thought out and coordinated administrative language (NAC) with the Licensed Family Trust industry, NFID can directly lessen the impact by establishing a cost based equitable examination fee to moderate the costs to regulate the industry per this new NAC.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

NFID has made every effort to coordinate with the entire Licensed Family Trust industry in order to facilitate a joint effort to develop regulations which establish the requirement for the periodic examination of Licensed Family Trust Companies and not to exacerbate any additional financial or regulatory burden upon existing small businesses.

NFID has determined the most prominent positive direct effects from these regulations will be the ability of Licensed Family Trust industry to meet IRS requirements as a regulated industry and provide additional assurances to family members regarding the safety and soundness of their family trust operations.

An hourly examination fee (\$75/Hr) will be charged and is a NFID pre-determined cost based amount to cover the time to conduct the examination and prepare the report.

(II) INDIRECT EFFECTS:

The proposed regulations could generate extra hours of work for the industry to support the NFID requirements to carry out the new 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.

NFID considered and analyzed submitted comment as detailed above. No material impacts were indicated in the comments submitted.

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

The estimated cost to the Financial Institutions Division for enforcement of the proposed regulation should be covered by the proposed hourly examination fee to be collected by NFID. It is estimated NFID will not need any additional funding or resources beyond the proposed fee revenue.

(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 provides for an hourly examination fee of \$75/hour and the amount NFID expects to collect based on the recent data for each examination is approximately \$4,800.00 with the average exam projected to take approximately 64 hours to complete. Total annual amount the 1st year is approximately \$115,200 based on 24 Licensed Family Trust Companies multiplied by \$4,800.00 (amount per each exam) and every 3rd year after.

The examination fees collected will be used by NFID to regulate the industry at the most economical method possible with the Division's established objective to maintain all fees at the lowest level possible to cover only agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees. To further facilitate the goal of maintaining fees at the lowest level possible, NFID has not requested any additional state funding or staff.

(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.

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

The NFID has concluded that the impact of the regulation on small businesses will be minimal because the Family Trust industry requested the regulations to achieve the positive direct effects of meeting IRS requirements as a regulated industry and providing additional assurances to family members regarding the safety and soundness of their trust operations.

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



George E. Burns
Commissioner