

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066
LCB FILE NO. R051-16

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Financial Institutions (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 669A.

1. A clear and concise explanation of the need for the adopted regulation.

The need for this adopted regulation is for the Nevada Licensed Family Trust Company industry to comply with anticipated IRS requirements and exemption from SEC registration by virtue of the “state regulation exemption” that requires a Family Trust Company be regulated and examined by its state licensing authority (Financial Institutions Division) similar to a retail (public) trust company. This regulation providing for regular examination by the Division will also provide additional assurance to family members regarding the safety and soundness of their Licensed Family Trust Company operations.

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 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) specifies the Commissioner of Financial Institutions authority to examine, and to charge and collect from a Licensed Family Trust company a fee for the supervision and examinations.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how public comment was solicited:

Public comment was solicited by e-mailing the proposed regulation, request for small business impact statement comments (See Exhibit A), notice of workshop, and notice of intent to act upon the regulation and adoption hearing to all persons on the Nevada Financial Institutions Division (NFID) mailing list requesting notification of the proposed regulations. The documents were also made available on the website of the Division, <http://fid.nv.gov>, mailed to the main library for each county in Nevada, and posted at the following locations:

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

The Division distributed drafts of the regulation with any proposed change(s) from the initial announcement of the regulation on March 23, 2016, until the adoption hearing held on May 13, 2016. Public comment was solicited at a workshop held on May 6, 2016, and also at the Public Hearing for Comment/Adoption of the Regulation Meeting held on May 13, 2016. The first public meeting (Workshop) took place at the Grant Sawyer Office Building in Las Vegas, Nevada and by video conference at the Legislative Building in Carson City, Nevada. The second public meeting (Public Hearing and the Adoption Meeting) took place at the Grant Sawyer Office Building in Las Vegas, Nevada and by video conference at the Legislative Building in Carson City, Nevada.

(b) A summary of the public response:

The Division received 0 written comments, and 1 person testified at the workshop/public hearing regarding NAC 669A (LCB File No. R051-16). The comments and testimony addressed the following primary issues:

The public response can be summarized as totally supportive at the workshop and the public hearing/adoption meeting. There were no written statements submitted regarding this regulatory change.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the comments and testimony that transpired with regard to regulation NRS 669A (LCB File No. R051-16). Copy of the summary may be obtained by contacting Leonard Esterly, Deputy Commissioner, Financial Institutions Division, at (702) 486-4120 or lesterly@fid.nv.gov. This summary will also be made available by e-mail request to FIDMaster@fid.state.nv.us.

3. The number of persons who:

(a) Attended each workshop/hearing:

May 6, 2016: 12

May 13, 2016: 11

(b) Testified at each workshop/hearing:

May 6, 2016: 1

May 13, 2016: 0

(c) Submitted to the agency written statements: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3 (b) and (c), as provided to the agency:
See Exhibit B.

5. A description of how comment was solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description, summary, and explanation provided above in the response to question #2a. Also see Exhibit A.

6. If after consideration of public comment the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The original draft of the regulation was not amended due to the fact there were no new comments to incorporate or testimony received from the workshop and/or the public hearing that were considered essential to add/change the original draft regulation. All inputs and comments were considered but were not incorporated into the proposed regulation (NAC 669A; LCB File No. R051-16) because they were not considered germane to the issue addressed.

7. The estimated economic effect of the adopted regulation on:

(a) The business which it is to regulate:

(1) Both adverse and beneficial effects:

(i) Adverse:

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 spent 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:

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) Immediate and long-term effects:

NFID has made every effort to reach out early and to 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 and regulatory burden upon existing small businesses.

NFID has determined the most prominent positive direct effects from these regulations will be the ability to ensure consistency in the Licensed Family Trust industry as well as to reduce any potential financial fraud. This in turn will also establish a general public perception of Licensed Family Trust companies as ethical, honest, and credible. An hourly examination fee (\$75) will be charged and is a NFID pre-determined cost based amount to only cover the time to conduct the examination and prepare the report.

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

(b) The public:

(1) Both adverse and beneficial effects:

(i) Adverse: None

(ii) Beneficial: The regulation will enhance the fiduciary oversight of the industry.

(2) Immediate and long-term effects: None

8. The estimated cost to the agency for enforcement of the adopted regulations.

The estimated cost to NFID enforce of the proposed regulation should be covered by the fees to be collected. It is estimated NFID will not need any additional funding or a budget increase.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulations overlaps or duplicates a federal regulation, the name of the regulating federal agency.

To our knowledge the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of those provisions.

There are no federal regulations that apply.

11. If the regulation establishes 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 overburden 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.