

SMALL BUSINESS IMPACT STATEMENT

LCB FILE No. R050-13

Revised February 5, 2015

LCB File No. R050-13 Small Business Impact Statement pursuant to NRS 233B.0608:

(a) A description of the manner in which comment was solicited from affected small business, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Commission for Common-Interest Communities and Condominium Hotels (Commission) had a standing agenda item which included discussion to review Chapters 116, 116A and 116B of the Nevada Administration Code for the purpose of making recommendations for proposed amendments, additions, and deletions. At each meeting, the Commission invited comments from the public.

The agenda for the June 11-13, 2013 Commission meeting was posted on the Real Estate Division's (Division) website and distributed through the Division's posting list. The agenda indicated discussion and possible action by the Commission to amend regulations NAC 116.405, NAC 116.415, NAC 116.425, NAC 116.430, NAC 116.435, NAC 116A.415, NAC 116A.420, NAC 116A.425, NAC 116A.430, NAC 116A.435 and NAC 116A.440 relating to reserve studies and NAC 116.451 regarding the preparation, contents and distribution of interim financial statements. The Commission provided a document with proposed changes to review. After discussion, the Commission directed the Division to prepare proposed language for a workshop at the next meeting held August 27-29, 2013. The proposed language became LCB File No. R050-13.

The Division posted a Small Business Impact Statement dated August 15, 2013 the Division's website with the Notice of Workshop scheduled for August 28, 2013. The Division received written comment from a member of the public regarding Section 11 of the proposed regulation questioning the Commission's authority to require reserve study specialists to carry surety bonds.

Interested persons may obtain a copy of the small business impact statement on the Division's website at www.red.state.nv.us or by request from:

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Nevada Real Estate Division
2501 East Sahara Avenue, Suite 303
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702-486-4036

(b) The manner in which the small business analysis was conducted for LCB File No. R050-13.

The small business impact statement was posted on the Division's website with the Notice of Workshop on August 28, 2013. Comments were invited during the August 28, 2013 workshop regarding proposed regulation changes including any small business impact from community managers, management companies, homeowner associations and unit owners.

A review of the meeting minutes for June 2013 and August 2013 indicate that representatives of small businesses and/or owners of small businesses entered into a lengthy discussion with the Commission regarding clarification of LCB File No. R050-13.

(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: Comment was made regarding requiring a minimum coverage of one million dollars for professional liability insurance for anyone who conducts or assists in the preparation of a reserve study. It was stated that reserve study companies are having a difficult time getting professional liability coverage of one million dollars.

(II) Beneficial effects: LCB File No. R050-13 provides a detailed description of the standards expected for the type of reserve study to be performed and the level of service accorded to each type. This will clarify expectations when a reserve study specialist is contracted by a homeowner association. The proposed language specifies tasks required in either a full reserve study or an update to a previous reserve study. The regulation proposes a requirement for qualifying education, continuing education, experience and a background check for a reserve study specialist. These requirements will ensure competence and knowledgeable reserve study preparers.

(2) Both direct and indirect effects.

(I) Direct effect: The proposed changes in LCB File No. R050-13 provide clarity to association boards as to what is needed in the required full reserve study, or an update to a previous reserve study, in order to ensure appropriate contributions when funding the reserve fund. The requirements for a reserve study specialist in NAC 116A will ensure a high level of competence of reserve preparers.

II) Indirect effect: It is intended that association boards will perform their fiduciary duties to a high level on behalf of all owners in the association.

(d) Description of the methods that the Real Estate Division considered to reduce the impact of LCB File No. R050-13 on small businesses and a statement whether the Real Estate Division actually used any part of those methods.

It is already a requirement in NRS 116 for boards to have a reserve study. The Division does not believe there will be an impact as a result of the proposed changes in LCB File No. R050-13. The additional requirement for the reserve study specialist to take continuing education is a minimal impact. A requirement for continuing education is an expectation for most professional programs. The cost of professional liability insurance will be explored as the regulation progresses.

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

There is no additional cost to the agency for the implementation of LCB File No. R050-13.

(f) If LCB File No. R050-13 provides a new fee or increases an existing fee, the total annual amount the Real Estate Division expects to collect and the manner in which the money will be used.

LCB File No. R050-13 does not contain new fees or an increase in an existing fee.

(g) If LCB File No. R050-13 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.

LCB File No. R050-13 does not duplicate any existing federal, state or local standards regulating the same activity.

(h) The reasons for the conclusions of the Real Estate Division regarding the impact of LCB File No. R050-13 on small businesses.

Staff from the Division attended all public meetings of the Commission and has heard discussion and public comments. The small business impact statement will be updated to reflect any concerns expressed.

I certify that, to the best of my knowledge or belief, the information contained in the Small Business Impact Statement for R050-13 was prepared properly and is accurate.

**Joseph (JD) Decker, Administrator
Department of Business & Industry
Real Estate Division**

NRS 233B.0608(3) Statement

1. Identify the methods used by the agency in determining the impact of the proposed regulation on a small business.

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The agenda for the June 11-13, 2013 Commission meeting was posted on the Real Estate Division's (Division) website and distributed through the Division's posting list. The agenda indicated discussion and possible action by the Commission to amend regulations NAC 116.405, NAC 116.415, NAC 116.425, NAC 116.430, NAC 116.435, NAC 116A.415, NAC 116A.420, NAC 116A.425, NAC 116A.430, NAC 116A.435 and NAC 116A.440 relating to reserve studies and NAC 116.451 regarding the preparation, contents and distribution of interim financial statements. The Commission provided a document with proposed changes to review. After discussion, the Commission directed the Division to prepare proposed language for a workshop at the next meeting held August 27-29, 2013. The proposed language became LCB File No. R050-13.

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2. Identify the reasons for the conclusions of the agency concerning the impact of the proposed regulation on a small business.

Staff from the Division attended all public meetings of the Commission and has heard discussion and public comments. The small business impact statement will be updated to reflect any concerns expressed.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

Joseph (JD) Decker, Administrator
Department of Business & Industry
Real Estate Division