

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
Informational Statement  
LCB FILE NO. R036-20  
(NRS 604C Consumer Litigation Funding Companies)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code (“NAC”) Chapter 604C, Consumer Litigation Funding Companies.

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

The regulation is required as a result of the passage of Senate Bill (“SB”) 432 during the 80th Session of the Nevada Legislature. Existing law governs transactions in which a person provides not more than \$500,000 to a consumer with a pending legal claim in this state in exchange for the right to receive a portion of the proceeds of a settlement, judgment, award or verdict obtained as a result of the legal claim of the consumer. Existing law authorizes the Commissioner of the Financial Institutions Division to adopt regulations for the administration and enforcement of existing law. (NRS 604C)

This regulation is needed to establish fees related to licensure and regulation, defining certain terms, establish requirements for applicants and licensees, and other matters properly relating thereto.

**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.**

Copies of the proposed regulation, notice of workshop, small business impact statement, and notice of intent to act upon the regulation were emailed to the division licensees under NRS Chapter 675, division’s rulemaking contact list, persons who were known to have an interest in the regulation as well as any persons who had specifically requested such notice. These documents were also made available on the Financial Institutions Division’s website at <http://fid.nv.gov/> and the Nevada Public Notice website at <https://notice.nv.gov/>; posted at the Division’s Las Vegas and Reno office; and provided to the Nevada State Library for posting and to all county libraries. The proposed regulation and notice of intent to act upon the regulation were additionally provided to the Nevada State Library and all county libraries in Nevada for posting. The workshop notice and notice of intent to act upon the regulation was further submitted for posting on the Nevada Legislature’s website.

On October 18, 2019, via email, the Division notified 16 persons, this include its NRS Chapter 675 licensees that conduct litigation funding activity and persons on the division’s rulemaking contact list concerning the proposed regulation, provided a copy of the proposed regulation, and solicited written comments concerning whether it would impose a direct and significant economic burden upon a small business that is subject to NRS 604C, and any regulations adopted pursuant thereto; or directly restrict the formation

operation, or expansion of a small business that is subject to NRS 604C, and any regulation adopted pursuant thereto.

In response to the October 18, 2019 solicitation, the Division's record reflects receipt of eleven (11) small business impact surveys. Attached summary of comments received from the small business impact survey are attached hereto as "Exhibit A."

On February 4, 2020, the Division issued and posted a notice of the workshop, and sent via email, to 28 persons, this include its licensees under NRS Chapter 675 that conduct litigation funding activity and persons on the rulemaking contact list. The workshop was held on February 21, 2020 in Las Vegas at the Grant Sawyer Building with videoconference to the Legislative Counsel Bureau Hearing Room 2135. Minutes of the workshop are attached hereto as "Exhibit B." The minutes reflect receipt of both verbal and written comments.

On October 2, 2020, the Division issued and posted a notice of a second workshop, and sent via email to 37 persons, this include its licensees under NRS Chapter 675 that conduct litigation funding activity and persons on the rulemaking contact list. The second workshop was held on October 21, 2020 via Webex conference. The Division held a second workshop since substantive changes were made from the first workshop on February 21, 2020 and due to the duration between the two workshops. Minutes of the workshop are attached hereto as "Exhibit C". The minutes reflect receipt of both verbal and written comments.

The Legislative Counsel Bureau (LCB) posted its revised draft of proposed regulation R036-20 on September 14, 2020. On November 9, 2020, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R036-20, along with a notice of public meeting and solicited further written comments on the proposed regulation. On the same day, the Division sent via email to 37 persons, this include its licensees under NRS Chapter 675 that conduct litigation funding activity and persons on the rulemaking contact list. On November 6, 2020, the Division requested two changes prior to the adoption hearing, one item was a great concern to the industry, therefore, the Division removed section 5 in its entirety and the second items was an incorrect statutory reference regarding assessing attorney general fees. It read NRS 659.098, but it should have read NRS 658.098. LCB made those changes and provided draft proposed regulations dated November 20, 2020. This draft was adopted during the adoption hearing held on December 9, 2020. Minutes of the hearing are attached hereto as "Exhibit D". The minutes reflect receipt of both verbal and written comments.

**3. The number of persons who:**

**Attended February 4, 2020 workshop: 9**

**Testified at the workshop: 4**

**Attended October 21, 2020 second workshop: 14**

**Testified at the workshop: 5**

**Attended December 9, 2020 hearing: 15**  
**Testified at the hearing: 3**

**Submitted written comments: 12**

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 in #3, above, as provided to the agency.**

Attended the February 4, 2020 workshop:

Name	Company or Organization	Email Address
Eric Schuller	ARC	<a href="mailto:eschuller@arclegalfunding.org">eschuller@arclegalfunding.org</a>
Adam Smith	Money First Lending	<a href="mailto:adam@moneyfirstlending.com">adam@moneyfirstlending.com</a>
Jennifer Ferrer	HiTex	<a href="mailto:jennifer@moneyinminutesnv.info">jennifer@moneyinminutesnv.info</a>
Susan Hammon	HiTex	
Mario Sanchez	Legal Loans	
Ben Harbor	Legal Loans	
Paula Steinmetz	Preferred Capital Funding	<a href="mailto:paula@pcfcash.com">paula@pcfcash.com</a>
Jennifer Atlas	Griffin Co	<a href="mailto:jennifer@g3nv.com">jennifer@g3nv.com</a>
Casey Stiteler	Lewis Roca Rothegeber Christie LLP	<a href="mailto:cstiteler@lrrc.com">cstiteler@lrrc.com</a>

Out of the 14 individuals that attended the second workshop on October 21, 2020, only 7 signed-in:

Name	Company or Organization	Email Address
Eric Schuller	ARC	<a href="mailto:eschuller@arclegalfunding.org">eschuller@arclegalfunding.org</a>
Valerie Balen	JK Belz & Associates	<a href="mailto:vb@jkbels.com">vb@jkbels.com</a>
Simon Edwards	Unofficial Governor of the State of Nevada	<a href="mailto:SimonJosephEdwards@gmail.com">SimonJosephEdwards@gmail.com</a>
Heather O'Neill	Preferred Capital Funding	<a href="mailto:heather@pcfcash.com">heather@pcfcash.com</a>
Kim Halvorsen	Oasis Financial	<a href="mailto:khalvorsen@oasisfinancial.com">khalvorsen@oasisfinancial.com</a>
Casey Stiteler	Lewis Roca Rothegeber Christie LLP	<a href="mailto:cstiteler@lrrc.com">cstiteler@lrrc.com</a>
Adam Smith	Money First Lending	<a href="mailto:adam@moneyfirstlending.com">adam@moneyfirstlending.com</a>

Out of the 15 individuals that attending the adoption hearing on December 9, 2020, only 6 signed-in:

Name	Company or Organization	Email Address
Sheryl Smith	Omni Financial	ssmith@yesomni.com
Eric Schuller	ARC	eschuller@arclegalfunding.org
Kristena Arnold	Omni Financial of Nevada, Inc.	karnold@yesomni.com
Heidi Conover	Moose Mountain Money LLC	heidiconover@msn.com
Casey Stiteler	Lewis Roca Rothgerber Christie LLP	cstiteler@lrrc.com
Adam Smith	Money First Lending	adam@moneyfirstlending.com

**5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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 (see item 2 above). A summary of responses can be found in the minutes to the workshops and the hearing (Exhibits B, C and D) and small business impact statement (Exhibit A). Copies of these materials can be obtained by contacting Mary Young, Financial Institutions Division at [fidmaster@fid.state.nv.us](mailto:fidmaster@fid.state.nv.us) or [mmyoung@fid.state.nv.us](mailto:mmyoung@fid.state.nv.us) or 702-486-4120 or by visit the Division's website: [www.fid.nv.gov](http://www.fid.nv.gov).

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

The initial agency draft regulation was submitted to LCB on March 12, 2020 for their review to determine that the regulation conformed to legislative authority and intent. Revisions in consideration of industry comments were discussed with LCB on August 24, 2020. LCB completed their review and provided revised proposed regulation dated September 14, 2020. The Division requested a few additional revisions that were submitted to LCB on November 6, 2020. One item was a great concern to the industry, therefore, the Division removed section 5 in its entirety and the second items was an incorrect statutory reference regarding assessing attorney general fees. It read NRS 659.098, but it should have read NRS 658.098. The Division received the revised proposed regulations dated November 20, 2020, which was adopted at the adoption hearing.

The Division made any changes it could in consideration of public comments throughout the rulemaking process, as long as it did not impact the consumer protect responsibility of the Division or the spirit and intent of the law. The Division believes it addressed any other concerns with satisfaction to the industry by clarifying certain matters during the adoption hearing. Therefore, no other changes were made.

7. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include: (a) Both adverse and beneficial effects; and (b) Both immediate and long-term effects.**

(a) Both adverse and beneficial effects.

Adverse effects. The consumer litigation funding community did not provide adverse comments regarding the fees and costs, imposed by the Division, associated with doing business as a licensed consumer litigation funding company.

The Division does not foresee any adverse effects of the proposed regulation. Through internal analysis, the Division has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. The Division set the fees at a reasonable amount in line with other entities the Division regulates.

Beneficial effects. The consumer litigation funding community did not provide beneficial comments regarding the fees and costs, imposed by the Division, associated with doing business as a licensed consumer litigation funding company.

This regulation creates a level playing field for all consumer litigation funding companies to protect consumers. This regulation is beneficial to both the industry and the public.

(b) Both immediate and long-term effects.

The Division understands consumer litigation funding small businesses may have financial burdens such as surety bond premiums, payroll, rent, and other costs to do business, as well as fees imposed by the Division. The legislation provided the maximum fee amounts and gives the Division discretion to set the fee amounts. Through internal analysis, the Division has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. The Division set the fees at a reasonable amount in line with other entities the Division regulates.

The Division has determined the most prominent positive effect from the passage of S.B. 432 will be the ability to ensure ongoing consistency in the consumer litigation funding community as well as reduce any potential harm to the public. Allowing for funds to be given and received under the laws and regulations all companies must follow. These regulations will allow companies to continue to provide funding to consumers in need of funds from their legal claims.

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

The Division anticipates the estimated cost of enforcement of the proposed regulation to be covered by the proposed fees to be collected by the Division. The Division does not anticipate the need for additional funding or 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 regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

To the best of the Division's knowledge, there are no other state or government agency regulations known by the Division that the proposed regulation overlaps or duplicates.

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

To the best of the Division's knowledge, the adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. **If the regulation provides a new fee or increase 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 new fees established by the passage of the legislation and the total amount the Division expects to collect based on the number of companies that communicated with the Division (approximately 15 entities):

- 1) The 1st Year → \$30,000 (Based on the application fee of \$1,000 and initial licensing fee of \$1,000 for 15 entities).
- 2) The 2nd Year → \$37,500 (Based on Yearly Renewal Fee of \$1,000 and Hourly examination Fee of \$75 with the average exam projected to take approximately 20 hours to complete). It is also expected that the following yearly exams will not take 20 hours to complete thus lowering this cost in future years.

In addition, the proposed regulation requires for the Division to assess licensees for the Certified Public Accountant ("CPA") costs that is employed by the Division and for costs relating to legal services provided by the Nevada Attorney General's ("AG") office. Both the CPA and AG are assessed evenly among all the Division's licensees and is only assessed an amount to cover the costs. This amount changes from year-to-year. The CPA assessment will not exceed \$300.

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of February 21, 2020 Workshop on R036-20

Exhibit C – Minutes of October 2, 2020 Second Workshop on R036-20

Exhibit D – Minutes of December 9, 2020 Adoption Hearing on R036-20