

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption and Amendment of Regulations of the Office of Director, Nevada Department of Business and Industry

LCB File No. R036-23

The Office of Director, Nevada Department of Business and Industry, will hold a public hearing at **11:00 a.m. Pacific Time on Tuesday, February 27, 2024**, to receive comments from all interested persons regarding the adoption and amendment of regulations that pertain to chapter 231A of the Nevada Administrative Code (NAC) and the Nevada New Markets Jobs Act.

Interested persons may participate in person at 3300 W. Sahara Avenue, Suite 400 (Nevada Room), Las Vegas, Nevada 89102; or remotely by Webex or phone. To join the hearing by Webex, click <https://businessnv.webex.com/businessnv/j.php?MTID=mddcbb1af179be3c4306f6cbae4c98f8b>. The Webex meeting number (access code) is 2488 462 4112. The Webex meeting password is McGZpSgb322. To join by phone, please call the following toll-free number: 1-844-992-4726 United States Toll-Free.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Need for and purpose of the proposed regulation.

The proposed regulations are required because of passage of Senate Bill 240 (S.B. 240) during the 82nd Session of the Nevada Legislature (2023) and the expiration of previously adopted clarifying language in LCB File No. T004-20A.

2. If the proposed regulation is a temporary regulation, either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

The proposed regulation is not a temporary regulation.

3. If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.

A copy of the proposed regulation for adoption, LCB File No. R036-23, is attached. Access to text of the revised proposed regulations prepared by the Legislative Counsel Bureau pursuant to NRS 233B.063 may be obtained by visiting the website of the Nevada Legislature at <http://www.leg.state.nv.us>, hovering over the term “Law Library,” hovering over the term “Nevada Register.” Clicking upon the term “Browse,” and then clicking upon the term “Numerical Index” appearing under the Category “2023 Regulations.” Access may then be obtained by simply scrolling down the list of LCB File Numbers to seek “R036-23” and then specifically clicking upon the designation “R036-23RP1.” Alternatively, the language can be found by performing a “search” function specifying “R036-23RP1” and then clicking upon the reference to R036-23RP1 as specified.

4. **A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public.**

Adverse/beneficial effects on business:

The Department has preliminarily determined that the proposed regulation will not (1) impose a direct and significant economic burden upon a small business; (2) result in any direct or indirect adverse effects on small businesses; or (3) directly restrict the formation, operation, or expansion of a small business. Beneficial effects of the proposed regulation on small businesses include potential access to additional capital under terms or conditions more favorable than other available sources of capital.

Adverse/beneficial effects on the public:

The Department has preliminarily determined that the proposed regulation will not have an adverse economic effect on the public or result in any direct or indirect adverse effects on the public. Beneficial effects of the proposed regulation on the public include greater economic development in underserved communities within Nevada, including increased employment opportunities among minority, women, veterans, and other groups. To date, biennial reports of the NMJA Program reflect approximately \$10-\$12 positive economic and tax revenue impact per tax dollar invested.

Immediate/long-term effects on business:

The Department has preliminarily determined that the proposed regulation will not have any immediate or long-term adverse effects on small businesses and may have immediate or long-term beneficial effects on small businesses, given the potential access to additional capital under terms or conditions more favorable than other available sources of capital.

Immediate/long-term effects on the public:

The Department has preliminarily determined that the proposed regulation will not have any immediate or long-term adverse effects on the public and may have immediate or long-term beneficial effects on the public, given the potential job creation and economic development the NMJA Program can provide to underserved communities in Nevada.

At present there is no assurance as to how many Nevada small business lenders or community development entities and community development financial institutions will apply for available future allocations under the Nevada New Markets Jobs Act program, nor is there any assurance as to how many Nevada-based qualified or impact qualified active low-income community businesses will apply to program allocatees for funding.

5. **A statement identifying the methods used by the agency in determining the impact on a small business.**

The Department's determination is based on the following reasons:

- The NMJA Program (NRS 231A) helps meet the need for access to capital for Nevada small businesses in distressed areas of the state. The proposed regulation implements changes to support the program's performance in this area.

- The proposed regulation will not apply to a Nevada small business unless that business decides to pursue or accept funding from an allocatee of the NMJA Program as defined in NRS 231A and certified by the Director. The regulation is otherwise inapplicable to a Nevada small business.
- Performance of the Nevada NMJA Program from 2013 to date reflects no adverse impacts to small businesses inside or outside the program, and only neutral to beneficial impacts for small businesses inside the program, as documented in the NMJA Program’s biennial reports to the Legislative Counsel Bureau.

In addition, on November 21, 2023, the Department posted the proposed regulation on its website and subsequently issued a Notice of Public Workshop & Agenda concerning the proposed regulatory changes to NAC 231A on November 22, 2023. The Department made email notification to all persons on the Department’s Financial Institutions Division email list for NRS 675 licensees and to all persons on the Director’s Office email list for the Nevada NMJA Program (a total of 289 recipients), requesting comments and input concerning whether the proposed regulations were likely to impose a direct and significant economic burden on small business.

These materials were also posted to the Nevada Public Notice Website at <https://notice.nv.gov> and the Nevada Legislature’s web page for administrative regulation notices at <https://www.leg.state.nv.us/App/Notice/A/>, as well as at the following Nevada office locations: the Department’s office in Las Vegas, the Nevada State Business Center in Las Vegas, the Department of Business & Industry in Carson City, and the Nevada State Library & Archives, in Carson City.

The Department received no written comments by December 15, 2023, the date of the public workshop. At the workshop, the Department received three comments, two of which expressed support for the benefits of the NMJA program and the proposed impact qualified regulatory provisions in helping to support investment in underserved communities of Nevada and to provide accountability for outcomes consistent with the Legislature’s desired economic development objectives. The third comment simply requested information on small businesses served to date by the NMJA program.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Department has identified additional costs to the Director’s Office for implementation of the proposed regulation and administration of the “impact qualified” provisions. These costs were included in a fiscal note to S.B. 240 (2023), funded in the legislation as approved, and are estimated at \$103,135 for the fiscal year 2023-2024 and \$99,665 for the fiscal year 2024-2025.

7. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.**

The regulation does not overlap or duplicate any known local, state, or federal regulations.

8. **If the regulation is required pursuant to federal law, a citation and description of the federal law.**

The regulation is not required pursuant to federal law.

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

The proposed regulation does not include provisions that are more stringent than a federal regulation that regulates the same activity.

10. **Whether the proposed regulation establishes a new fee or increases an existing fee.**

The proposed regulation does not provide for new fees or increase an existing fee.

Persons wishing to comment upon the proposed action of the Office of Director may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Chris Weiss, Management Analyst, Director's Office, Nevada Department of Business and Industry, 3300 West Sahara Avenue, Suite 425, Las Vegas, Nevada 89102 or by email to cweiss@business.nv.gov. Written submissions must be received by the Director's Office on or before **February 22, 2024**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Director's Office of the Nevada Department of Business and Industry may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be Adopted and Amended will be on file at the State Library, Archives and Public Records, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be Adopted and Amended will be available at the Las Vegas Office of the Nevada Department of Business and Industry, 3300 West Sahara Avenue, Suite 425, Las Vegas, Nevada 89102; the Carson City Office of the Nevada Department of Business and Industry, 1830 College Parkway, Suite 100, Carson City, Nevada 89706; and at www.business.nv.gov for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/>. Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons

for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

NOTICE OF THE HEARING HAS BEEN PROVIDED AS FOLLOWS:

By email to all persons on the Department's Financial Institutions Division email list for NRS 675 licensees.

By email to all persons on the Director's Office email list for the Nevada NMJA Program.

Posted at the Department's principal offices/in-person physical locations in Las Vegas and Carson City (3300 W. Sahara Ave., Las Vegas, NV 89102 and 1830 College Parkway, Suite 100, Carson City, NV 89706, respectively).

By email for posting by the Nevada State Library, Archives and Public Records Administrator.

By email for posting by the Nevada Legislature.

Posted online to the Nevada Legislature website: <https://leg.state.nv.us/>.

Posted online to the State of Nevada Public Notice website: <https://notice.nv.gov>.

Posted online to the Department's website: <https://business.nv.gov/>.

DATED this 17th day of January, 2024.

/s/ Kristopher Sanchez
DR. KRISTOPHER SANCHEZ
Director