

**LCB File No. R205-08**

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**PROPOSED REGULATIONS CONCERNING FINANCIAL REPORTING**

Explanation – Matter in *bold italics* is new, matter in brackets with strikethrough  is material to be omitted.

Authority: NRS 679B.130 and NRS 680A.265

A REGULATION relating to the annual audited financial report and the requirements of the independent certified public accountant and the Audit Committee; revising and updating certain sections relating to the annual audited financial reports; and other technical changes required in order to be compliant with NAIC ACCREDITATION STANDARDS.

**Section 1.** Chapter 680A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 8 of this regulation.

**Sec. 2.**

*1. “SOX Compliant Entity” means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002: (i) the preapproval requirements of Section 201 (Section10A(i) of the Securities Exchange Act of 1934); (ii) the Audit Committee independence requirements of Section 301 (Section10A(m)(3) of the Securities Exchange Act of 1934); and the Internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K).*

*2. “SEC” means the United States Securities and Exchange Commission.*

*3. “Section 404” means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC’s rules and regulations promulgated thereunder.*

4. *“Section 404 Report” means the insurer’s or the company’s report on “internal control over financial reporting” as defined by the SEC and the related attestation report of the independent certified public accountant as defined in NAC 680A.003.*

5. *“Audit Committee” means a committee (or equivalent body) established by the board of directors of an insurer for the purpose of overseeing the accounting and financial reporting processes of an insurer or an affiliated insurance company group, and audits of the financial statements of the insurer or the affiliated insurance company group.*

6. *As used in this chapter, “control” has the meaning ascribed to it in NRS 692C.050.*

7. *As used in this chapter, “Direct Written and Assumed Premiums” shall be the combined total of direct premiums and assumed premiums from non-affiliates insurers.*

### **Sec. 3.**

*Section 3 shall not apply to foreign or alien insurers licensed in Nevada or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.*

1. *The Audit Committee shall be directly responsible for the appointment, compensation and oversight of the work of any accountant for:*

*(a) The purpose of preparing or issuing the audited financial report or related work pursuant NRS 680A.265 and NRS 680A.270; and*

*(b) The resolution of disagreements between the insurer and the accountant pursuant to NAC 680A.140.*

2. *Each accountant shall report directly to the Audit Committee.*

*3. Each member of the Audit Committee shall be a member of the board of directors of the insurer or a member of the board of directors of the entity that controls the insurer or a member of the board of directors of an insurance holding company.*

*4. If the Audit Committee members of the insurer are members of the board of directors of the entity that controls the insurer, the controlling entity shall provide written notice to the Commissioner not later than 60 days prior to the due date of the report as required by NRS 680A.265. The written notice to the Commissioner shall include the names of any other insurers or entities under the control of the entity. Such designation of the controlling entity shall remain in effect until rescinded. The controlling entity may elect to change such designation by providing written notice to the Commissioner. Such notice shall include a description and basis for the change.*

*5. The Audit Committee shall also include a proportionate number of independent Audit Committee members. The criterion for the proportion is based on the total of Direct Written and Assumed Premiums from the prior calendar year. The percentage of independent Audit Committee members shall meet or exceed the following requirements:*

*(a) If the total of the Direct Written and Assumed Premiums is less than \$300,000,000: None of the Audit Committee members have to be independent.*

*(b) If the total of the Direct Written and Assumed Premiums is greater than \$300,000,000, but less than \$500,000,000: A Majority (50%) of the Audit Committee members must be independent.*

*(c) If the total of the Direct Written and Assumed Premiums is greater than \$500,000,000: A Supermajority (75%) of the Audit Committee members must be independent.*

*(d) All insurers with less than a \$500,000,000 total of Direct Written and Assumed Premiums in the prior year are encouraged to structure their Audit Committees with at least a supermajority of independent Audit Committee members.*

*6. The Commissioner may require the insurer to include independent Audit Committee members on their Audit Committee if the insurer:*

*(a) Is in a Risk Based Capital (RBC) action level event pursuant to NRS 681B.290 and NAC 681B.490;*

*(b) Meets one or more of the standards of an insurer deemed to be in hazardous financial condition pursuant to NRS 680A.205 and NAC 680A.220; or*

*(c) Otherwise exhibits qualities of a troubled insurer pursuant to NRS 680A.205.*

*7. An insurer with Direct Written and Assumed Premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than \$500,000,000, may make application to the Commissioner for a waiver from the requirements of Section 3 based on hardship. The approval for the waiver shall be filed by the insurer with its annual statement filing. The approval for the waiver must be filed with the states in which it is licensed or doing business, and with the NAIC. The insurer must also file the approval for the waiver with the NAIC, in an electronic format acceptable to the NAIC.*

#### **Sec. 4.**

*If the insurer is a member of an insurance holding company system, the reports required by Subsection 1 may be provided to the Audit Committee on an aggregate basis for the insurers in the insurance holding company system, provided however that any substantial differences among the insurers are identified to the Audit Committee.*

*1. The Audit Committee shall require the accountant who performs the audit pursuant to NRS 680A.265, to report to the Audit Committee in a timely manner and in accordance with AICPA Statements of Auditing Standards (SAS) 61, Communication with Audit Committees.*

*The report to the Audit Committee shall include:*

*(a) All significant accounting policies and material permitted practices;*

*(b) All material alternative treatments of financial information within statutory accounting principles that have been discussed with the officers and directors of the insurer, ramifications of the use of alternative disclosures and treatments, and the treatment preferred by the account; and*

*(c) Other material written communication between the accountant and the officers and directors of the insurer, such as any management or scheduled unadjusted differences.*

*2. The AICPA Statements of Auditing Standards are included in the AICPA Professional Standards, which has been adopted by reference in NAC 680A.196.*

## **Sec. 5.**

*1. In order to be considered independent, each member of the Audit Committee discharging his duty as a member of the Audit Committee, the board of directors or any other committee of the board, may not accept any consulting, advisory or other compensatory fee from the insurer or be an affiliated person of the insurer or related entity.*

*2. If required by statute, Audit Committee participation by a non-independent member of the board of directors will be designated as being an independent member for the Audit Committee purposes only. The non-independent member of the Audit Committee can not be considered as independent if they are an officer or employee of the insurer or any other related entity.*

*3. If a member of the Audit Committee ceases to be independent for reasons outside the member's reasonable control:*

*(a) The member may remain on the Audit Committee for one year from the date he became non-independent, or until the next annual board of director's meeting; and*

*(b) The member shall within 15 days after the end of the month, in which he became non-independent, provide written notification of the change to:*

*(1) The board of directors of the insurer or the related controlling entity; and*

*(2) The Commissioner.*

*4. The officer whose responsibilities include the oversight of the insurer's financial condition and production of the financial reports for the insurer and the Commissioner shall not be a member of the Audit Committee.*

*5. The independent members of the Audit Committee shall meet at least once a year with the independent certified public accountant to discuss the strengths and weaknesses of the insurer's or the affiliated insurance company group's internal control environments. Such meeting shall be held without the presence of the insurer's management or personnel.*

#### **Sec. 6.**

*1. No director or officer of an insurer shall, directly or indirectly:*

*(a) Make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review, communication or reporting required under this chapter; or*

*(b) Fail to disclose or cause another person to fail to disclose, any materially false or misleading statement to an accountant in connection with any audit, review, communication or reporting required pursuant to NRS 680A.265.*

*2. No officer or director of an insurer or any other person acting under the direction of an officer or director, who knew or should have known that any direct or indirect action taken to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit required pursuant to NRS 680A.265, that if successful, could result in rendering the insurer's financial statements to be materially misleading.*

*(a) Actions that, "if successful, could result in rendering the insurer's financial statements to be materially misleading" include, but are not limited to, actions taken at any time during the Audit engagement, to coerce, manipulate, mislead or fraudulently influence an accountant:*

*(1) To issue or re-issue a report of an insurer's financial statements that is not warranted in the circumstance due to material violations of statutory accounting principles, generally accepted auditing standards or other professional or regulatory standards prescribed or adopted by the Commissioner;*

*(2) Not to withdraw an issued report;*

*(3) Not to perform the audit, review, communication, reporting or other procedures required by generally accepted auditing standards or other professional standards; or*

*(4) Not to communicate matters to an insurer's Audit Committee or to the Commissioner.*

## **Sec. 7.**

*1. The Report of Internal Control over Financial Reporting that is required pursuant to NAC 680A.200(1), must be prepared by the accountant and shall include statements that the insurer:*

*(a) Is responsible for establishing and maintaining adequate Internal Controls over the financial practices and procedures, and the financial reporting of the insurer;*

*(b) Has established Internal Control over the financial reporting and includes an attestation that, “to the best of his knowledge and belief, after diligent inquiry, as to whether its Internal Control over the financial reporting is effective to provide reasonable assurance regarding the reliability of the insurer’s financial statements in accordance with statutory accounting principles”;*

*(c) Has briefly described the approach or processes by which the insurer has evaluated the effectiveness of its Internal Controls over the financial reporting of the insurer;*

*(d) Has briefly described the scope of the work that was included in its review of the insurer’s Internal Controls and whether any Internal Controls were excluded by the insurer;*

*(e) Has disclosed any unremediated material weaknesses in the Internal Controls over the insurer’s financial reporting as identified by the insurer as of December 31 of the preceding calendar year;*

*(f) That if there are one or more unremediated material weaknesses identified in their Internal Controls over the financial reporting, that the insurer was not permitted to conclude that the Internal Controls are effective, in accordance with statutory accounting principles, as to provide reasonable assurance that the financial statements of the insurer are reliable; and*

*(g) Has identified any inherent limitations of their Internal Control systems.*

*2. The Report of Internal Control over Financial Reporting shall be signed by the Chief Executive Officer and the Chief Financial Officer or other officer or director of the insurer that has received written approval from the Commissioner.*



**Sec. 8.**

*1. Every insurer shall:*

*(a) Document and maintain information about any significant deficiencies or weakness that may have been reported by the accountant during the course of the Audit;*

*(b) Document and make available upon a financial condition examination the basis upon which its assertions, required in Section (NEW Section 4(1) above), are made.*

*2. In order to make its assertion in a cost effective manner, every insurer shall use discretion as to the framework of their Internal Control System, and in the quality and quantity of their supporting documentation. The insurer may include existing documentation as reference or as supporting documentation to the information required in subsection 1(a) and 1(b).*

*3. An insurer may base its assertions, in part, upon its review, monitoring and testing of Internal Controls undertaken in the normal course of its activities.*

*4. The insurer's Report on Internal Control over Financial Reporting required by NAC 680A.200, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential pursuant to NRS 679B.285.*

**Sec. 9.** NAC 680A.178 is hereby amended to read as follows:

1. The Commissioner may require an insurer to file its annual audited financial report earlier than June 1 upon notice to the insurer by the Commissioner made at least 90 days before the earlier filing date.

2. The Commissioner may grant one or more 30-day extensions of the filing date as determined in accordance with NRS 680A.265 and subsection 1 upon a showing by the insurer and its independent certified public accountant of good cause for the extension. A request for a

30-day extension must be submitted in writing not less than 10 days before the date on which the annual audited financial report is to be filed and must contain sufficient detail to permit the Commissioner to make an informed decision with respect to the requested extension.

*3. If an extension is granted, a similar extension of thirty (30) days is granted for the filing of the insurer's Report of Internal Controls over Financial Reporting.*

*4. Every insurer who is required to file an annual audited financial report pursuant to NRS 680A.265 shall designate a group of individuals as constituting its Audit Committee.*

*5. If the insurer is part of an insurance holding company system:*

*(a) The Audit Committee of the entity, which controls the insurer, may be deemed to be the insurer's Audit Committee; or*

*(b) The Audit Committee of any entity that controls an insurer or an affiliated insurance company group may be deemed the Audit Committee for one or more insurers under their control.*

*6. If an Audit Committee is not designated by the insurer, the insurer's entire board of directors shall constitute the Audit Committee.*

*7. All auditing services and non-auditing services provided to an insurer by the qualified independent certified public accountant of the insurer shall be preapproved by the Audit Committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.*

*8. The Audit Committee may delegate to one or more designated members of the Audit Committee the authority to grant the preapprovals required by subsection 7. The decision of*

*any member to whom this authority is delegated shall be presented to the full Audit Committee at each of its scheduled meetings.*

**Sec. 10.** NAC 680A.180 is hereby amended to read as follows:

1. The annual audited financial report must include a report of the financial position of the insurer as of the end of the most recent calendar year and the results of the insurer's operations, cash flows and changes in capital and surplus for that year.

2. The annual audited financial report of an insurer must include:

(a) A report of the independent certified public accountant;

(b) A balance sheet which reports the admitted assets, liabilities, capital and surplus of the insurer;

(c) A statement of operations;

(d) A statement of cash flows;

(e) A statement of changes in capital and surplus;

(f) Any notes to financial statements required by the appropriate instructions for annual statements of the National Association of Insurance Commissioners *and the NAIC Accounting Practices and Procedures Manual*, and any other notes required by generally accepted accounting principles;

(g) A reconciliation of the differences, if any, between the annual audited *statutory* financial report and the annual statement filed with the Commissioner pursuant to NRS 680A.270, with a written description of the nature of those differences; and

(h) A summary of the ownership and relationships of the insurer and each of its affiliated companies, if any.

3. A financial statement included in an annual audited financial report must be prepared in a form which uses language and groupings that are substantially similar to the relevant sections of the annual statement of the insurer filed with the Commissioner pursuant to NRS 680A.270. The financial statement must include comparative data as of December 31 of the two most previous calendar years, except that, in the first year in which an insurer is required to file an annual audited financial report, the insurer may include only the data from the most previous calendar year.

**Sec. 11.** NAC 680A.182 is hereby amended to read as follows:

1. An insurer required by NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, to file an annual audited financial report shall, within 60 days after becoming subject to the requirement, register with the Commissioner in writing the name and address of the independent certified public accountant *or accounting firm* who will audit the report.

2. The insurer shall obtain a letter from the independent certified public accountant and file a copy of the letter with the Commissioner which:

(a) States that the accountant is aware of the provisions of title 57 of NRS, and the regulations adopted pursuant thereto, that relate to accounting and financial matters, and affirms that the accountant will express his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by title 57 of NRS, and the regulations adopted pursuant thereto, specifying such exceptions as he deems appropriate; and

(b) For an insurer domiciled in Canada or Great Britain, states that the accountant is aware of the requirements relating to the annual audited financial report filed with the Commissioner pursuant to NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, and affirms that the opinion expressed is in conformity with those requirements.

**Sec. 12.** NAC 680A.186 is hereby amended to read as follows:

*1. In general, the principles of independence with the respect to services provided by the qualified independent certified public accountant are largely predicated on three basic principles, violations of which would impair the accountant's independence. The principles are that the accountant cannot function in the role of management, cannot audit his own work, and cannot serve in an advocacy role for the insurer.*

~~[1-]~~ **2.** Except as otherwise provided in subsection ~~4~~ ~~[2]~~ *and subsection 5*, and NAC 680A.188 and 680A.190, the Commissioner will recognize an independent certified public accountant as a qualified independent certified public accountant if the independent certified public accountant conforms to the standards contained in the *Code of Professional Ethics* of the American Institute of Certified Public Accountants, and the *Rules of Professional Conduct* and the regulations of the Nevada State Board of Accountancy, or other similar code.

*3. A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in subsection 4 or that do not conflict with subsection 1, only if the activity is approved in advance by the Audit Committee, in accordance with NAC 680.178.*

~~[2-]~~ **4.** The Commissioner will not recognize as a qualified independent certified public accountant an independent certified public accountant who:

(a) Is not in good standing with the American Institute of Certified Public Accountants and in all states in which the independent certified public accountant is licensed or certified to practice;

(b) For an insurer domiciled in Canada or Great Britain, is not a chartered accountant or accounting firm; or

(c) Has either directly or indirectly entered into an agreement of indemnity or release from liability with respect to an audit of the insurer if the intent or effect of the agreement or release is to shift or limit in any manner the potential liability of the accountant for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from a knowing or other misrepresentation made by the insurer or its representatives.

*5. The Commissioner will not recognize as a qualified independent certified public accountant, nor accept an annual audit financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services:*

*(a) Bookkeeping or other services related to the accounting records or the financial statements of the insurer;*

*(b) Financial information systems design and implementation;*

*(c) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;*

*(d) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountants may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during the audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met:*

*(1) Neither the accountant nor the accountant's actuary has performed any management function or made any management decisions;*

*(2) The insurer has competent personnel (or engages a third party actuary) to estimate the reserves for which the insurer takes responsibility; and*

*(3) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;*

*(a) Internal audit outsourcing services;*

*(b) Management functions or human resources;*

*(c) Broker or dealer, investment advisor, or investment banking services;*

*(d) Legal services or expert services unrelated to the audit; or*

*(e) Any other services that the Commissioner determines, by regulation, are impermissible.*

*6. Insurers having total direct written and assumed premiums of less than \$100,000,000 in any calendar year may request an exception from subsection 5, disallowing an accountant who provides additional services to the insurer in addition to the audit. The insurer shall file with the Commissioner a written statement discussing the reasons why the insurer should be exempt from the provisions and, if the Commissioner finds upon a review of the insurer's request that the restrictions would constitute a financial or organizational hardship upon the insurer, an exemption allowing an accountant to provide non-audit services may be granted.*

*7. The Commissioner shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one-year period preceding the date that the most current statutory opinion is due. This subsection shall only apply to*

*partners and senior managers involved in the audit. An insurer may request an exemption by filing with the Commissioner a written statement discussing the reasons why the insurer should be exempt from the provisions and if the Commissioner finds that unusual circumstances exist, an exemption may be granted.*

*8. The insurer's request should be made at least thirty (30) days before the end of the reporting year. If the insurer is granted an exemption, the insurer shall file with its annual statement filing, the approved exemption with the states in which it is licensed or doing business, and with the NAIC. The insurer will also file the approved exemption with the NAIC in an electronic format acceptable to the NAIC.*

**Sec. 13.** NAC 680A.188 is hereby amended to read as follows:

1. Except as otherwise provided in this section, an independent certified public accountant who is responsible for rendering an annual audited financial report for an insurer may act in that capacity for a period of not more than ~~7~~ 5 consecutive years, which begins to run from the date on which the insurer registers the accountant with the Commissioner pursuant to NAC 680A.182. At the end of the ~~7~~ 5 year period, the independent certified public accountant is disqualified from acting in that or a similar capacity for the same insurer or any insurance subsidiary or affiliate of the insurer for a period of at least 2 years.

2. An insurer may apply to the Commissioner for permission for an independent certified public accountant to continue in his capacity in the rendering of the annual audited financial report of the insurer for more than ~~7~~ 5 consecutive years, or to return to a position which would be responsible for rendering an annual audited financial report for the insurer and its subsidiary or affiliate in less than 2 years, upon a showing of unusual circumstances. *The insurer's request for relief should be made at least thirty (30) days before the end of the reporting year.* The



Commissioner will consider the following factors, without limitation, in determining if the relief should be granted:

- (a) If the independent certified public accountant is an accounting firm, the number of partners within the independent certified public accountant and the expertise of those partners;
- (b) The number of insurers who are clients of the accountant;
- (c) The volume of premiums of the insurer; or
- (d) The number of jurisdictions in which the insurer transacts business.

*3. The insurer shall file with its annual statement filing, the approval for relief with the states in which it is licensed or doing business and with the NAIC. The insurer will also file the approval with the NAIC, in an electronic format, acceptable to the NAIC.*

**Sec. 14.** NAC 680A.196 is hereby amended to read as follows:

An examination of the insurer's financial statements by an independent certified public accountant for the purposes of NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, must be conducted in accordance with:

1. Generally accepted auditing standards; ~~and~~
2. *AICPA Professional Standards, AU Section 319, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit;*
- ~~2]~~ 3. *AICPA Professional Standards, Statement on Auditing Standards (SAS) No. 102, Defining Professional Requirements in Statements on Auditing Standards, the independent certified public accountant should obtain the current report in planning and performing the audit of the statutory financial statements; and*

4. Such other procedures set forth in the *Financial Condition Examiners Handbook* ~~[which composes Volume One of the Examiners Handbook]~~ published by the National Association of Insurance Commissioners, as adopted by reference in NAC 679B.033, as the independent certified public accountant deems necessary.

*5. AICPA Professional Standards is hereby adopted by reference. AICPA Professional Standards includes the Statements on Auditing Standards (SAS). Specific Statements on Auditing Standards (SAS) are also available. The AICPA Professional Standards may be obtained from the American Institute of Certified Public Accountants (AICPA) at a cost of \$148.75. Specific SASs may also be purchased; the cost varies for these and the current cost can be obtained from the AICPA. The AICPA can be contacted:*

*(a) By mail at AICPA, Member Service Center, Order Processing, 220 Leigh Farm Road, Durham, NC 27707-8110;*

*(b) By telephone at (888) 777-7077;*

*(c) By FAX at (800) 362-5066; or*

*(d) On the Internet at <http://www.cpa2biz.com>.*

**Sec. 15.** NAC 680A.198 is hereby amended to read as follows:

1. An independent certified public accountant of an insurer required to furnish an annual audited financial report shall report to the board of directors or Audit Committee of the insurer each determination by the accountant that the insurer:

(a) Has materially misstated its financial condition as reported to the Commissioner as of the date of the balance sheet currently under examination; or

(b) Does not, as of that date, meet the minimum requirements for capital and surplus as set forth in chapter 680A of NRS.

↪ The report must be in writing and provided to the insurer not later than 5 business days after the accountant makes such a determination.

2. An insurer who receives a report from its independent certified public accountant pursuant to this section shall, not later than 5 business days after the date on which it receives the report from the accountant:

(a) Forward a copy of the report to the Commissioner; and

(b) Provide the independent certified public accountant that made the report with evidence that the insurer has forwarded a copy of the report to the Commissioner. If the independent certified public accountant does not, within the 5-business-day period, receive evidence from the insurer that the insurer has forwarded a copy of the report to the Commissioner in accordance with this section; the independent certified public accountant shall file with the Commissioner a copy of its report within the next 5 business days.

3. An independent certified public accountant is not liable in any manner to any person for any statement made in connection with this section if the statement is made in good faith in compliance with this section.

4. If the independent certified public accountant, after the annual audited financial report reviewed by the accountant has been filed pursuant to NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, becomes aware of any facts which affect his report, the accountant shall take such action as prescribed in Volume 1, Section AU 561 of the *AICPA Professional Standards*. ~~[of the American Institute of Certified Public Accountants, which is hereby adopted by reference. A copy of the Professional Standards may be obtained from the American Institute of Certified Public Accountants:]~~

~~—(a) By mail at The American Institute of Certified Public Accountants, AICPA/CPA2Biz, Customer Service Center, P.O. Box 2209, Jersey City, New Jersey 07303-2209;~~

~~—(b) By telephone at (888) 777-7077; or~~

~~—(c) On the Internet at <http://www.epa2biz.com>;~~

~~—at a cost of \$145.00.]~~

**Sec. 16.** NAC 680A.200 is hereby amended to read as follows:

1. ~~[If, following the audit of the financial statements of an insurer, an independent certified public accountant notes any significant deficiency in the insurer's structure for]~~ *In addition to the annual audited financial report, each insurer shall furnish the Commissioner with a written report as to any unremediated material weaknesses in its Internal ~~[internal]~~ controls over financial reporting noted during the Audit. The report shall be prepared by the accountant ~~[the insurer shall, not]~~ no later than 60 days after the date on which the annual audited financial report was filed, and shall contain a description of any unremediated material weakness, as defined by Statements on Auditing Standards 60, Communication of Internal Controls Related Matters noted in an Audit as of December 31 of the most recent calendar year. ~~[is filed with the Commissioner, file a]~~ The written report ~~[which provides]~~ shall include a description of the deficiency and of the remedial actions taken or proposed to *be taken to* correct the significant deficiency *or material weakness*, if those actions are not otherwise described in the accountant's report filed with the annual audited financial report. *The filing of the Report of Internal Controls over Financial Reporting should coincide with the annual audited financial report required to be filed pursuant to NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive. The report shall be filed even if there were no unremediated material weaknesses noted by the accountant during the Audit.**

2. *“Internal control over financial reporting” mean a process effected by an entity’s board of directors, officers and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements that are required pursuant to NRS 680A.265 and NRS 680A.270 including those policies and procedures that:*

*(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;*

*(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements and that receipts and expenditures are being made only in accordance with authorization of management and directors; and*

*(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements of the insurer.*

3. *Every insurer required to file an audited financial report pursuant to NRS 680A.265, that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of \$500,000,000 or more shall prepare a report of the insurer’s or the affiliated insurance company group’s Report of Internal Controls over Financial Reporting as of December 31 of the most recent calendar year. The report of the insurer’s Internal Controls shall be filed with the Commissioner along with the Communication of Internal Control Related Matters Noted in an Audit described under subsection 1.*

4. *The Commissioner may require an insurer to file its Report of Internal Control over Financial Reporting if the insurer is in a RBC action level event, meets one or more of the*

*standards of an insurer deemed to be in hazardous financial condition pursuant to NRS 680A.205 and NAC 680A.220, or otherwise exhibits qualities of a troubled insurer.*

*5. If part of an insurance holding company system, the insurer or the affiliated insurance company group may file its or its parent's Section 404 Report and an addendum in satisfaction with subsection 1 requirements, provided that those internal controls of the insurer or the affiliated insurance company group's audited statutory financial statements were included in the scope of the Section 404 Report. The insurer or the affiliated insurance company group must be:*

*(a) Directly subject to Section 404;*

*(b) One whose parent is directly subject to Section 404;*

*(c) Not directly subject to Section 404 but is a SOX compliant Entity; or*

*(d) One whose parent is not directly subject to Section 404 but is a SOX compliant Entity.*

*6. The addendum, required per subsection 5, shall be a positive statement by the insurer that there are no material processes with respect to the preparation of the insurer's or the affiliated insurance company group's audited statutory financial statements excluded from the Section 404 Report. If there are internal controls of the insurer or the affiliated insurance company group that have a material impact on the preparation of the insurer's or the affiliated insurance company group's audited statutory financial statements, and those internal controls were not included in the scope of the Section 404 Report, the insurer or the affiliated insurance company group may either file (i) a Section 16 report, or (ii) the Section 404 Report and a Section 16 report for those internal controls that have a material impact on the preparation of the insurer's or the affiliated insurance company group's audited statutory financial statements not covered by the Section 404 Report.*