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DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION
LCB File No. R187-22
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter 681A of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: November 1, 2022
Time: 9:00 a.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=mde559b870b3288ec48ef906c4f08cbcc>
Meeting Number: 2631 476 7673
Password: 7Z3iBmQHwH8

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free
Access Code: 2631 476 7673

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Hearing Agenda.

* There is no physical location designated for this hearing. Accordingly, any person planning to participate must participate by using the Webex link, for video access, or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation, or expansion of a small business.

HEARING AGENDA

1. Open Hearing: R187-22.
2. Presentation of Proposed Regulation.

LCB File No. R187-22 - ESTABLISHES PROVISIONS GOVERNING TERM AND UNIVERSAL LIFE INSURANCE

A REGULATION relating to insurance; establishing uniform standards governing reserve financing arrangements pertaining to certain life insurance policies; requiring certain ceding insurers to hold certain levels of primary security and other security in reserve financing arrangements; and providing other matters properly relating thereto. A copy of the proposed regulation prepared by the Legislative Counsel is available by clicking on the following link:

<https://www.leg.state.nv.us/Register/2022Register/R187-22P.pdf>

3. Public Comment.

The hearing officer will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Hearing: R187-22.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The hearing officer, within his/her discretion, may allow for public comment on individual agenda items.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division (regs@doi.nv.gov or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to regs@doi.nv.gov. Members of the public are encouraged to submit written comments for the record no later than **October 25, 2022**. Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex or telephone and/or may address their comments, data, views, or arguments in written form, by email to regs@doi.nv.gov or by mail to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing, no later than five (5) working days before the hearing via email to regs@doi.nv.gov.

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.

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

(1) Why is the regulation necessary and what is its purpose?

The proposed regulation is necessary to meet NAIC accreditation standards and to develop a national uniform standard regarding reserve financing for life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, and flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period. This regulation is intended to discourage movement of these transactions to off-shore domiciles.

(2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues and problems involved.

The proposed regulation, for which language is taken from the NAIC Model Regulation No. 787 (Term and Universal Life Insurance Reserve Financing Model Regulation), establishes requirements for reinsurance ceded to captive insurers, special purpose vehicles (“SPVs”), reinsurers that are not eligible to become certified reinsurers, or reinsurers that materially deviate from statutory accounting and/or risk-based capital requirements. The issue has caused scrutiny by state insurance regulators and other institutions such as the Federal Insurance Office (“FIO”), the Federal Reserve, and the Financial Stability Oversight Council (“FSOC”) regarding the inconsistency between states, and the lack of transparency since states allow certain captives to keep their financial statements confidential.

The purpose and intent of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security are held by or on behalf of ceding insurers in the forms and amounts required herein.

(3) What is the anticipated impact of the regulation on the problem(s)?

The proposed regulation establishes uniform standards for life insurers, governing reserve financing arrangements. This regulation will provide additional security for policyholders by ensuring that appropriate funds consisting of primary and other security are held by or on behalf of ceding insurers in the amounts required by this regulation.

(4) Do other regulations address the same problem(s)?

No.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

No, this regulation is required in order for Nevada to maintain its NAIC accreditation standards.

(6) What value does the regulation have to the public?

Life insurers would be required to carry sufficient assets to match liabilities established for policies issued, which would prevent insolvencies of life insurers.

(7) What is the anticipated economic benefit of the regulation? Provide a statement as to potential beneficial impact on the following:

a. Public

1. Immediate: Safer assets to pay life insurance claims.
2. Long Term: Safer assets to pay life insurance claims.

b. Insurance Business

1. Immediate: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
2. Long Term: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.

c. Small Businesses

1. Immediate: Life insurance products should not impact small businesses.
2. Long Term: Life insurance products should not impact small businesses.

d. Small Communities

1. Immediate: No impact to small communities identified that would be different than impact to the public.
2. Long Term: No impact to small communities identified that would be different than impact to the public.

e. Government Entities

1. Immediate: Less complicated transactions for the Division to review.
2. Long Term: Less complicated transactions for the Division to review.

(8) What is the anticipated adverse impact, if any? Provide a statement as to any anticipated adverse impact, including adverse economic effects, on the following:

a. Public

1. Immediate: None identified.
2. Long Term: None identified.

- b. Insurance Business
 - 1. Immediate: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
 - 2. Long Term: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
- c. Small Businesses
 - 1. Immediate: None identified.
 - 2. Long Term: None identified.
- d. Small Communities
 - 1. Immediate: No impact to small communities identified that would be different than impact to the public.
 - 2. Long Term: No impact to small communities identified that would be different than impact to the public.
- e. Government Entities
 - 1. Immediate: None identified.
 - 2. Long Term: None identified.

(9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:

- a. Enactment – None, as most life insurers do not get involved in these transactions, and the ones that do utilize principal-based reserves to eliminate the need for these transactions.
- b. Enforcement – None, as the Division does not currently have any life insurers domiciled in Nevada.
- c. Compliance – None, as most life insurers do not get involved in these transactions, and the ones that do utilize principal-based reserves to eliminate the need for these transactions.

(10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee.

This regulation will not establish a new fee or increase an existing fee.

(11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

The Division relied upon the expertise and experience of Division staff, along with testimony from industry representatives at the NAIC meetings. The Division also relied upon the evaluation of the entities that this proposed regulation would impact.

(12) Provide a description of 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 regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

There are no other regulations of other state or local governmental agencies that overlap with this regulation.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

Not applicable, as this regulation is not required pursuant to federal law.

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

Not applicable, as this regulation does not contain provisions which are more stringent than a federal regulation.

(15) ATTACH PROPOSED REGULATION.

Proposed Regulation (Term and Universal Life Insurance Reserve Financing Regulation)

(16) ATTACH SMALL BUSINESS IMPACT STATEMENT.

Small Business Impact Statement (Term and Universal Life Insurance Reserve Financing Regulation)

Notice of the hearing has been provided as follows:

- By email to all persons on the Division's e-mail list for noticing of administrative regulations.
- By email for posting by the Nevada State Library, Archives and Public Records Administrator.
- By email for posting by the Nevada Legislature.
- Published to the Nevada Legislature website: <https://leg.state.nv.us/>.
- Published to the Division of Insurance website: <https://doi.nv.gov/>.
- Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this _____ day of September 2022.

BARBARA D. RICHARDSON
Commissioner of Insurance