

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066**

LCB FILE NO. R031-17

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 686A.

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

The purpose of this regulation is to enhance existing regulation NAC 686A.680 by making it applicable to all total loss claims – first-party and third-party. The regulation was initially enacted in 1980, and some of the language in the existing text is confusing. There are portions of language that appear to indicate that the regulation is applicable only to first-party total loss claims. There are other portions which appear to apply to all total loss claims. The Division often fields inquiries from insurance companies regarding the applicability of the regulation to third-party total loss claims. Based on the Division’s opinions, the practice in the insurance industry already applies this regulation to third-party total loss claims. The proposed change to NAC 686A.680 will formalize this practice.

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.

- (a) A description of how public comment was solicited:

Public comment was solicited by e-mailing the proposed regulation, notice(s) of workshop, notice(s) of intent to act upon the regulation, and small business impact statement to persons on the Division’s mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, mailed to the main library for each county in Nevada, and posted at the following locations:

*Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706*

*Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102*

*Legislative Building
401 South Carson Street
Carson City, Nevada 89701*

*Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102*

*Blasdel Building
209 East Musser Street
Carson City, Nevada 89701*

*Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101*

Capitol Building
101 North Carson Street
Carson City, Nevada 89701

Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Avenue
Las Vegas, Nevada 89104

Public comment was also solicited at the workshop held on October 25, 2017, and at the hearing held on February 9, 2018. The public workshop and hearing took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Nevada State Business Center, 3300 West Sahara Avenue, Las Vegas, Nevada 89102.

(b) A summary of the public response:

Prior to and at the workshop, the Division received comments from two vehicle valuation companies. They expressed concerns with a previous version of the regulation that referred to published price guides rather than a statistical valuation source. They also expressed a need to sometimes expand beyond the 90-day timeframe and local market area to find comparable vehicles. The Division worked with them to amend the regulation to address their concerns.

The Division received three comments from the insurance industry. In addition to the issues raised by the vehicle valuation companies, industry expressed concern with expanding the regulation to apply to third-party as well as first-party claims; asked for clarification regarding an insurer taking into account the reduced value caused by inspection; asked for clarification of taxes, license, and fees; and raised concerns regarding the specific language for vehicle valuation, statistical valuation source, and deduction of salvage.

Regarding expanding the language to third-party losses, the Division believes this is simply formalizing the long-standing position of the Division and current industry practice. While insurers can have contractual limitations on the settlement of first-party claims, they are required to make third-party claimants whole. Because of this, the claims standards for third-party claims should be at least as high as those for first-party claims.

Regarding the other comments, the Division provided the requested clarification. It explained that one portion of the language being asked about was NAIC model language. It also indicated that language requested by industry in a written comment was already present in the regulation.

The Division received one comment from a representative of the collision repair industry supporting the regulation but requesting that it go further to curb certain insurance-industry practices such as deducting towing and storage costs from settlements. The Division asked him to provide whatever information he had so it could determine the proper response such as enforcement of existing regulation or further regulations in the future.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the comments and testimony that transpired with regard to regulation R031-17. A copy of said summary may be obtained by contacting Rajat Jain at (775) 687-0700 or rjain@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

3. The number of persons who:

- (a) Attended the hearing: 15
- (b) Testified at the hearing: 4
- (c) Submitted to the agency written statements: 4

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 above in #3 (b) and (c), as provided to the agency:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
<i>Erin Summers</i>	<i>Division of Insurance</i>	<i>1818 E. College Pkwy. Suite 103 Carson City NV 89706</i>	<i>(775) 687-0765</i>	<i>esummers@doi.nv.gov</i>
<i>Gennady Stolyarov</i>	<i>Division of Insurance</i>	<i>1818 E. College Pkwy. Suite 103 Carson City NV 89706</i>	<i>(775) 687-0766</i>	<i>gstolyarov@doi.nv.gov</i>
<i>Jesse Wadhams</i>	<i>Fennemore Craig</i>			<i>jessew@fclaw.com</i>
<i>Brian Kelley</i>	<i>Nevada Collision Industry Association</i>	<i>2475 E. Sahara Ave. Las Vegas NV 89104</i>	<i>(702) 327-2595 (702) 897-1320</i>	<i>brian@velocityclv.com</i>

Submitted to the agency written statements:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
<i>Jennifer Yengoyan</i>	<i>CCC Information Services Inc.</i>	<i>222 Merchandise Mart Suite 900 Chicago IL 60654-1105</i>	<i>(800) 621-8070</i>	<i>jyengoyan@ccis.com</i>
<i>Diane Klund</i>	<i>Audatex</i>	<i>1301 Solana Blvd. Bldg. 2 Suite 2100 Westlake TX 76262</i>		<i>Diane.Klund@audatex.com</i>
<i>Mark Sektan</i>	<i>Property Casualty Insurers of America</i>	<i>1415 L St. Suite 670 Sacramento CA 95814</i>	<i>(916) 440-1115</i>	<i>Mark.sektan@acicnet.org</i>
<i>Christian Rataj</i>	<i>National Association of Mutual Insurance Companies</i>	<i>3601 Vincennes Road Indianapolis IN 46268</i>	<i>(317) 875-5250</i>	<i>crataj@namic.org</i>

5. A description of how comment was solicited from affected businesses, a summary of their responses, and an explanation of 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. Please see the description, summary and explanation provided above in response to question #2.

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

The Division worked with industry in the workshop process to amend or clarify the regulation to address their concerns. The remaining disagreement between the Division and industry is the expansion of the regulation to apply to third-party claims.

The existing language of NAC 686A.680 is unclear as there are portions of the language indicating the regulation is only applicable to first-party loss claims, while other portions appear to apply to the settlement of all total loss claims. It has been the long-standing position of the Division that since insurers are required to make third-party claimants whole, the standards set forth in NAC 686A.680 are also applicable to third-party total loss claims. The Division believes this is already the applicable practice in the insurance industry, and this proposed regulation will formalize this practice.

Further, pursuant to NRS 686A.310, it is an unfair trade practice to compel insureds to institute litigation to recover amounts due under the policy by offering substantially less than the amounts ultimately recovered. As most claims are not ultimately decided in a court of law, it is appropriate for the Division to establish claims standards.

For these reasons the Division is adopting the regulation without change.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Both adverse and beneficial effects: *Will result in smoother claims settlement practices for third-party claims without incurring additional loss adjustment expenses.*

(2) Both immediate and long-term effects: *Will result in smoother claims settlement practices for third-party claims without incurring additional loss adjustment expenses.*

(b) The estimated economic effect of the adopted regulation on the public:

(1) Both adverse and beneficial effects: *Will benefit from getting fair and accurate compensation during claims settlement to allow them to purchase a replacement vehicle.*

(2) Both immediate and long-term effects: *Will benefit from getting fair and accurate compensation during claims settlement to allow them to purchase a replacement vehicle.*

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

None.

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.

Not applicable, as there is no overlap or duplication.

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

Not applicable, as there are not more stringent provisions.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable, as this regulation does not establish a new fee or increase an existing fee.