

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R024-02

Effective May 31, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 6 and 7, NRS 679B.130 and 681B.290; §§2-5, NRS 679B.130 and 681B.280.

Section 1. Chapter 681B of NAC is hereby amended by adding thereto a new section to read as follows:

1. If the instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners are amended, the amended instructions shall be deemed to have been determined by the commissioner in accordance with NRS 681B.290 to be appropriate for use in this state, effective 10 days after the date on which the amended instructions are published, unless the commissioner determines that the amended instructions are not appropriate for use in this state. If the commissioner determines that the amended instructions are not appropriate for use in this state, the commissioner will:

(a) Post a notice of disapproval at the largest public library in each county, the state library and archives, the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, and all offices of the division; and

(b) Send a notice to each person included on the mailing list that the division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

2. If the commissioner determines that an amended version of the instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners

is not appropriate for use in this state, the version of the instructions for reporting risk-based capital that was most recently adopted by the commissioner by regulation pursuant to NRS 681B.290 or deemed appropriate for use in this state pursuant to this section will continue in effect.

Sec. 2. NAC 681B.300 is hereby amended to read as follows:

681B.300 For the purposes of NRS 681B.280 and NAC 681B.300 to 681B.335, inclusive:

1. “Acquisition” includes every purchase, lease, exchange, merger, consolidation, succession or other means except the construction or development of real property by or for the reporting insurer or the acquisition of materials for that purpose.

2. “Disposition” includes every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of creditors or otherwise, abandonment, destruction or other disposition.

3. An acquisition or the aggregate of any series of related acquisitions during any ~~[31-day]~~ **30-day** period, or a disposition or the aggregate of any series of related dispositions during any ~~[31-day]~~ **30-day** period, is “material” if it is nonrecurring and not in the ordinary course of business and involves more than 5 percent of the insurer’s total admitted assets as reported in its most recent statutory statement filed with the commissioner of insurance of the insurer’s state of domicile.

4. A nonrenewal, cancellation or revision of an agreement for ceded reinsurance , ***and a new agreement for ceded reinsurance that affects the in-force life insurance business of an insurer,*** is “material” if it affects:

(a) For property and casualty business, including accident and health business when written as casualty business:

- (1) More than 50 percent of the insurer's total ceded written premium; or
- (2) More than 50 percent of the insurer's total ceded indemnity and loss adjustment

reserves.

(b) For life, annuity, accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement filed with the commissioner.

5. For property and casualty business or life, annuity, accident or health business, a revision of an agreement for ceded reinsurance , *and a new agreement for ceded reinsurance that affects the in-force life insurance business of an insurer*, is "material" if:

- (a) An authorized reinsurer representing more than 10 percent of a total cession is replaced by one or more unauthorized reinsurers; or
- (b) Previously established requirements for collateral have been reduced or waived for one or more unauthorized reinsurers representing collectively more than 10 percent of a total cession.

Sec. 3. NAC 681B.305 is hereby amended to read as follows:

681B.305 1. Except as otherwise provided in NAC 681B.320, every insurer domiciled in this state shall file a report with the commissioner of insurance disclosing ~~material~~ :

(a) *Material* acquisitions and dispositions of assets ~~or material~~ ;

(b) *Material* nonrenewals, cancellations or revisions of agreements for ceded reinsurance ;
and

(c) *Material new agreements for ceded reinsurance that affect the in-force life insurance business of the insurer*,

FLUSH unless the material acquisitions and dispositions of assets , ~~or~~ the *material* nonrenewals, cancellations or revisions of agreements for ceded reinsurance , *or the material new agreements*

for ceded reinsurance have been submitted to the commissioner for review, approval or information pursuant to any provision of Title 57 of NRS, regulations adopted pursuant to that title or other requirements.

2. The report must be filed within 15 days after the end of the calendar month in which the acquisition, disposition, nonrenewal, cancellation ~~[or revision closes.]~~, *revision or new agreement occurs*.

3. Except as otherwise provided in subsection 4, the insurer shall file a complete copy of the report, including any exhibits or other attachments, with the National Association of Insurance Commissioners at ~~[120 West 12th Street, Suite 1100.]~~ *2301 McGee Street, Suite 800*, Kansas City, Missouri ~~[64105.]~~ *64108-2604*. The copy of the report must be treated as confidential and is not subject to subpoena as provided in NRS 681B.280.

4. An insurer domiciled in this state *that* is not licensed or otherwise authorized to transact insurance in another state is not required to comply with the provisions of subsection 3.

Sec. 4. NAC 681B.325 is hereby amended to read as follows:

681B.325 The following information must be disclosed in any report of a material nonrenewal, cancellation or revision of an agreement for ceded reinsurance ~~[:]~~, *or a material new agreement for ceded reinsurance that affects the in-force life insurance business of the insurer:*

1. The effective date of the nonrenewal, cancellation ~~[or revision:]~~, *revision or new agreement;*
2. A description of the transaction with an identification of the initiator thereof;
3. The purpose of, or reason for, the transaction; and
4. If applicable, the identity of replacement reinsurers.

Sec. 5. NAC 681B.330 is hereby amended to read as follows:

681B.330 An insurer shall report all material nonrenewals, cancellations or revisions of agreements for ceded reinsurance, *and all material new agreements for ceded reinsurance that affect the in-force life insurance business of the insurer*, on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or 100-percent reinsurance agreement that affects the solvency and integrity of the reserves of the insurer and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during any calendar year that are not subject to the pooling arrangement, and the net income of the business not subject to the pooling arrangement represents less than 5 percent of the capital and surplus of the insurer.

Sec. 6. NAC 681B.400 is hereby amended to read as follows:

681B.400 As used in NAC 681B.400 to 681B.595, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 681B.405 to 681B.470, inclusive, have the meanings ascribed to them in those sections.

Sec. 7. NAC 681B.430 is hereby amended to read as follows:

681B.430 “Instructions relating to risk-based capital” means the instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners, as those instructions existed on January 1, 1997 ~~§~~, *and any amendments to those instructions that the commissioner may from time to time determine are appropriate for use in this state pursuant to NRS 681B.290 and section 1 of this regulation.*

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R024-02

The Commissioner of Insurance adopted regulations assigned LCB File No. R024-02 which pertain to material reinsurance transactions and risk-based capital (chapter 681B of the Nevada Administrative Code) on April 26, 2002.

Notice date: 2/25/2002
Hearing date: 3/27/2002

Date of adoption by agency: 4/26/2002
Filing date: 5/31/2002

INFORMATIONAL STATEMENT

A hearing was held on March 27, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning material reinsurance transactions and risk-based capital.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Carson City Courthouse, State Library, County Libraries, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

Oral testimony was received by the Division. Copies of any comments received by the Division can be obtained from the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270.

Considering the comments by those attending the hearing, the Commissioner has issued an order adopting the regulation as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the regulation was changed from the proposed regulation as follows:

1. Subsection 2 of section 2 is amended to read as follows:

The report must be filed within 15 days after the end of the calendar month in which the acquisition, disposition, nonrenewal, cancellation, revision or material new ceded reinsurance agreement occurs.

2. Section 5 is amended to read as follows:

“Instructions relating to risk-based capital” means the current instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners.

The economic impact of the regulation is as follows:

(a) Regulated Industry: Minimal.

(b) Public: None.

The regulation imposes no direct costs upon members of the public at large. The regulation imposes no direct cost upon the agency to enforce the regulation.

This regulation does not duplicate or overlap any other regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **02.044**
LCB FILE NO. **R024-02**

**REGULATION CONCERNING MATERIAL
REINSURANCE TRANSACTIONS AND
RISK-BASED CAPITAL.**

**SUMMARY OF PROCEEDINGS
AND ORDER**

A hearing on the proposed regulation concerning material reinsurance transactions and risk-based capital was held before the Commissioner of Insurance (Commissioner), on March 27, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. Immediately prior to the hearing, the Commissioner held a workshop concerning this matter.

The Division did not receive any written comments. Approximately 17 individuals attended the hearing. Testimony was received at the hearing from Janice C. Pine, representing St. Mary's; Jim Wadhams, representing Anthem Blue Cross and Blue Shield; Fred Hillerby, representing Hometown Health Plan; Peggy Willard-Ross, Bruce Heffner and Bob Burch, representing the Division.

Mr. Burch testified that the intent of the regulation was to include new agreements for ceded reinsurance that affect the in-force life insurance business of an insurer to be reported to the Commissioner when such agreement is determined to be material as defined in this regulation. Additionally, Mr. Burch testified that the intent of the regulation was to identify those current instructions which should be followed in the reporting of risk-based capital.

Commissioner Molasky-Arman questioned what changes the Legislative Counsel Bureau (LCB) made to section 5 of the Division's draft concerning the requirement for reporting of risk-based capital.

Bob Burch responded the LCB version excluded the word, "current" before "instructions" from the Division's draft. The LCB also excluded the wording, "amended from time to time" after National Association of Insurance Commissioners and inserted the year "2002" in place of "1997" from the Division's draft.

Commissioner Molasky-Arman commented the LCB version repeated the offense the NAIC accreditation team found in the first place and directed that the language be changed to the Division's proposed and include the word "current" and delete the wording "as amended by the National Association of Insurance Commissioners from time to time."

Janice C. Pine questioned where the period would be in the sentence and where the word "current" would be.

Commissioner Molasky-Arman responded that the wording should include the original wording as the regulation had been previously adopted and merely add the word "current."

Commissioner Molasky-Arman restated the concern of the NAIC, which found the date cited to be arbitrary.

Fred Hillerby testified he agreed with the suggestion that the word "current" be added and argued with the LCB if necessary.

Commissioner Molasky-Arman questioned subsection 2 of section 2 of the LCB version which removed the word "material" and "ceded reinsurance" when referring to a report be filed within 15 days after the end of the month.

Bob Burch responded the different version would require a report to be filed upon a revision or new agreement, not just when a material occurs.

Bruce Heffner testified that to be consistent with other sections of the regulation the word “material” should be included.

Commissioner Molasky-Arman asked that the section read identically with the way the Division proposed it.

Based upon the testimony received at the hearing, the regulation is changed from the proposed regulation as follows:

1. Subsection 2 of section 2 is amended to read as follows:

The report must be filed within 15 days after the end of the calendar month in which the acquisition, disposition, nonrenewal, cancellation, revision or material new ceded reinsurance agreement occurs.

2. Section 5 is amended to read as follows:

“Instructions relating to risk-based capital” means the current instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners.

ORDER

Based upon the information presented at the hearing, it is hereby ordered that the proposed regulation relating to material reinsurance transactions and risk-based capital, LCB File No. R024-02, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this _____ day of April, 2002.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance