

LCB File No. R025-02

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS
ON PROPOSED REGULATIONS**

February 25, 2002

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to material reinsurance transactions and risk-based capital; filing of financial statements and NAIC accounting practices and procedures; holding companies; reinsurance; and NAIC accounting practices and procedures. A workshop has been set for 9:00 a.m., on March 27, 2002, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations.

- 1. Material Reinsurance Transactions and Risk-Based Capital: Proposed regulation provides that domestic insurers must complete their risk-based capital calculations and reports in accordance with current NAIC risk-based capital instructions and provides for requirements of reporting material new ceded reinsurance agreements affecting in force life insurance business.**
- 2. Filing of Financial Statements and NAIC Accounting Practices and Procedures: Proposed regulation provides that domestic insurers must prepare their annual statements in accordance with the NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual.**
- 3. Holding Companies: Proposed regulation provides instructions as to the filing of Forms A, B, C, D and E; does away with the exemption for domestic company filings**
- 4. Reinsurance: Proposed regulation adopts all required elements of the NAIC Credit for Reinsurance Model Regulation, including specific provisions pertaining to trust agreements, insolvency clause in reinsurance agreements and the adoption of Form AR-1.**
- 5. NAIC Accounting Practices and Procedures: Proposed regulation updates certain NAIC publications, their applicability, location and current price.**

Members of the insurance industry, business community, and the public are also invited to comment on any impact the proposed regulations may have on small businesses. The Division

has reviewed the proposed regulations and determined that the regulations do not impose a direct or significant impact on a small business, or directly restrict the formation, operation, or expansion of a small business.

A copy of this notice and the proposed regulations will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulations will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations 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 www.leg.state.nv.us. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry
Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
Capitol Complex
Carson City, NV 89710

Capitol Press Room
State Capitol Basement
Carson City, NV 89710

County Clerk
Courthouse
Carson City, NV 89710

Nevada State Library & Archives
Capitol Complex
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
301 South Center Street
P.O. Box 2151
Reno, NV 89505

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (702) 687-4270, extension 260.

DATED this _____ day of February, 2002.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

**DIVISION OF INSURANCE OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

NOTICE OF INTENT TO ACT UPON REGULATIONS

**Notice of Hearing for the Adoption of Regulations
of the Department of Business and Industry, Division of Insurance**

The Department of Business and Industry, Division of Insurance (Division) will hold a public hearing at 9:00 a.m., on March 27, 2002, immediately following a public workshop, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

**REGULATIONS CONCERNING FILING OF FINANCIAL STATEMENTS
AND NAIC ACCOUNTING PRACTICES AND PROCEDURES**

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The proposed regulation is needed to establish rules for preparation of annual statements by domestic insurers.
2. The proposed regulation requires insurers to prepare their annual statements in accordance with the NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual.
3. Estimated economic effect of the regulation:
On the business which it is to regulate:
The proposed regulation should not have either an immediate or long-term impact on the insurers, other than the nominal expense of filing a report with the Commissioner in the event such reporting is required under the regulations.
On the public:
The proposed regulations should have no economic impact on the public.
4. The Division may incur some additional expense to enforce the proposed regulation that cannot be measured at this time.
5. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.
6. The proposed regulation does not establish any new fees or increase an existing fee.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Written submissions must be received by the Division on or before March 22, 2002. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, 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 will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

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Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
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1401 East Flamingo Road
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Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (702) 687-4270, extension 260.

DATED this _____ day of February, 2002.

By:

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance

**PROPOSED REGULATION OF THE DIVISION OF INSURANCE
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**REGULATIONS FOR FILING OF FINANCIAL STATEMENTS AND
NAIC ACCOUNTING PRACTICES AND PROCEDURES**

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

Authority: NRS 679B.130, NRS 680A.270

Section 1. NAC 680A.160 is hereby amended to read as follows:

680A.160 1. As a condition of doing business in this state, each insurer must file with the commissioner an annual statement that:

(a) Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions~~;~~ and *the National Association of Insurance Commissioners Accounting Practices and Procedures Manual*;

(b) Contains exhibits and schedules that follow the specifications developed by the National Association of Insurance Commissioners.

2. Except as otherwise provided in subsection 7, information from the insurer's annual statement must be filed:

(a) Pursuant to the specifications adopted by the National Association of Insurance Commissioners for filing information ~~on diskette~~ *in an electronic format*;

(b) At the central office of the National Association of Insurance Commissioners, ~~120 West 12th Street, Suite 1100~~ *2301 McGee Street, Suite 800*, Kansas City, Missouri ~~64105~~ *64108-2604*; and

(c) On or before March 1 of each year.

3. The form of an annual statement required by NRS 680A.270 to be filed with the commissioner must be the most current adopted by the National Association of Insurance Commissioners for the type of insurer reporting. The forms are hereby adopted by reference. Each insurer filing the form shall follow the instructions *as adopted by the NAIC for ~~an~~ the annual statement type*. ~~[A copy of the form for fire and casualty insurers, or a copy of the form for life, accident and health insurers, may be obtained at a cost of \$75. A copy of the form for health maintenance organizations may be obtained at a cost of \$50.]~~ These forms *and*

instructions may be obtained from the National Association of Insurance Commissioners, ~~[120 West 12th Street]~~ *2301 McGee Street, Suite 800*, Kansas City, Missouri ~~[64105]~~ *64108-2604*.

(a) Annual Statement forms for Property/Casualty are \$225.

(b) Annual Statement forms for Life/Accident/Health are \$225.

(c) Annual Statement forms for Health are \$125.

4. If necessary to determine an insurer's financial condition, fulfillment of contractual obligations and compliance with law, the commissioner will require the insurer to file a financial statement more frequently than annually. *The commissioner will require every domestic insurer to file a quarterly statement.* ~~[H]~~ *When* a quarterly statement is required by the commissioner, it must be:

(a) Filed on the most current form adopted by the National Association of Insurance Commissioners for the type of insurer reporting; and

(b) Completed in accordance with the instructions accompanying that form.

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

5. A domestic insurer that is not licensed or authorized to do business in any state other than this state may apply for an exemption from the requirement to complete the "Statement of Actuarial Opinion" required by the Annual Statement Instructions of the National Association of Insurance Commissioners as part of the domestic insurer's annual statement. The application must:

(a) Be in writing.

(b) Be submitted by December 1 of the calendar year which will be covered in the annual statement.

(c) Include an agreement and acknowledgment from the domestic insurer that the commissioner may use the services of an independent actuary to certify losses and reserves for loss adjustment expenses in relation to any examination of the domestic insurer pursuant to NRS 679B.230.

(d) Demonstrate that no significant changes and no unusual or large claims have occurred or are expected to occur during the calendar year which will be covered in the annual statement.

6. The commissioner will grant an application for an exemption made pursuant to subsection 5 if he determines, upon review of the application, that having to file the "Statement of Actuarial

Opinion” would constitute a financial or organizational hardship upon the domestic insurer or that the insurer has shown other good cause why it should not have to file the statement. A domestic insurer which has been granted an exemption pursuant to this subsection must file with its annual statement a signed affidavit given by one of its officers under oath that certifies the accuracy and adequacy of the reserves stated in its annual statement.

7. A domestic insurer licensed only to sell Insurance for Home Protection and not licensed or authorized to do business in any state other than this state is exempt from the requirement to complete the “Statement of Actuarial Opinion” required by the Annual Statement Instructions of the National Association of Insurance Commissioners as part of the domestic insurer’s annual statement provided:

(a) Claims information reporting forms provided by the commissioner are completed and submitted with the annual statement, and

(b) Complies with the requirements of NAC 680A.160 5 (c) and (d).

~~7. [A domestic insurer that is not licensed or authorized to do business in any state other than this state is not required to file an annual statement with the National Association of Insurance Commissioners pursuant to subsection 2 for any year in which its written premium is less than \$1,000,000.]~~

Sec. 2. NAC 680A.198 is hereby amended as follows:

680A.198 1. A 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 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 certified public accountant who made the report with evidence that the insurer has forwarded a copy of the report to the commissioner. If the 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 certified public accountant shall file with the commissioner a copy of its report within the next 5 business days.

3. A 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 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 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 *(AICPA) by contacting the AICPA at 1-888-777-7077 or by mail at CPA2Biz, Order Department, P.O. Box 2209, Jersey City, New Jersey 07303-2209, at a cost of \$~~94.25~~ 145 or at www.cpa2biz.com.*