

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R073-02**

Effective August 23, 2002

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

AUTHORITY:§1, NRS 679B.130.

**Section 1.** NAC 697.355 is hereby amended to read as follows:

697.355 1. Except as otherwise provided in subsection 2, a person shall not advertise or solicit a bail transaction, directly or indirectly, including, without limitation, by the use of any type of printed matter, a bail solicitor or an employee of a court, prison, county or city jail or detention facility:

- (a) Within the prison, county or city jail or detention facility;
- (b) Within a courthouse or courtroom; or
- (c) On the property upon which the prison, county or city jail, detention facility or courthouse is located.

2. The provisions of ~~this section~~ *subsection 1* do not prohibit:

(a) An employee of the court, prison, county or city jail or detention facility from distributing or posting a list prepared by:

- (1) The division of insurance of the department of business and industry; or
- (2) The court, prison, county or city jail or detention facility,

FLUSH that sets forth the names and telephone numbers of bail agents who are licensed pursuant to chapter 697 of NRS.

(b) A person from advertising in or distributing a telephone directory prepared for and distributed to the general public that sets forth the names and telephone numbers of bail agents who are licensed pursuant to chapter 697 of NRS.

*3. A person shall not make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, television station, electronic media, or in any other way, any advertisement, announcement or statement containing any assertion, representation or statement with respect to the transaction of bail or with respect to any person in the conduct of his bail surety business, which is untrue, deceptive or misleading.*

NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R073-02

The Commissioner of Insurance adopted regulations assigned LCB File No. R073-02 which pertain to chapter 697 of the Nevada Administrative Code on July 9, 2002.

Notice date: 5/29/2002  
Hearing date: 6/28/2002

Date of adoption by agency: 7/9/2002  
Filing date: 8/23/2002

INFORMATIONAL STATEMENT

A hearing was held on June 28, 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 relating to bail advertising.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, 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 regulations as a permanent regulation of the Division.

Based upon the comments received at the hearing, the proposed regulation remains as proposed.

The economic impact of the regulation is as follows:

(a) Regulated industry: None.

(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. 02.125  
LCB FILE NO. R073-02

REGULATION CONCERNING  
BAIL ADVERTISING

SUMMARY OF PROCEEDINGS  
AND ORDER

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A public workshop, as required by NRS 233B.061, on the proposed regulation relating to bail advertising, LCB File No. R073-02, was held before Alice A. Molasky-Arman, Commissioner of Insurance (Commissioner), on June 28, 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. A public hearing on the proposed regulation was also held before Commissioner Molasky-Arman on June 28, 2002, immediately following the public workshop. The regulation is proposed under the authority of NRS 679B.130(1).

The Division did not receive any written comments. Approximately 36 individuals attended the hearing. The following person provided testimony before the Hearing Officer: Ben Gillard, representing the Division. No other persons provided testimony.

Ben Gillard testified that the intent of the regulation was to add to the Nevada Administrative Code (NAC) 697.355 a new section that would clarify the already existing law regarding advertising found in NRS 686A.040, which is referred to by chapter 697 of the NRS (Bail). Ben Gillard further testified that by putting the specific language regarding advertising within the bail regulatory chapter of the NAC, chapter 697, it would make the regulatory intent regarding bail advertising clearer to industry and would make that advertising regulation language easier to locate for both the public as well as industry. Ben Gillard further testified that the bail industry had made a prior request to strengthen the regulation regarding the advertising of bail transactions to avoid false, misleading or “bait and switch” type advertising with regard to premium rates.

Commissioner Molasky-Arman asked Ben Gillard to describe “bait and switch” advertising as it related to bail.

Ben Gillard responded that an example of “bait and switch” advertising was when a bail agency advertises that it offered 5% bail, meaning premium, when what they were actually offering was for a bailee or indemnitor to pay half of the legal minimum premium of 10% up front and that the agency would premium finance the balance. The customer would not find this out until after he/she was in the bail office and in need of assistance to obtain the release of someone from jail. As chapter 697 of the NRS allows for bail surety premiums to be a minimum of 10% and a maximum of 15%, this type of advertising was false and misleading and put those in compliance with the law at an unfair trade disadvantage. Additionally, this type of advertising does not allow the consumer to make an informed decision of who they wish to do business with.

Ben Gillard then stated that the Division recommended that the regulation be adopted. Commissioner Molasky-Arman then ordered Ben Gillard to develop an Informational Statement and Order to Adopt.

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning bail advertising, LCB File No. R073-02, be adopted, as proposed, as a permanent regulation of the Division.

SO ORDERED this 9th day of July, 2002.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance