

**LCB File No. R090-03**

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

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

February 11, 2004

The Department of Business and Industry, Division of Insurance (Division) is proposing new regulations pertaining to medical professional liability insurance for health care providers; and surplus lines brokers and the non-profit organization of surplus lines brokers. A workshop has been set for 9:00 a.m., on August 26, 2003, 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, 2<sup>nd</sup> 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. Medical Professional Liability Insurance – Risk Management Programs and Loss Prevention and Control Programs: Proposed regulation for the establishment of parameters of a “qualified” risk management system for certain health care providers; and establishment of a uniform reporting system of loss prevention and control reports by insurers of Medical Professional Liability Insurance for certain health care providers.**
- 2. Surplus Lines Brokers and the Non-Profit Organization of Surplus Lines Brokers. The proposed regulation includes requirements for each responsible surplus lines broker to include their signature and surplus lines brokers license number on the insurance contract under the disclosure stamp required by NRS 685A.090, changes to the record keeping and reporting requirements for surplus lines brokers to conform with recent changes to Nevada statutes, and changes to the fees charged and investment limitations of the Nevada Surplus Lines Association.**

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 regulation on risk management programs and loss control program reporting may impose a direct or significant impact on a small business, or directly affect the formation, operation, or expansion of a small business. The regulation on surplus lines brokers and the Nevada Surplus Lines Association should not impose a direct or significant impact on a small business, or directly affect 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 E. 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 <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.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons in 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 E. 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

Goldfield Public Library

720 Court Street  
Elko, NV 89801

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 5<sup>th</sup> 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, (775) 687-4270, extension 260.

DATED this \_\_\_\_ day of July, 2003.

By: \_\_\_\_\_  
ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance

## NOTICE OF INTENT TO ACT UPON A REGULATION

### 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 August 26, 2003, 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, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

#### **REGULATIONS REGARDING SURPLUS LINES BROKERS AND THE NON-PROFIT ORGANIZATION OF SURPLUS LINES BROKERS**

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

- 1. The proposed regulation is needed to: (a) amend the regulations to conform with changes made to statutes covering surplus lines brokers and surplus lines insurance; (b) amend to fee schedule charged by the Nevada Surplus Lines Association to member surplus lines brokers to cover the cost of reviewing the affidavits filed by the members; and (c) amend the investment limitations placed on the Nevada Surplus Lines Association to provide greater investment flexibility, yet maintain financial security.**
- 2. The proposed regulations specifically adds a provision requiring surplus broker to place their signature and surplus lines brokers license number under the disclosure stamp required by NRS 685A.090. The proposed regulation further amends NAC 685A.240 (Broker's affidavit and report of coverage), 685A.250 (Broker's maintenance of records) to conform with changes to statutes eliminating communication fees and allowing non-resident brokers. Sections NAC 685A.370 (Fee for review for coverage), 685A.390 (Books and records of the organization), and 685A.400 (Maintenance of money) covering the Nevada Surplus Lines Association are amended to require a written request for records from the general public, adjust the fee schedule charged by the association to member brokers and provide for greater flexibility by the association in their investments.**
- 3. The proposed regulation will have a minimal immediate and long-term beneficial impact on the regulated business (surplus lines brokers), by reducing the filing fee schedule to be paid by the regulated business. The proposed regulation will have a minimal immediate and long-term adverse impact on the regulated business.**
- 4. The proposed regulation will have a minimal immediate and long-term adverse impact on the public. The proposed regulation will have a minimal immediate and long-term beneficial impact on the public.**

5. **The proposed regulation will result in no additional cost to the Division of Insurance for enforcement.**
6. **The proposed regulation will not overlap or duplicate regulations of other state, local or federal agencies.**
7. **The proposed regulation does not establish a new fee 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 August 19, 2003. 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 to be 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.

This notice of hearing has been posted at the following locations:

Department of Business and Industry	Department of Business and Industry
Division of Insurance	Division of Insurance
788 Fairview Drive, Suite 300	2501 East Sahara Avenue, Suite 302
Carson City, NV 89701	Las Vegas, NV 89104
Legislative Counsel Bureau	Blasdel Building
Capitol Complex	Capitol Complex
Carson City, NV 89710	Carson City, NV 89710

State Capitol  
Capitol Complex

Capitol Press Room  
State Capitol Basement

Carson City, NV 89710

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Courthouse  
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Carson City, NV 89710

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Carson City, NV 89710

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1625 Library Lane  
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Minden, NV 89423

Goldfield Public Library  
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P.O. Box 430  
Goldfield, NV 89013

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, NV 89445

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

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

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

Washoe County Library  
301 South Center Street  
P.O. Box 2151

Virginia City, NV 89440

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, (775) 687-4270, ext. 260.

DATED this \_\_\_\_\_ day of July, 2003.

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ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance

LCB File No. R090-03

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

**REGULATION CONCERNING SURPLUS LINES INSURANCE**

Explanation: Matter in **bold** and *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

Authority: NRS 679B.130 and NRS 685A.210

**Section 1.** Chapter 685A of NAC is hereby amended by adding thereto the provisions set forth as section 2 of this regulation.

**Sec. 2** *Every insurance contract procured and delivered as surplus lines coverage pursuant to chapter 685A of NRS must be signed by the broker who procured it, and include the Nevada surplus lines broker's license number of the broker below the stamped notice described in NRS 685A.090.*

**Sec. 3** NAC 685A.230 is hereby amended to read as follows:

1. ~~[A communications fee may be charged on surplus lines business only for the purpose of defraying the expenses of communications. Records of actual expenses must be maintained if a communications fee of more than \$50 is charged.]~~

~~—2.]~~ The broker may pass on an inspection fee to the insured and may collect the fee from him *as premium* if the fee is directly related to an independent inspection required by insurers for insurance. The broker shall maintain a copy of each inspection report and each invoice or statement related to the report in his files.

~~[3.]~~ 2. ~~[A communications or]~~ *An* inspection fee that is charged to the insured must be~~[-~~

~~—(a) S]~~ shown as a separate item on the broker's certificate, the cover note or both~~[-~~ and

~~—(b) Stated separately from the premium in any statement to the insured].~~

**Sec. 4** NAC 685A.240 is hereby amended to read as follows:

1. The following provisions apply to the broker's affidavit and report of coverage:

(a) The affidavit and report of coverage must bear the original signature of the broker, and the affidavit and report constitutes the broker's statement of compliance with NRS 685A.040, 685A.070, 685A.080, and 685A.090.



(b) A separate affidavit and report of coverage must be filed with the broker's organization upon any renewal of a contract of insurance.

(c) An amended affidavit and report of coverage must be filed with the broker's organization for each cancellation and each endorsement which changes the named insured, the description or location of the subject of insurance, or the coverage, conditions, terms, premium, or participating insurers.

(d) If all the information which is required to be stated on the affidavit and report of coverage is not available within 90 days after the insurance becomes effective, an affidavit and report of coverage listing all the information which is available must be filed with the broker's organization. An amended affidavit and report of coverage listing any information which was previously omitted must be filed with the broker's organization within 30 days after the initial filing.

(e) The broker shall exercise due care in accounting for the premium, ~~for any communications fee,~~ **including any** inspection fee, and for the premium tax on each affidavit and report of coverage. The premium tax must be computed upon the total premium or deposit premium, plus the fee allowed by NRS 685A.155, minus any return premium. The premium must include policy, membership, and other fees and assessments charged by the insurer as considerations for the insurance. ~~The premium must not include the amount of any communications fee or any independent inspection fee.~~

(f) If a type of coverage is on the list of open lines eligible for export which is approved by the commissioner, statements of declinations from admitted insurers pursuant to subsection 1 of NAC 685A.215 are not required on the affidavit and report of coverage.

(g) The commissioner may require a broker to file with the broker's organization a complete copy of the policy, certificate, or cover note to substantiate information which he has provided in an affidavit or report of coverage.

2. The annual statement must:

(a) ~~Include a report of premium volume, categorized by the line and class of insurance and by insurers which are not admitted insurers;~~

~~(b)~~ Bear the original signature of the broker;

~~(e)~~ (b) Include the total direct premiums written on surplus lines coverage, calculated in the same manner as premiums are calculated pursuant to NRS 685A.180;

~~(d)~~ (c) Include a report, in a form prescribed by the commissioner, showing the allocation of premiums as required by NRS 680B.030; and

~~(e)~~ (d) Include a calculation of the premium taxes due to each state or other jurisdiction.

*3. The original signatures required in subsections 1(a) and 2(a) may be omitted if the required filing is submitted electronically, as may be prescribed by the Commissioner.*

**Sec. 5** NAC 685A.250 is hereby amended to read as follows:

1. In addition to the records required by NRS 685A.160, the broker shall maintain complete copies of affidavits and reports of coverage, including any amendment to a report, which have been filed with the commissioner or the broker's organization.

2. The broker shall maintain a complete log of all surplus lines insurance which he has placed during the calendar year, specifying the name of the insured, policy number, name of the insurer, line of coverage, premium, ~~communications fee,~~ inspection fee, broker fee, *all taxable fees*, premium tax, and type of transaction.

3. The broker's files, accounts, logs, and other records of surplus lines transactions:

(a) Must not be removed from this *state or, if a non-resident, the state in which the broker resides*; and

(b) Must be open to examination by the commissioner at any reasonable time.

4. The broker shall maintain the files, accounts, logs, and other records of surplus lines transactions separately from any other records in his place of business ~~in this state~~.

5. Premium taxes collected by the broker must be deposited in a fiduciary account. The broker shall establish a fiduciary account for the conduct of his business of insurance and maintain the account in a commercial bank or other financial institution depository in Nevada *or, if the broker is a non-resident, the state in which the broker resides*. The account must be insured by an agency of the Federal Government.

**Sec. 6** NAC 685A.370 is hereby amended to read as follows:

Each broker who is a member of an organization shall pay to the organization a fee for the review of surplus lines coverage. The fee must be paid ~~upon filing the broker's affidavit and report of coverage pursuant to NAC 685A.350,~~ *within 30 days of the organization's invoice to the broker*. The fee is \$25 per policy ~~for endorsement~~, *whether new or renewed*, or one-half of 1 percent of the premium, whichever is greater.

**Sec. 7** NAC 685A.390 is hereby amended to read as follows:

1. The books and *financial* records of an organization must be open to inspection by members of the general public upon *written* request, excluding records of investigations that are confidential pursuant to NRS 679B.190.

2. All forms and other documents that a broker files with his organization shall be deemed

the records of the division.

**Sec. 8** NAC 685A.400 is hereby amended to read as follows:

1. The money maintained by an organization must: ~~be maintained in a bank in this state.~~
  - (a) be deposited in a bank chartered by this state;*
  - (b) be deposited in a bank that is a member of the United States Federal Reserve System;*
  - (c) be invested in public obligations as defined at NRS 682A.060, or*
  - (d) be invested in federal agency securities as defined at NRS 682A.070.*

2. The board of directors shall engage a certified public accountant to audit the accounts of the organization and prepare an audit report before the annual meeting of the board, or more often if necessary or required by the commissioner.