

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R130-03

February 11, 2004

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

AUTHORITY: §§1-4, NRS 679B.130 and 688A.363.

Section 1. Chapter 688A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 2, for the purposes of NRS 688A.363, the rate of interest used to determine the minimum nonforfeiture amount must be an annual rate of interest determined as the lesser of:*

(a) The statutorily provided rate of 3 percent per annum; or

(b) A rate equal to 125 basis points less than the 5-Year Treasury Constant Maturity Rate as reported by the Federal Reserve rounded to the nearest .05 of a percent:

(1) If a date is specified in a contract for the determination of the interest rate, on the date specified in the contract; or

(2) If a period is specified in a contract for the determination of the interest rate, the average rate for the period specified in the contract.

2. A deferred annuity contract that provides for the substantive participation in an equity indexed benefit may provide that the rate calculated pursuant to paragraph (b) of subsection 1 may be reduced by up to an additional 100 basis points. The amount of an additional reduction to the interest rate must not exceed the value of the equity indexed benefit. The

Commissioner may require an insurer to substantiate that the additional reduction to the interest rate does not exceed the value of the equity indexed benefit. If the Commissioner finds that the additional reduction to the interest rate exceeds the value of the equity indexed benefit, the Commissioner may disallow or limit the amount of the additional reduction.

3. If the rate calculated pursuant to paragraph (b) of subsection 1 or subsection 2 is less than 1 percent per annum, the interest rate used to determine the minimum nonforfeiture amount must be 1 percent per annum.

4. For the purposes of subparagraphs (1) and (2) of paragraph (b) of subsection 1, the date or period specified in a contract for the determination of the 5-Year Treasury Constant Maturity Rate shall be a date or period between the effective date of the interest rate and 15 months prior to the effective date of the interest rate.

5. Except as otherwise provided in subsection 4,, the interest rate calculated pursuant to NRS 688A.363 and this section must apply for the term of the deferred annuity contract.

6. A deferred annuity contract may provide for a redetermination of the interest rate used to determine the minimum nonforfeiture amount. Any redetermination of the interest rate must be made pursuant to subsections 1 and 2. If the deferred annuity contract provides that the interest rate used to determine the minimum nonforfeiture amount will be redetermined, the contract shall set forth:

- (a) The dates upon which a redetermination will be made;*
- (b) The periods for which a redetermined rate will apply; and*
- (c) The method that will be used for a redetermination.*

7. As used in this section, “basis point” means one-hundredth of 1 percent of yield.

Sec. 3. 1. *On or before February 1 of each year, for the previous calendar year, an insurer offering life insurance or annuity contracts in this state shall submit to the Commissioner:*

(a) If the insurer offers deferred annuity contracts or has deferred annuity contracts that are currently active, a certificate of compliance stating that the insurer complied with the provisions of section 2 of this regulation and that the insurer calculates minimum nonforfeiture amounts pursuant to NRS 688A.363.

(b) If the insurer does not offer deferred annuity contracts and does not have deferred annuity contracts that are currently active, an actuarial certification that the insurer does not offer deferred annuity contracts and does not have deferred annuity contracts that are currently active.

2. The first report must be submitted on or before February 2005 for the calendar year 2004.

Sec. 4. *In addition to any other requirement for the approval of a form pursuant to NRS 679B.120, an insurer filing forms for approval that incorporate the provisions of NRS 688A.363 must file an affidavit that the form complies with the provisions of section 2 of this regulation.*