

**ADOPTED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R119-07**

Effective December 4, 2007

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

AUTHORITY: §1, 2 and 5, NRS 616B.300 and 679B.130; §3, NRS 616B.353, 616B.386, 616B.446 and 679B.130; §4, NRS 679B.130; §6, NRS 616A.400, 616B.446 and 679B.130.

A REGULATION relating to industrial insurance; providing methods to determine the net cash flow of certain self-insured employers; providing methods to determine the combined net cash flow of certain associations of self-insured private employers; revising the process for determining the tangible net worth of certain self-insured employers; and providing other matters properly relating thereto.

**Section 1.** Chapter 616B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *For the purpose of determining net cash flows pursuant to paragraph (b) of subsection 1 of NRS 616B.300, a self-insured employer shall submit to the Commissioner:*

*1. Copies of the self-insured employer's last three audited financial statements submitted pursuant to NRS 616B.336; and*

*2. Any additional information or documents requested in writing by the Commissioner.*

**Sec. 3.** *For the purpose of determining combined net cash flows pursuant to paragraph (b) of subsection 2 of NRS 616B.353, subparagraph (2) of paragraph (b) of subsection 5 of NRS 616B.386, or subparagraph (2) of paragraph (b) of subsection 6 of NRS 616B.386, an association of self-insured private employers shall submit to the Commissioner:*

*1. Copies of the association's last three audited statements of financial condition submitted pursuant to NRS 616B.404; and*

*2. Any additional information or documents requested in writing by the Commissioner.*

**Sec. 4.** NAC 616B.403 is hereby amended to read as follows:

616B.403 As used in NAC 616B.403 to 616B.496, inclusive, *and section 2 of this regulation*, unless the context otherwise requires, the terms defined in chapters 616A to 617, inclusive, of NRS have the meanings ascribed to them therein. In addition, the words and terms defined in NAC 616B.406 to 616B.421, inclusive, have the meanings ascribed to them in those sections.

**Sec. 5.** NAC 616B.433 is hereby amended to read as follows:

616B.433 1. To determine the tangible net worth, *as defined in NRS 616A.330*, of a self-insured employer, he shall submit to the Commissioner all financial statements and accompanying footnotes, including an independent auditor's opinion. Each statement must be audited. ~~[In determining the tangible net worth of a self-insured employer, the following items are disallowed as assets:~~

- ~~—(a) Accounts receivable, if they are factored or collateralized.~~
- ~~—(b) An inventory, except one held for resale and not collateralized.~~
- ~~—(c) A prepaid expense.~~
- ~~—(d) An unqualified investment.~~
- ~~—(e) An allocated bond fund.~~
- ~~—(f) An investment in an affiliate.~~
- ~~—(g) A restricted fund.~~
- ~~—(h) A reserve.~~

- ~~—(i) A security cost, such as a capitalized bond cost.~~
- ~~—(j) A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
- ~~—(k) A contingency or commitment, including any estimated cost.~~
- ~~—(l) Any book adjustment caused by a change in an accounting policy or a restatement.~~
- ~~—(m) Goodwill or excess cost over the fair market value of assets.~~
- ~~—(n) Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the insurer's ability to pay a claim.]~~

2. The following factors must be used to review the audited financial statements:

- (a) The auditor's opinion.
- (b) The various financial ratios, including working capital and cash flow.
- (c) Any footnotes related to:
  - (1) A contingency or commitment;
  - (2) A party;
  - (3) A bad debt; or
  - (4) The restructuring of an operation.

3. If any of the factors in subsection 2 are deemed material, the Commissioner may deny certification.

4. If, after the adjustments are made pursuant to subsection 1, the employer's statement demonstrates a strong financial position and meets the tests in subsection 2, the Commissioner may accept as an additional deposit any instrument described in NAC 616B.436 in the amount of \$2,500,000 in lieu of the requirement set forth in subsection 1 of NAC 616B.424. The deposit

described in this subsection must be separate from the deposit required pursuant to NRS 616B.300.

**Sec. 6.** NAC 616B.510 is hereby amended to read as follows:

616B.510 As used in NAC 616B.510 to 616B.612, inclusive, *and section 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 616B.513 to 616B.522, inclusive, have the meanings ascribed to them in those sections.

**NOTICE OF ADOPTION OF PROPOSED REGULATION**  
**LCB File No. R119-07**

The Commissioner of Insurance adopted regulations assigned LCB File No. R0119-07 which pertain to chapter 616B of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

A workshop was held on November 27, 2007, and a hearing was held on November 28, 2007, 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, Real Estate Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104, concerning documentation required to evaluate cash flow for certain self-insured employers and associations of self-insured employers.

Public comment was solicited by posting notice of the hearing in the following public locations: the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, the Donald W. Reynolds Press Center, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, Legislative Counsel Bureau, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

The Division maintains a general list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were also 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.

The hearing was attended by nine interested parties in Carson City and no interested parties in Las Vegas. There were no written comments received. Mr. Robert Vogel of Pro Group Management testified during the workshop that it was unclear whether subsection 1 of section 3 of the proposed regulation concerned whether the audited financial statements required by the regulation referred to those of the individual members of the Association or of the Association alone. The Commissioner, sitting as the Hearing Officer, suggested that subsection 1 of section 3 be amended to clarify that the audited financial statements were those of the Association.

The Commissioner has issued an order adopting the proposed regulation, LCB File No. R119-07, as amended, pursuant to the workshop and hearing, as a permanent regulation of the Division.

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

**Sec. 3.** *For the purpose of determining combined net cash flows pursuant to paragraph (b) of subsection 2 of NRS 616B.353, subparagraph (2) of paragraph (b) of subsection 5 of NRS 616B.386, or subparagraph (2) of paragraph (b) of subsection 6 of NRS 616B.386, an association of self-insured private employers shall submit to the Commissioner:*

*1. Copies of the Association's last three audited statements of financial condition submitted pursuant to NRS 616B.404; and*

*2. Any additional information or documents requested in writing by the Commissioner.*

The amendment adding the word "Association's" is necessary to eliminate any confusion regarding the type of documentation required by the regulation.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: None.
- (b) On small businesses: None.
- (c) On the public: None.

The Division anticipates no additional expenses to enforce the proposed regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.