

LCB File No. R119-07

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

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

The Department of Business and Industry, Division of Insurance (Division), (775) 687-4270, is proposing the amendment of regulations pertaining to **chapters 616B, 680B, and 694C** of the Nevada Administrative Code (NAC). **A workshop has been set for 9:00 a.m., on November 27, 2007, 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 East Sahara Avenue, Real Estate 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 that may be addressed in the proposed regulations.

Examination Rates and Expenses re: Captive Insurers. This proposed regulation amending chapter 694C of the NAC authorizes the Commissioner to set examination expenses, specifically for captive insurance companies, incurred by a financial or market conduct examiner. At this time, there are no examination expense guidelines specifically for captive insurance companies.

Cash Flow Evaluation. The proposed regulation amending NAC 616B.433 clarifies what items are not allowed to be considered when determining the tangible net worth of a self-insured employer. This amendment also explains what a self-insured employer must submit to the Division to qualify for a cash flow evaluation of the association's solvency. The proposed regulation amends chapter 616B of the NAC by adding thereto a new section explaining what a self-insured association must submit to the Division to qualify for a cash flow evaluation of the association's solvency.

Consent to Rate. The proposed regulation amends NAC 680B.040 to be consistent with NAC 686B.520, which was amended on May 24, 2005, to require a formal rate filing for each consent to rate filing when a deviation from an insurer's filed rates is for either a higher or lower rate. Currently, NAC 680B.040 addresses only the circumstance of a higher rate.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270. A reasonable fee for copying may be charged.

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

Capitol Press Room
Capitol Building Basement
Carson City, NV 89710

Donald W. Reynolds Press Center
102 North Curry Street
Carson City, NV 89701

Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Blasdel Building
209 East Musser Street
Carson City, NV 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, NV 89701

Office of the Governor
Capitol Building
Carson City, NV 89710

Carson City Courthouse
885 East Musser Street
Carson City, NV 89701

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

Churchill County Library
553 South Main Street
Fallon, NV 89406

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

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

Elko County Library
720 Court Street
Elko, NV 89801

Esmeralda County Library
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

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

Lander County Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
P.O. Box 330
Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, NV 89415

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

Storey County Public Library
P.O. Box 14
Virginia City, NV 89440

Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049

Washoe County Library
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

Members of the public who are disabled and require special accommodations or assistance at the workshop 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.

NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Amendment 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 November 28, 2007, 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 East Sahara Avenue, Real Estate Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of the regulation that pertains to **chapter 616B** of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulation.

The proposed amendment to NAC 616B.433 clarifies what items are not allowed to be considered when determining the tangible net worth of a self-insured employer. This amendment also explains what a self-insured employer must submit to the Division to qualify for a cash flow evaluation of the association's solvency.

The proposed addition to chapter 616B of NAC explains what a self-insured association must submit to the Division to qualify for a cash flow evaluation of the association's solvency.

2. Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

The proposed amendment to NAC 616B.433 eliminates certain items from being considered in the determination of the tangible net worth of a self-insured employer. The elimination of these items in this regulation reflects the same eliminations made to NRS 616A.330, concerning self-insured associations, during the 2007 Legislative Session in Senate Amendment 1111 to AB 161. This amendment also sets forth that a cash flow analysis for a self-insured employer will be calculated using the most recent three years financial reports.

The proposed addition to chapter 616B of NAC sets forth that a cash flow analysis for a self-insured association will be calculated using the most recent three years financial reports.

3. A statement of the estimated economic effect of the regulation on the business which it is to regulate and on the public as follows:

- (a) Both adverse and beneficial effects:

The effect is neutral as the entity is already required to provide annual financial reports to the Division.

(b) Both immediate and long-term effects:

There are negligible effects since the entity is already required by statute to provide financial reports to the Division.

4. The estimated cost to the agency for enforcement of the proposed regulation.

No additional cost.

5. A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

There are no overlapping statutes or regulations regarding this regulation.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

Not applicable.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

Not applicable.

8. A statement indicating whether the regulation establishes a new fee or increases an existing fee.

No new fees or an increase of an existing fee.

9. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

There is no negative impact on small business as the self-insured entities and associations are all large entities.

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 November 20, 2007.** 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 regulation to be amended 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 regulation to be amended 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 of this notice and the proposed regulation 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 does not apply to a public body subject to the Open Meeting Law.

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 or 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

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Division of Insurance
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Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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Reno, NV 89505-2151

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950 Campton Street
Ely, NV 89301

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LCB File No. R119-07

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

PROPOSED REGULATION TO CLARIFY TANGIBLE NET WORTH DETERMINATION
AND CASH FLOW EVALUATION SUBMISSIONS FOR SELF INSURED EMPLOYERS

PROPOSED REGULATION TO ADD CASH FLOW EVALUATION SUBMISSIONS FOR
SELF INSURED ASSOCIATIONS

AUTHORITY: NRS 616B.300, 679B.130

Section 1. Chapter 616B.433 of NAC is hereby amended by adding thereto a new section to read as follows:

Sec. 2. NAC 616B.433 1. To determine the tangible net worth 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)]~~ (a) Goodwill or excess cost over the fair market value of assets.

~~[(n)]~~ (b) 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.

5. To qualify for a cash flow evaluation, the self insured employer shall submit the most current three years annual audited financial reports prepared by an independent certified public accountant and certified by an officer of the self insured employer to the Commissioner for his determination. The self insured employer shall also provide additional information or documents if so requested in writing by the Commissioner.

Sec 3. Chapter 616B of NAC is hereby amended by adding thereto a new section to read as follows:

Sec. 4. *Self Insured Association Cash Flow Evaluation: Submission. To qualify for a cash flow evaluation, the self insured association shall submit the most current three years annual audited financial reports prepared by an independent certified public accountant and certified by an officer of the self insured association to the Commissioner for his determination. The self insured association shall also provide additional information or documents if so requested in writing by the Commissioner.*