

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R119-07**

October 18, 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 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 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.