

## LCB File No. R205-08

### PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

(This Notice of Hearing replaces the one posted 10/15/2008)

#### NOTICE OF INTENT TO ACT UPON REGULATION

##### Notice of Hearing for the Amendment and Adoption of Regulations of the Department of Business and Industry, Division of Insurance

The Department of Business and Industry, Division of Insurance ("Division"), hereby provides notice that the public hearing for the Model Audit Rule regulation set forth below, originally scheduled for 9:00 a.m. on November 21, 2008, has been **rescheduled to 9:00 a.m. on December 15, 2008**, 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, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the amendment and adoption of regulations pertaining to **chapter 680A** of the Nevada Administrative Code ("NAC").<sup>1</sup>

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

1. The need for and the purpose of the proposed regulation or amendment.

NAC 680A is being amended in order for the Division of Insurance to meet the Financial Regulation Standards and Accreditation Program of the National Association of Insurance Commissioners (NAIC). NAIC provides a service to the regulators of every state by drafting Model Laws and Regulations, which are reflective of the changing environment of insurance regulation. As part of a unified coalition of insurance regulators, the various states adopt the NAIC supplied laws and regulations in order to maintain accredited authority to regulate insurance. The proposed amendments are required to be in place as of 1/1/2010.

2. Either the terms or substance of the regulation to be adopted, amended or repealed, or a description of the subject and issues involved.

The proposed and amended regulations are reflective of the provisions of the Sarbanes-Oxley Act of 2002 and the Securities Exchange Act of 1934. The relevant provisions of the Acts address the requirements for insurance companies and related industry to comply with issues

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<sup>1</sup> Please note that the workshop for this regulation, held on November 7, 2008, has been continued to November 21, 2008, 9:00 a.m., at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, NV 89701. Interested persons may participate in the continued workshop through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Ave., Real Estate Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, NV 89104.

relevant to establishing or strengthening the insurers' internal controls over financial reporting and auditor/accountant independence, as well as requirements relevant to establishing independent Audit committees in insurance companies. All parts are reactive to the meltdown of several large non-insurance companies, in addition to the reliance placed on auditors to certify a company's financial condition.

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

Both adverse and beneficial effects:

The proposed changes should have minimal adverse effect on the regulated insurers. A majority of the requested changes would only have an effect on large insurers and, for the most part, these companies have already had to address these issues due to their structure, size, affiliation, or investment portfolio. The public would not see any effect as the additional processes are additional steps in a standard accounting process.

The proposed amendments ought to increase the public's faith in the insurer's financial condition and strength knowing that the audited reports of the insurer's financial condition are being reviewed more thoroughly and the insurers are being held to a higher standard of accounting/auditing practices and procedures.

Both long-term and immediate effects:

The proposed changes will, over time, increase the public and regulatory community belief that the assertions of insurers are founded and supported by appropriate internal and external accounting and auditing programs.

There most likely will not be an immediate effect on the companies. There is a transition program for companies allowing them to implement the changes over time. The companies will be subject to the additional procedures as of 1/1/2010.

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

Minimal. The domestic insurer is already subject to the Division's oversight and internal audits through the regulations that are being amended. The proposed changes will be incorporated into existing regulations and into the internal auditing process of the Division. The same is true for the examinations and external audits of the companies. These audits are conducted by the Division with the insurer carrying the cost of the exam. The amendments will be incorporated into the already existing program.

5. A description of and citation to 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 proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

None. Insurance is regulated specifically by the State of Nevada Division of Insurance.

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

None.

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

None.

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

None.

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.

A small business (insurer) is not required to adhere to the additional requirements of this proposed regulation. The additional requirements of the proposed regulation are to be implemented as the insurer's volume of premium increases. The premium volume has to exceed \$300,000,000 for the majority of the requirements to take effect. The majority of the insurers in Nevada will not reach that high of a premium volume.

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 December 8, 2008.** 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 adopted 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 adopted 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, shall 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  
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 5<sup>th</sup> Street  
Winnemucca, NV 89445

Lander County Library

Lincoln County Library

P.O. Box 141  
Battle Mountain, NV 89820

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 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 five (5) working days prior to the hearing, (775) 687-4270, ext. 260.

DATED this \_\_\_\_\_ day of November, 2008.

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BETTY C. BAKER  
Acting Commissioner of Insurance