

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R205-08

October 1, 2008

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

AUTHORITY: §§1-25, NRS 679B.130, 680A.265 and 680A.270.

A REGULATION relating to insurance; requiring the board of directors of certain insurers to establish an audit committee to oversee the accounting and financial reporting processes and the audits of the insurer; establishing the duties and responsibilities of the audit committee; prohibiting the officers and directors of certain insurers from making or failing to make certain statements; requiring certain insurers to document and maintain certain information; requiring certain insurers to provide certain reports to the Commissioner of Insurance; authorizing a waiver of the provisions of this regulation for certain insurers; exempting certain insurers from the provisions of this regulation; and providing other matters properly relating thereto.

Section 1. Chapter 680A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *“Audit committee” means a committee established pursuant to section 9 of this regulation.*

Sec. 3. *“Control” has the meaning ascribed to it in NRS 692C.050.*

Sec. 4. *“Direct written and assumed premiums” means the direct written premiums and assumed premiums from non-affiliated insurers.*

Sec. 5. *“Independent member” means a member of an audit committee who:*

1. Does not accept any consulting, advisory or any other compensatory fee from an insurer that the audit committee oversees; and

2. Is not a person affiliated with the insurer or an entity related to the insurer.

Sec. 6. *“Insurance holding company system” has the meaning ascribed to in NRS 692C.060.*

Sec. 7. *“Internal controls over financial reporting” means a process established by the directors, officers and other personnel of an insurer and designed to reasonably ensure the reliability of the annual audited financial report and the financial statements required pursuant to NRS 680A.270. The term includes, without limitation, policies and procedures that:*

- 1. Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect transactions and the disposition of assets;*
- 2. Provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements and that receipts and expenditures are made only with the authorization of management and directors; and*
- 3. Provide reasonable assurance regarding the prevention or timely detection of any unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements of the insurer.*

Sec. 8. *“SOX-compliant entity” means an entity that is required to comply with, or voluntarily complies with, the following provisions of the Sarbanes-Oxley Act of 2002, Public Law 107-204:*

- 1. The requirements for preapproval pursuant to 15 U.S.C. § 78j-1(h);*
- 2. The requirements for the independence of members of the audit committee pursuant to 15 U.S.C. § 78j-1(m)(3); and*
- 3. The requirements for internal control evaluation and reporting pursuant to 15 U.S.C. § 7262(b).*

Sec. 9. 1. *Except as otherwise provided in subsections 2 and 3, the board of directors of each insurer required to file an annual audited financial report shall establish an audit committee to oversee the accounting and financial reporting processes and the audits of the insurer.*

2. The audit committee of any entity that controls an insurer or an insurance holding company system may serve as the audit committee for any of the insurers under the control of the entity.

3. If the board of directors fails to establish an audit committee pursuant to this section, the members of the board of directors of the insurer shall be deemed to constitute the audit committee of the insurer.

4. Each member of the audit committee of an insurer must be a member of the board of directors of:

(a) The insurer;

(b) The entity that controls the insurer, if any; or

(c) An insurance holding company system of which the insurer is a part.

5. Except as otherwise provided in subsection 6, for each calendar year:

(a) If the total of direct written and assumed premiums of an insurer for the immediately preceding calendar year is less than \$300,000,000, the audit committee of the insurer is not required to include any independent members;

(b) If the total of direct written and assumed premiums of the insurer for the immediately preceding calendar year is at least \$300,000,000 but less than \$500,000,000, at least 50 percent of the audit committee members must be independent members; and

(c) If the total of direct written and assumed premiums of the insurer for the immediately preceding calendar year is at least \$500,000,000, at least 75 percent of the audit committee members must be independent members.

6. The Commissioner may require an audit committee to include additional independent members if the insurer that established the audit committee:

(a) Is required to take company action pursuant to NAC 681B.490; or

(b) Meets one or more of the standards considered by the Commissioner pursuant to NAC 680A.220.

7. If an independent member of an audit committee ceases to be considered independent for reasons beyond the reasonable control of the member:

(a) Not later than 15 days after the end of the month in which the member ceases to be considered independent, the member shall provide written notification of the change in independence status to:

(1) The board of directors of the insurer that the audit committee oversees; and

(2) The Commissioner; and

(b) The member may remain on the audit committee until:

(1) One year after the date on which the member ceased to be considered independent;

or

(2) The next annual meeting of the board of directors of the insurer,

↳ whichever occurs first.

8. An officer of an insurer whose responsibilities include overseeing the financial condition of the insurer and producing annual audited financial reports and reports required

pursuant to NRS 680A.270 for the insurer may not be a member of the audit committee of the insurer.

Sec. 10. 1. *If, for any calendar year, all of the members of an audit committee of an insurer are members of the board of directors of the entity that controls the insurer, the entity that controls the insurer shall so notify the Commissioner not later than April 1 of that year.*

2. Any notice provided pursuant to subsection 1 must include the name of each insurer or entity under the control of the entity providing the notice.

3. If an entity that provides notice pursuant to this section changes the composition of the audit committee of the controlled insurer, the entity shall provide written notice of the change to the Commissioner which must include a description of the change and the reason for the change.

Sec. 11. 1. *For each insurer, the audit committee shall:*

(a) Appoint, compensate and oversee the work of each accountant who prepares or issues a statement required to be filed with the Commissioner pursuant to NRS 680A.265 and 680A.270.

(b) Resolve any dispute between the insurer and any accountant appointed pursuant to paragraph (a) pursuant to NAC 680A.185.

2. An audit committee may not delegate the duties described in subsection 1.

3. Each accountant appointed by an audit committee pursuant to subsection 1 shall report directly to the audit committee.

4. Each accountant appointed by an audit committee pursuant to subsection 1 shall meet annually with the independent members of the audit committee to discuss the strengths and

weaknesses of the internal controls over financial reporting of the insurer. Officers and employees of an insurer may not attend any such meeting.

Sec. 12. *1. The provisions of sections 2 to 17, inclusive, of this regulation and NAC 680A.180, 680A.182, 680A.186, 680A.188, 680A.196, 680A.198 and 680A.200 do not apply to:*

- (a) Any foreign insurer licensed in this State;*
- (b) Any insurer that is a SOX-compliant entity; or*
- (c) Any insurer that is a direct or indirect wholly owned subsidiary of a SOX-compliant entity.*

2. As used in this section, “foreign insurer” has the meaning ascribed to it in NRS 679A.090.

Sec. 13. *1. An insurer with direct written and assumed premiums for the immediately preceding year, excluding premiums reinsured with the Federal Crop Insurance Corporation of the United States Department of Agriculture or the National Flood Insurance Program of the Federal Emergency Management Agency, less than \$500,000,000 may apply to the Commissioner for a waiver from the requirements of sections 2 to 17, inclusive, of this regulation and NAC 680A.180, 680A.182, 680A.186, 680A.188, 680A.196, 680A.198 and 680A.200. The Commissioner will, upon a finding of financial or organizational hardship, grant such a waiver.*

- 2. An insurer granted a waiver pursuant to this section shall file the waiver with:*
- (a) Its annual statement filed pursuant to NRS 680A.270;*
 - (b) Other states in which it is licensed or doing business; and*
 - (c) The National Association of Insurance Commissioners in an electronic format acceptable to the National Association of Insurance Commissioners.*

Sec. 14. 1. *An audit committee shall require the accountant appointed pursuant to section 11 of this regulation to report to the audit committee in a timely manner and in accordance with the Statement of Auditing Standards No. 61, Communication with Audit Committees included in the AICPA Professional Standards, as adopted by reference in NAC 680A.196.*

2. Each report made by an accountant pursuant to subsection 1 must include:

(a) All material accounting policies and practices of the insurer;

(b) Any material alternative treatment of financial information within statutory accounting principles that have been discussed by the accountant with the officers and directors of the insurer, the ramifications of the use of such an alternative treatment, and the treatment preferred by the accountant; and

(c) All material written communications between the accountant and the officers and directors of the insurer.

3. The audit committee of an insurance holding company system may accept one report from an accountant concerning all of the insurers within the insurance holding company system for which the accountant has been appointed to satisfy the reporting requirement of subsection 1 if the report identifies any substantial differences among the insurers to which the report pertains.

Sec. 15. 1. *An officer or director of an insurer shall not, directly or indirectly:*

(a) Make, or cause another person to make, a materially false or misleading statement to an accountant relating to any audit, review, communication or reporting required pursuant to chapter 680A of NRS; or

(b) Fail to disclose, or cause another person to fail to disclose, any materially false or misleading statement of which the officer or director knows or should know and which is made to an accountant relating to any audit, review, communication or reporting required pursuant to chapter 680A of NRS.

2. An officer or director of an insurer, or a person acting under the direction of an officer or director of an insurer, shall not, or direct another to, coerce, manipulate, mislead or fraudulently influence an accountant engaged in the performance of an audit pursuant to NRS 680A.265 to commit any act that could result in an annual audited financial report being materially misleading, including, without limitation:

(a) Issuing or reissuing a report of the financial statements of an insurer which contains material violations of statutory accounting principles, generally accepted auditing standards or other professional or regulatory standards prescribed or adopted by the Commissioner;

(b) Failing to withdraw an issued report;

(c) Failing to use generally accepted auditing or other professional standards when performing any other required procedure; and

(d) Failing to communicate a matter to an audit committee or the Commissioner.

Sec. 16. 1. Each insurer shall:

(a) Document and maintain information about any significant deficiency, material weakness or inherent limitation in the internal controls over financial reporting of the insurer that are reported to the insurer by the accountant who conducts the audit for the annual audited financial report of the insurer; and

(b) Document and make available for any examination conducted pursuant to NRS 679B.230 to 679B.300, inclusive, the basis upon which the statements made pursuant to paragraph (a) of subsection 1 of section 17 of this regulation are made.

2. To file a report required pursuant to paragraph (a) of subsection 1 of section 17 of this regulation in a cost-effective manner, each insurer:

(a) May include existing documentation as reference or as supporting documentation to the information required pursuant to subsection 1; and

(b) Shall use discretion regarding:

(1) The framework of the internal controls over financial reporting of the insurer; and

(2) The quality and quantity of the supporting documentation of the report.

3. Each insurer may base the statements made pursuant to paragraph (a) of subsection 1 of section 17 of this regulation, in part, on any review, monitoring or testing of the internal controls over financial reporting of the insurer undertaken during the normal course of business of the insurer.

Sec. 17. 1. *Each insurer with direct written and assumed premiums for the immediately preceding year, excluding premiums reinsured with the Federal Crop Insurance Corporation of the United State Department of Agriculture or the National Flood Insurance Program of the Federal Emergency Management Agency, of at least \$500,000,000 which is required to file an annual audited financial report shall file annually with the Commissioner a written report which must include, without limitation:*

(a) Statements that:

(1) The insurer is responsible for establishing and maintaining, and has established and maintained, internal controls over financial reporting;

(2) The insurer has included in the report the descriptions required pursuant to subsection 3; and

(3) If the accountant who conducted the audit for the annual audited financial report discovered any deficiencies or weaknesses during the audit, the insurer was not permitted to conclude that the internal controls over financial reporting reasonably ensure the reliability of the annual audited financial report and the financial statements required pursuant to NRS 680A.270.

(b) A brief description of:

(1) The approach and process by which the insurer has evaluated the effectiveness of its internal controls over financial reporting;

(2) The scope of the work that was included in the review of the internal controls over financial reporting of the insurer;

(3) As of December 31 of the immediately preceding calendar year, any significant deficiency, material weakness or inherent limitation in the internal controls over financial reporting of the insurer; and

(4) Any internal controls over financial reporting that were excluded by the insurer.

(c) A statement, in substantially the following form, signed by the chief executive officer and chief financial officer of the insurer or any other officer or director of the insurer who has received written approval from the Commissioner to sign the statement:

I, the undersigned, hereby state that, to the best of my knowledge and belief, after diligent inquiry, the internal controls over financial reporting of this insurer reasonably ensure the reliability of the annual audited financial report of this

insurer required pursuant to NRS 680A.265 and the annual statement of this insurer required pursuant to NRS 680A.270 in accordance with statutory accounting principles.

2. The report required pursuant to this section and any documentation provided in support thereof will be kept confidential pursuant to NRS 679B.285.

3. The Commissioner may require an insurer not described in subsection 1 to file a report pursuant to this section if the insurer:

(a) Is required to take company action pursuant to NAC 681B.490; or

(b) Meets one or more of the standards considered by the Commissioner pursuant to NAC 680A.220.

4. An insurer or its affiliated insurance holding company may satisfy the reporting requirement of this section by filing with the Commissioner the Section 404 report for the insurer or its affiliated holding company and the addendum as described in subsection 5 if:

(a) The insurer is part of an insurance holding company system;

(b) A description of the internal controls over financial reporting of the insurer is included in the Section 404 report; and

(c) The insurer or its affiliated insurance holding company system is:

(1) Directly subject to Section 404;

(2) One whose parent entity is directly subject to Section 404;

(3) Not directly subject to Section 404 but a SOX-compliant entity; or

(4) One whose parent entity is not directly subject to Section 404 but a SOX-compliant entity.

5. An addendum filed pursuant to subsection 7 must include a statement that there are no internal controls over financial reporting of the insurer that have a material impact on the preparation of the annual audited financial statement of the insurer or insurance holding company system that were excluded from the Section 404 report.

6. If there are internal controls over financial reporting of the insurer or insurance holding company system which have a material impact on the preparation of the annual audited financial statement of the insurer or insurance holding company system and which were not included in the Section 404 report, the insurer or insurance holding company system may file with the Commissioner the statement that the insurer is required to file with the United States Securities and Exchange Commission pursuant to 15 U.S.C. § 78p.

7. As used in this section:

(a) “Section 404” means Section 404 of the Sarbanes-Oxley Act of 2002, Public Law 107-204, codified as 15 U.S.C. § 7262.

(b) “Section 404 report” means the internal control assessment required by 15 U.S.C. § 7262(b).

Sec. 18. NAC 680A.002 is hereby amended to read as follows:

680A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 680A.003 to 680A.018, inclusive, *and sections 2 to 8, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 19. NAC 680A.180 is hereby amended to read as follows:

680A.180 1. The annual audited financial report must include a report of the financial position of the insurer as of the end of the most recent calendar year and the results of the insurer’s operations, cash flows and changes in capital and surplus for that year.

2. The annual audited financial report of an insurer must include:
- (a) A report of the independent certified public accountant;
 - (b) A balance sheet which reports the admitted assets, liabilities, capital and surplus of the insurer;
 - (c) A statement of operations;
 - (d) A statement of cash flows;
 - (e) A statement of changes in capital and surplus;
 - (f) Any notes to financial statements required by the appropriate instructions for annual statements of the National Association of Insurance Commissioners [\[H\]](#) *and the Accounting Practices and Procedures Manual, as adopted by reference in NAC 679B.033*, and any other notes required by generally accepted accounting principles;
 - (g) A reconciliation of the differences, if any, between the annual audited financial report and the annual statement filed with the Commissioner pursuant to NRS 680A.270, with a written description of the nature of those differences; and
 - (h) A summary of the ownership and relationships of the insurer and each of its affiliated companies, if any.
3. A financial statement included in an annual audited financial report must be prepared in a form which uses language and groupings that are substantially similar to the relevant sections of the annual statement of the insurer filed with the Commissioner pursuant to NRS 680A.270. The financial statement must include comparative data as of December 31 of the two most previous calendar years, except that, in the first year in which an insurer is required to file an annual audited financial report, the insurer may include only the data from the most previous calendar year.

Sec. 20. NAC 680A.186 is hereby amended to read as follows:

680A.186 1. Except as otherwise provided in ~~subsection 2~~ *subsections 3, 4 and 8* and NAC 680A.188 and 680A.190, the Commissioner will recognize an independent certified public accountant as a qualified independent certified public accountant if the independent certified public accountant conforms to the standards contained in the *Code of Professional Ethics* of the American Institute of Certified Public Accountants, and the *Rules of Professional Conduct* and the regulations of the Nevada State Board of Accountancy, or other similar code.

2. *A qualified independent certified public accountant who conducts an audit for an annual audited financial report may not engage in non-audit services, including, without limitation, tax services, for the insurer unless:*

(a) The services are not described in subsection 3; and

(b) The services are preapproved pursuant to subsections 11 to 14, inclusive.

3. The Commissioner will not recognize as a qualified independent certified public accountant an independent certified public accountant who:

(a) Is not in good standing with the American Institute of Certified Public Accountants and in all states in which the independent certified public accountant is licensed or certified to practice;

(b) For an insurer domiciled in Canada or Great Britain, is not a chartered accountant or accounting firm; ~~or~~

(c) Has either directly or indirectly entered into an agreement of indemnity or release from liability with respect to an audit of the insurer if the intent or effect of the agreement or release is to shift or limit in any manner the potential liability of the accountant for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from a knowing or other misrepresentation made by the insurer or its representatives ~~or~~;

(d) Functions in the role of management for the insurer;

(e) Audits his own work; or

(f) Serves in an advocacy role for the insurer.

4. Except as otherwise provided in subsection 7, the Commissioner will not recognize as a qualified independent certified public accountant or accept an annual audited financial report prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the report, any of the following non-audit services:

(a) Bookkeeping or other services related to the accounting records or the financial statements of the insurer;

(b) Design and implementation of financial information systems;

(c) Appraisal or valuation services, fairness opinions or contribution-in-kind reports;

(d) Internal audit outsourcing services;

(e) Management or human resources functions;

(f) Broker, dealer, investment advisor or investment banking services;

(g) Legal services or other expert services unrelated to the report; or

(h) Except as otherwise provided in subsections 5 and 6, actuarially oriented advisory services involving the determination of amounts recorded in financial statements.

5. An accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in a financial statement if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit conducted for the annual audited financial report of the insurer.

6. An actuary of an accountant may issue an actuarial opinion or certification on the reserves of an insurer if:

(a) Neither the accountant nor the actuary of the accountant have performed any management function or made any managerial decisions for the insurer;

(b) The insurer has competent personnel or engages a third-party actuary to estimate the reserves for which the insurer takes responsibility; and

(c) The actuary of the accountant tests the reasonableness of the reserves after the management of the insurer has determined the amount of the reserves.

7. The Commissioner will accept an annual audited financial report prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the report, the non-audit services described in subsection 4 if:

(a) The insurer has direct written and assumed premiums for the immediately preceding calendar year of less than \$100,000,000;

(b) The insurer files a written request with the Commissioner for the report to be recognized which explains why the report should be recognized; and

(c) The Commissioner determines after a review of the request that refusing to recognize the report pursuant to subsection 4 would result in a financial or organizational hardship for the insurer.

8. Except as otherwise provided in subsection 9, the Commissioner will not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board of directors, president, chief executive officer, controller, chief financial officer or chief accounting officer of the insurer or any person serving in an equivalent position for the insurer:

(a) Was employed by the independent certified public accountant; and

(b) Participated in an audit for an annual audited financial report during the 1-year period immediately preceding the date that the most current statutory opinion is due.

9. Subject to the provisions of subsection 10, the Commissioner may recognize an independent certified public accountant described in subsection 8 as qualified for a particular insurer if:

(a) Not later than 30 days before the end of the reporting year, the insurer files with the Commissioner a written request for the accountant to be recognized as qualified which explains why the accountant should be recognized as qualified; and

(b) The Commission determines after a review of the request that unusual circumstances exist that warrant the Commissioner recognizing the accountant as qualified.

10. An insurer whose request pursuant to subsection 9 is granted shall file a notice of the granting of the request with:

(a) Its annual statement filed pursuant to NRS 680A.270;

(b) Other states in which it is licensed or doing business; and

(c) The National Association of Insurance Commissioners in an electronic format acceptable to the National Association of Insurance Commissioners.

11. Except as otherwise provided in subsection 12, and subject to the provisions of subsections 13 and 14, all audit and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer must be preapproved by the audit committee of the insurer.

12. Non-audit services provided to an insurer that is a SOX-compliant entity or a direct or indirect wholly owned subsidiary of a SOX-compliant entity need not be preapproved by the insurer.

13. Each audit committee may delegate to one or more of the members of the audit committee the authority to grant preapprovals required pursuant to subsection 11.

14. Each decision to grant or not grant a preapproval made by less than the entire membership of the audit committee must be presented to the entire membership of the audit committee at the next regularly scheduled meeting of the audit committee.

Sec. 21. NAC 680A.188 is hereby amended to read as follows:

680A.188 1. Except as otherwise provided in this section, an independent certified public accountant who is responsible for rendering an annual audited financial report for an insurer may act in that capacity for a period of not more than ~~7~~ 5 consecutive years, which begins to run from the date on which the insurer registers the accountant *or the accounting firm* with the Commissioner pursuant to NAC 680A.182. At the end of the ~~7-year~~ 5-year period, the independent certified public accountant is disqualified from acting in that or a similar capacity for the same insurer or any insurance subsidiary or affiliate of the insurer for a period of at least 2 years.

2. ~~An~~ *Not later than 30 days before the end of the reporting year, the* insurer may apply to the Commissioner for permission for an independent certified public accountant to continue in his capacity in the rendering of the annual audited financial report of the insurer for more than ~~7~~ 5 consecutive years, or to return to a position which would be responsible for rendering an annual audited financial report for the insurer and its subsidiary or affiliate in less than 2 years, upon a showing of unusual circumstances. The Commissioner will consider the following factors, without limitation, in determining if the relief should be granted:

(a) If the independent certified public accountant is an accounting firm, the number of partners within the independent certified public accountant and the expertise of those partners;

- (b) The number of insurers who are clients of the accountant;
- (c) The volume of premiums of the insurer; or
- (d) The number of jurisdictions in which the insurer transacts business.

3. An insurer granted relief pursuant to this section shall file a statement of the granting of relief with:

- (a) Its annual statement filed pursuant to NRS 680A.270;*
- (b) Other states in which it is licensed or doing business; and*
- (c) The National Association of Insurance Commissioners in an electronic format*

acceptable to the National Association of Insurance Commissioners.

Sec. 22. NAC 680A.196 is hereby amended to read as follows:

680A.196 **1.** An examination of the insurer's financial statements by an independent certified public accountant for the purposes of NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, must be conducted in accordance with:

- ~~1.]~~ (a) Generally accepted auditing standards; ~~and~~
- ~~—2.]~~ (b) *The standards set forth in AU Section 319, Consideration of Internal Control in a Financial Statement Audit included in the AICPA Professional Standards, as adopted by reference in subsection 5;*
- (c) *The standards set forth in Statement on Auditing Standards No. 102, Defining Professional Requirements in Statements on Auditing Standards included in the AICPA Professional Standards, as adopted by reference in subsection 5; and*
- (d) Such other procedures set forth in the *Financial Condition Examiners Handbook* ~~[which composes Volume One of the Examiners Handbook]~~ published by the National Association of

Insurance Commissioners, as adopted by reference in NAC 679B.033, as the independent certified public accountant deems necessary.

2. The AICPA Professional Standards are hereby adopted by reference and may be obtained at a price of \$135 for members and \$168.75 for nonmembers from the American Institute of Certified Public Accountants, Member Service Center, Order Processing, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 or by ordering via telephone at (888) 777-7077, via fax at (800) 362-5066 or on the Internet at <http://www.cpa2biz.com>.

Sec. 23. NAC 680A.198 is hereby amended to read as follows:

680A.198 1. An independent certified public accountant of an insurer required to furnish an annual audited financial report shall report to the board of directors or audit committee of the insurer each determination by the accountant that the insurer:

(a) Has materially misstated its financial condition as reported to the Commissioner as of the date of the balance sheet currently under examination; or

(b) Does not, as of that date, meet the minimum requirements for capital and surplus as set forth in chapter 680A of NRS.

↪ The report must be in writing and provided to the insurer not later than 5 business days after the accountant makes such a determination.

2. An insurer who receives a report from its independent certified public accountant pursuant to this section shall, not later than 5 business days after the date on which it receives the report from the accountant:

(a) Forward a copy of the report to the Commissioner; and

(b) Provide the independent certified public accountant who made the report with evidence that the insurer has forwarded a copy of the report to the Commissioner. If the independent

certified public accountant does not, within the 5-business-day period, receive evidence from the insurer that the insurer has forwarded a copy of the report to the Commissioner in accordance with this section, the independent certified public accountant shall file with the Commissioner a copy of its report within the next 5 business days.

3. An independent certified public accountant is not liable in any manner to any person for any statement made in connection with this section if the statement is made in good faith in compliance with this section.

4. If the independent certified public accountant, after the annual audited financial report reviewed by the accountant has been filed pursuant to NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, becomes aware of any facts which affect his report, the accountant shall take such action as prescribed in Volume 1, Section AU 561 of the ~~Professional Standards of the American Institute of Certified Public Accountants, which is hereby adopted by reference. A copy of the Professional Standards may be obtained from the American Institute of Certified Public Accountants:~~

~~—(a) By mail at The American Institute of Certified Public Accountants, AICPA/CPA2Biz, Customer Service Center, P.O. Box 2209, Jersey City, New Jersey 07303-2209;~~

~~—(b) By telephone at (888) 777-7077; or~~

~~—(c) On the Internet at,~~

~~→ at a cost of \$145.]~~ [AICPA Professional Standards as adopted by reference in NAC](#)

[680A.196.](#)

Sec. 24. NAC 680A.200 is hereby amended to read as follows:

680A.200 ~~[If, following the audit of the financial statements of an insurer, an independent certified public accountant notes any significant deficiency in the insurer's structure for internal~~

~~control, the insurer shall, not later than 60 days after the date on which the annual audited financial report is filed with the Commissioner, file a written report which provides a description of the deficiency and of the remedial actions taken or proposed to correct the significant deficiency, if those actions are not otherwise described in the accountant's report filed with the annual audited financial report.]~~

1. Not later than 60 days after the date on which the annual audited financial report of an insurer is filed, the insurer shall file with the Commissioner a report prepared by the accountant who conducted the audit for the annual audited financial report which must describe, as of December 31 of the immediately preceding calendar year and to the extent not otherwise described in the annual audited financial report:

(a) Any significant deficiency, unremediated material weakness or inherent limitation in the internal controls over financial reporting of the insurer;

(b) Any remedial actions taken or proposed to correct the deficiency, weakness or limitation;

(c) The approach or process by which the insurer has evaluated the effectiveness of the internal controls over financial reporting of the insurer; and

(d) The scope of the work that was included in the review of the internal controls over financial reporting of the insurer, including, without limitation, whether any internal controls over financial reporting have been excluded from the report by the insurer.

2. The report required pursuant to this section must be filed even if no deficiencies, weaknesses or limitations are discovered by the accountant while conducting the audit.

3. As used in this section, "unremediated material weakness" has the meaning ascribed to it in the Statement of Auditing Standards (SAS) 60, Communication of Internal Controls

Related Matters included in the AICPA Professional Standards, as adopted by reference in NAC 680A.196.

Sec. 25. This regulation becomes effective January 1, 2010.