

LCB File No. R102-09

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

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

The State of Nevada Department of Business and Industry, Division of Insurance (“Division”), (775) 687-4270, is proposing the amendment of regulations pertaining to chapters 616A, 616B, 680A, 683A, 692A, 695C, 695D and 695F of the Nevada Administrative Code (“NAC”). A workshop has been set for **9:00 a.m., on December 14, 2009**, 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.

Fees Pursuant to SB 426. The proposed regulation will amend chapters 616A, 680A, 683A, 692A, 695C, 695D and 695F of the NAC relating to implementation of new fees for the funding of the Insurance Administration and Enforcement Fund, created pursuant to SB 426 during the 75th (2009) Nevada Legislative Session.

Countersignatures. The proposed regulation will amend chapters 616B and 680A of the NAC to be consistent with the 9th Circuit’s ruling and the Legislature’s amendments to NRS 680A.300 by removing residency requirements and reference to commissions and fees for countersignatures that are no longer required. The amendments also update the term “agent” by replacing it with “producer.”

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 or provided to 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

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

Blasdel Building
209 East Musser Street
Carson City, NV 89701

Office of the Governor
Capitol Building
Carson City, NV 89710

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

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

Elko County Library
720 Court Street
Elko, NV 89801

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

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

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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

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

White Pine County Library
950 Campton Street
Ely, NV 89301

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

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

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

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

Churchill County Library
553 South Main Street
Fallon, NV 89406

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

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

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

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

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

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

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

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

DATED this 19th day of November, 2009.

/s/

SCOTT J. KIPPER
Commissioner of Insurance

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 December 21, 2009**, 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 E. 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 chapters 616B and 680A of the Nevada Administrative Code (“NAC”).

The following information is provided pursuant to the requirements of Nevada Revised Statute (“NRS”) 233B.0603:

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

In May of 2008 the 9th Circuit held in Council of Insurance Agents & Brokers v. Molasky-Arman, 522 F.3d 925 (9th Cir. 2008), that certain provisions of NRS 680A.300 were violative of the Privileges and Immunities Clause, “insofar as it denies to Nevada-licensed nonresident insurance agents the same rights and privileges that are afforded to Nevada-licensed resident agents.” Prior to the 75th (2009) Legislative Session, NRS 680A.300 required insurers that sell policies covering Nevada risks that are produced by nonresident Nevada licensed brokers/producers be countersigned by a licensed resident broker/producer, to whom a 5% commission was required to be paid. Consequently, NRS 680A.300 was amended by the 75th Legislature in SB 426, sections 7 and 85, to comport with the 9th Circuit’s ruling. The proposed amendments make related sections of the NAC consistent with the amendments to NRS 680A.300.

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

The proposed amendments amend existing NAC sections to be consistent with the 9th Circuit’s ruling and the Legislature’s amendments to NRS 680A.300 by removing the residency requirements and reference to commissions and fees for countersignatures that are no longer required. The amendments also update the term “agent” by replacing it with “producer.”

3. The estimated economic effect of the regulation on the business that it is to regulate and on the public. These must be stated separately and in each case must include:

- (a) Both adverse and beneficial effects; and

The beneficial economic effect of the proposed regulation on the business that it regulates is

that it will ease the ability of insurers and Nevada licensed producers to write policies covering Nevada risks without the added burden of requiring that policies produced by a nonresident producer be countersigned by a resident producer.

The adverse economic effect of the proposed regulation on the business that it regulates is that resident Nevada licensed producers who were acting as countersigning agents for nonresident Nevada licensed producers will no longer be paid the 5% commission required under the previous version of NRS 680A.300.

The proposed regulations have no adverse or beneficial effects on the public.

(b) Both immediate and long-term effects.

As indicated above, both immediate and long-term effects of the proposed regulation are that resident countersigning agents will not be paid commission for countersignature and it will be easier for insurers to write Nevada risks through Nevada licensed nonresident agents.

4. The estimated cost to the agency for the enforcement of the proposed regulation. The proposed regulation will not have any cost to the Division. It is likely the Division will realize a small cost savings by not having to enforce the repealed provisions of NRS 680A.300 and the related regulations.
5. A description of and citation to any regulations of other state or local governmental agencies that 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 known – Nevada was the last state, territory or district in the United States to repeal its countersignature laws and regulations.
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. Whether the proposed regulation establishes a new fee or increases an existing fee. There is no new fee or increase in 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.

Due to the compulsory nature of the ruling by the 9th Circuit that certain provisions of the previous version of NRS 680A.300, on which the proposed amendments are based, were

unconstitutional and the fact the Legislature has amended NRS 680A.300 consistent with the 9th Circuit's ruling, the Division determined it was unnecessary to conduct such a formal analysis. However, as indicated above, since the 9th Circuit's ruling and the Legislature's amendment of NRS 680A.300, Nevada licensed resident producer countersigning agents, many of which are small business, are experiencing some negative financial impact since they no longer receive a commission for countersigning policies.

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 14, 2009. 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, 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.

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Fallon, NV 89406

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Minden, NV 89423

Esmeralda County Library
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Goldfield, NV 89013

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Winnemucca, NV 89445

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

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