

PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

LCB File No. R132-13

NOTICE OF INTENT TO ACT UPON REGULATION

Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of
The Department of Business and Industry, Division of Insurance

The State of Nevada Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **1:30 p.m. on April 30, 2014**, at 1818 East College Parkway, 1st floor hearing room, Carson City, Nevada 89706. Interested parties may also participate through a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2nd floor conference room, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations pertaining to chapters 681B, 695A and 695B of the Nevada Administrative Code (“NAC”).

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

LCB File No. R132-13. Risk-based Capital for Insurers.

A regulation relating to insurance; defining certain health organizations; requiring health organizations to maintain a capital account with a net worth in an amount which is not less than the amount of risk-based capital; revising provisions concerning the formula set forth in the instructions relating to risk-based capital; revising various provisions applicable to risk-based capital insurers to also apply to health organizations; and providing other matters properly relating thereto.

- (1) Why is the regulation necessary and what is its purpose?

This regulation is required per the National Association of Insurance Commissioners (NAIC) Financial Accreditation Standards and is necessary to address the solvency of the insurers transacting the business of insurance in Nevada. The regulation addresses the requirements and provisions of the Risk-Based Capital Report that all insurers must file to support the minimum capital and surplus required to transact the business of insurance in Nevada. The regulation further addresses the actions that the insurer and the Division of Insurance (Division) must perform if the insurer fails to maintain the minimum capital and surplus amounts. This is an existing regulation that requires amending to bring it into compliance with the revised NAIC model acts and to meet the NAIC’s financial accreditation standards.

- (2) What are the terms or substance of the proposed regulation?

The proposed amendments to the regulation add additional descriptions for reporting requirements of life and health insurers, fraternal benefit societies, health organizations, and property and casualty insurers that are in the NAIC Model Acts but are currently missing from Nevada's regulations.

The NAIC Financial Accreditation Standards require that the updated provisions included in the NAIC model acts relating to risk-based capital need to be adopted in order for Nevada to maintain its accreditation status. Additionally, the revisions/amendments provide the Division with stronger regulatory tools to ensure that all of Nevada's insurance companies maintain adequate capital and surplus levels.

(3) What is the anticipated impact of the regulation on the problem(s)? *The amendment will clarify capital and surplus reporting requirements and help Nevada maintain accreditation.*

(4) Do other regulations address the same problem(s)? *No.*

(5) Are alternate forms of regulation sufficient to address the problem(s)? *No.*

(6) What value does the regulation have to the public? *This regulation aids the Division in ensuring all insurance companies operating in Nevada are maintaining a minimum level of capital and surplus and are solvent, which enables them to pay consumer claims.*

(7) What is the anticipated economic benefit of the regulation?

a. Public

1. Immediate: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay claims.*

2. Long Term: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay claims.*

b. Insurance Business

1. Immediate: *Regulation assists the Division in monitoring the solvency of the insurance companies.*

2. Long Term: *Regulation assists the Division in monitoring the solvency of the insurance companies.*

c. Small Businesses

1. Immediate: *Regulation assists the Division in monitoring the solvency of the insurance companies.*

2. Long Term: *Regulation assists the Division in monitoring the solvency of the insurance companies.*

- d. Small Communities
 - 1. Immediate: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay the claims of consumers, commercial entities and political subdivisions.*
 - 2. Long Term: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay the claims of consumers, commercial entities and political subdivisions.*

- e. Government Entities
 - 1. Immediate: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay the claims of consumers, commercial entities and political subdivisions.*
 - 2. Long Term: *Regulation assists the Division in monitoring the solvency of the insurance companies which, in turn, strengthens the companies' solvency and ability to pay the claims of consumers, commercial entities and political subdivisions.*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate: *No adverse impact.*
 - 2. Long Term: *No adverse impact.*
- b. Insurance Business
 - 1. Immediate: *No adverse impact.*
 - 2. Long Term: *No adverse impact.*
- c. Small Businesses
 - 1. Immediate: *No adverse impact.*
 - 2. Long Term: *No adverse impact.*
- d. Small Communities
 - 1. Immediate: *No adverse impact.*
 - 2. Long Term: *No adverse impact.*
- e. Government Entities
 - 1. Immediate: *No adverse impact.*
 - 2. Long Term: *No adverse impact.*

(9) What is the anticipated cost of the regulation, both direct and indirect?

- a. Enactment: *No anticipated cost.*
- b. Enforcement: *No additional cost anticipated.*
- c. Compliance: *No additional cost anticipated.*

(10) Does the regulation establish a new fee or increase an existing fee? *No fees are associated with this regulation.*

(11) Identify the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608. *See attached Determination of Necessity of Small Business Impact Statement, and Small Business Impact Statement.*

(12) Provide 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, state the name of the regulating federal agency. *N/A*

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law. *N/A*

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions. *N/A*

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, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Written submissions must be received by the Division on or before April 9, 2014. 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 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 will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, 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://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will 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.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulations, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

Department of Business and Industry
Division of Insurance
1818 East College Parkway, Suite 103
Carson City, NV 89706

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

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

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 Clerk

NEVADA DIVISION OF INSURANCE
AGENDA

PUBLIC REGULATION HEARING

APRIL 30, 2014

1:30 P.M.

In Carson City:

**1818 E. College Pkwy., 1st Floor Hearing Room, Carson City, NV 89706
(Insurance Division Office located in Suite 103)**

Videoconferenced to Las Vegas:

**2501 E. Sahara Ave., 2nd Floor Conference Room, Las Vegas, NV 89104
(Insurance Division Office located in Suite 302)**

PROPOSED REGULATION:

- 1. LCB FILE NO. R132-13: Risk-Based Capital For Insurers**
 - a. Presentation by Division of Insurance Corporate and Financial Section**
 - b. Public Comments to be Received**

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

Determination of Necessity of Small Business Impact Statement

R132-13

A regulation relating to insurance; defining certain health organizations; requiring health organizations to maintain a capital account with a net worth in an amount which is not less than the amount of risk-based capital; revising provisions concerning the formula set forth in the instructions relating to risk-based capital; revising various provisions applicable to risk-based capital insurers to also apply to health organizations; and providing other matters properly relating thereto.

Effective October 1, 2014

1. BACKGROUND

Nevada Revised Statute 681B.290 requires the Commissioner to adopt regulations concerning requirements for reporting risk-based capital. This proposed regulation expands the existing regulations on risk-based capital reporting to also include reporting by health organizations.

2. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? (NRS 233B.0608.1)(circle one)

NO

YES

3. HOW WAS THAT CONCLUSION REACHED? (NRS 233B.0608.3)

The regulation outlines the parameters for certain insurers in maintaining adequate levels of risk-based capital. These standards are intended to ensure that only solvent insurers are allowed to participate in Nevada's marketplace. As such, it necessarily burdens or restricts economic activity. As the definition of "small business" in NRS 233B.0382 is predicated solely on employee count there exist insurers subject to this proposed regulation which meet the statutory definition.

I, Scott J. Kipper, Commissioner of Insurance for the State of Nevada, certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in the statement above is accurate. (NRS 233B.0608.3)

3/24/2014
(DATE)

/s/
SCOTT J. KIPPER
Commissioner of Insurance

Small Business Impact Statement

R132-13

4. DESCRIPTION OF SOLICITATION

On March 4, 2014 a brief survey was sent to a sample of parties potentially affected by the proposed regulation. The survey requested the name of the respondent party, whether the party employs 150 or fewer part- or full-time employees, and any potential burden upon the party, either economic or operational. Any respondent party with 150 or fewer part- or full-time employees burdened by the proposed regulation was also asked to describe the burden and suggest methods to alleviate the burden.

5. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES (NRS 233B.0609.1.a)

The survey was sent to 38 potentially affected parties, 2 of which were returned as undeliverable. Of the remaining 36 parties to receive the survey only one responded. The sole responding party indicated that the proposed regulation was not economically or operationally burdensome and that the party was not considered a small employer under NRS 233B.0382.

Other interested parties may receive a copy of this summary by contacting the Insurance Regulation Liaison of the Nevada Division of Insurance, Adam Plain, at (775) 687-0783 or aplain@doi.nv.gov.

6. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE (NRS 233B.0609.1.c)

An estimated effect of small business is impossible to ascertain at this time. The Division of Insurance still believes that the proposed regulation inherently affects small businesses by restricting their formation and/or operation if they fail to meet certain standards relating to risk-based capital. Without input from potentially-affected parties a determination of the magnitude of the impact cannot be made.

7. METHODS considered TO REDUCE IMPACT ON SMALL BUSINESSES (NRS 233B.0609.1.d)

No method to reduce the impact of the proposed regulation upon small business is currently considered. Without knowing the type and magnitude of the impact the Division of Insurance cannot take steps to ameliorate said impact.

8. ESTIMATED COST OF ENFORCEMENT (NRS 233B.0609.1.e)

The proposed regulation is not expected to carry any additional cost to enforce; it will be enforced through current procedures and practices.

9. FEE CHANGES (NRS 233B.0609.1.f)

The proposed regulation does not create or amend any fees.

10. DUPLICATIVE PROVISIONS (NRS 233B.0609.1.g)

The proposed regulation is not duplicative.

11. HOW WAS THE ANALYSIS CONDUCTED? (NRS 233B.0609.1.b)

Given the lack of response to the solicitation there was insufficient data to perform an adequate analysis.

12. REASONS FOR CONCLUSIONS (NRS 233B.0609.1.h)

Given the lack of response to the solicitation there was insufficient data to perform an adequate analysis.

I, Scott J. Kipper, Commissioner of Insurance for the State of Nevada, certify that, to the best of my knowledge or belief, the information contained in the statement above was prepared properly and is accurate. (NRS 233B.0609.2)

3/24/2014
(DATE)

/s/
SCOTT J. KIPPER
Commissioner of Insurance