

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R001-16

February 2, 2016

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

AUTHORITY: §§1-6, NRS 679B.130 and 679B.305, as amended by section 2 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2832; §§7 and 8, NRS 679B.130 and 679B.700; §§9-14, NRS 679B.130 and 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833; §15, NRS 679B.130.

A REGULATION relating to insurance; establishing and revising provisions concerning certain assessments; establishing provisions concerning the payment of an annual fee by certain insurers; establishing provisions concerning the holding of certain public meetings by the Commissioner of Insurance; repealing certain obsolete provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Insurance Recovery Account in the Fund for Insurance Administration and Enforcement, in which a balance of not less than \$40,000 is required to be maintained to satisfy claims against persons licensed pursuant to chapters 683A, 684A, 685A and 692A of NRS. If at the end of a fiscal year the balance in the Account is less than \$40,000, the Commissioner of Insurance is authorized to assess a fee of not more than \$10 on each person licensed pursuant to such chapters. Existing law requires the Commissioner to adopt reasonable regulations for the assessment of such a fee. (NRS 679B.305, as amended by section 2 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2832) **Section 1** of this regulation provides that if the Commissioner assesses the fee, it will be assessed at the time of the issuance or renewal of a license pursuant to chapter 683A, 684A, 685A or 692A of NRS. **Section 1** also provides that: (1) if a person fails to pay the fee, his or her license will not be issued or renewed, as applicable; and (2) if a person who wishes to renew his or her license pays the fee after the date the fee is due, he or she is subject to an administrative fine equal to the amount of the fee. **Sections 3 and 6** of this regulation make conforming changes and include references to chapter 692A of NRS in certain provisions relating to the Insurance Recovery Account.

Existing law requires the Commissioner to collect an annual assessment from each insurer authorized to transact insurance in this State. Existing law sets forth the annual amount assessed to each insurer, which is generally determined based on the total amount of premiums

charged to insureds in this State by the insurer. Existing law further requires the Commissioner to adopt regulations to carry out the provisions relating to the collection of the assessment. (NRS 679B.700) **Section 7** of this regulation provides that the Commissioner will provide to each insurer a notice of the amount of the assessment on or before June 1 of each year. **Section 8** of this regulation requires each insurer who holds a certificate of authority in this State on January 1 of a calendar year to pay the assessment on or before July 15 of that year.

Existing law requires each insurer authorized to transact casualty insurance, health insurance, life insurance or property insurance and each title insurer, fraternal benefit society, corporation that operates a hospital, medical or dental service plan, health maintenance organization, organization for dental care and prepaid limited health service organization to pay to the Commissioner an initial fee of \$1,000 and an annual fee determined by the Commissioner. (NRS 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833) **Section 11** of this regulation: (1) provides that the Commissioner will determine the amount of the annual fee on or before May 31 of each year; and (2) requires the Division of Insurance of the Department of Business and Industry to provide to each such insurer an invoice for the amount of the annual fee on or before June 1 of each year. **Section 12** of this regulation requires each such insurer to pay the annual fee not later than July 1 of each year unless it is the first such annual fee the insurer is paying, in which case the insurer is required to pay the fee: (1) on or before July 15, if the initial fee was paid on or before July 1; or (2) within 30 days after the initial fee was paid, if the initial fee was paid after July 1. **Section 13** of this regulation provides that the Commissioner will hold an annual public meeting to present the budget of the Division as approved by the Legislature and the proposed amount of the annual fee, and **section 14** of this regulation provides that the Commissioner will hold a public meeting on or before April 30 of each even-numbered year to present his or her preliminary budget request.

Assembly Bill No. 486 of the 78th Legislative Session repeals the provisions of law that create the Stabilization of Insurance Costs Account and provide for the payment of a fee to be deposited in the Account. (Section 17 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2845) **Section 15** of this regulation repeals provisions relating to the Account.

Section 1. Chapter 679B of NAC is hereby amended by adding thereto a new section to read as follows:

1. If the Commissioner assesses the fee authorized pursuant to NRS 679B.305, as amended by section 2 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2832, the fee will be assessed at the time of the issuance or renewal of a license issued by the Division under chapter 683A, 684A, 685A or 692A of NRS.

2. If a person fails to pay the fee assessed pursuant to subsection 1, his or her license will not be issued or renewed, as applicable.

3. If a person who wishes to renew his or her license pays the fee assessed pursuant to subsection 1 after the date the fee is due, the person is subject to an administrative fine equal to the amount of the fee.

Sec. 2. NAC 679B.041 is hereby amended to read as follows:

679B.041 As used in NAC 679B.041 to 679B.151, inclusive, *and section 1 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 679B.043 to 679B.070, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NAC 679B.070 is hereby amended to read as follows:

679B.070 “Licensee” means a person who possesses a license issued by the Division under chapter 683A, 684A, ~~685A~~ *or 692A* of NRS.

Sec. 4. NAC 679B.111 is hereby amended to read as follows:

679B.111 1. The Commissioner may treat any payment from the Account in settlement of a claim or toward satisfaction of a final judgment against a licensee as sufficient ground for the revocation or suspension of his or her license or for any other appropriate discipline. No license may be reinstated until the licensee has repaid the amount paid from the Account on his or her behalf, plus interest at the prevailing rate for a judgment rendered in any court of this State. The interest must be calculated from the date the payment was made from the Account.

2. A discharge in bankruptcy of the debt created by the final judgment does not relieve a person from the penalties provided in NAC 679B.041 to 679B.151, inclusive ~~§~~, *and section 1 of this regulation.*

Sec. 5. NAC 679B.141 is hereby amended to read as follows:

679B.141 Failure of a person or licensee to comply with any of the provisions of NRS 679B.305 or NAC 679B.041 to 679B.151, inclusive, *and section 1 of this regulation* constitutes a waiver of any rights under NAC 679B.041 to 679B.151, inclusive ~~{}~~, *and section 1 of this regulation.*

Sec. 6. NAC 679B.151 is hereby amended to read as follows:

679B.151 The provisions of NAC 679B.041 to 679B.151, inclusive, *and section 1 of this regulation* do not limit the authority of the Commissioner to take disciplinary action against a licensee for a violation of any of the provisions of chapters 683A, 684A, ~~{and}~~ 685A *and 692A* of NRS, NAC 679B.041 to 679B.151, inclusive, *and section 1 of this regulation* or other regulations of the Division, nor does the repayment in full of any obligations to the Account by a licensee nullify or modify the effect of any disciplinary proceeding brought pursuant to the provisions of NAC 679B.041 to 679B.151, inclusive, *and section 1 of this regulation* or the statutory provisions of title 57 of NRS.

Sec. 7. NAC 679B.154 is hereby amended to read as follows:

679B.154 ~~{}~~ The Commissioner will ~~{determine}~~ *provide to each insurer a notice of the amount of* the assessment for the Special Investigative Account ~~{by dividing the amount of money that the Legislature authorized for expenditure for that year for the support of the program established pursuant to NRS 679B.630 by the number of insurers who hold a certificate of authority in this State as of}~~ *that is owed pursuant to subsection 4 of NRS 679B.700 on or before* June 1 of ~~{the}~~ *each* year. ~~{of assessment.}~~

~~—2.— The Division will mail to each company a notice of the amount of the assessment on or before July 1 of each year.~~

Sec. 8. NAC 679B.157 is hereby amended to read as follows:

679B.157 1. Each insurer who holds a certificate of authority in this State *on January 1 of a calendar year* shall pay the assessment for the investigation of fraudulent claims on or before ~~August 1~~ *July 15* of ~~each~~ *that* year.

2. Each such insurer who fails to pay this assessment or pays it late is subject to an administrative fine in an amount equal to the assessment. This fine is assessed by the Division upon notice to the company accompanied by a bill for the assessment and fine. Payment of the bill waives any right to an administrative hearing on the matter, and the bill must so state.

3. An insurer who pays the assessment late in 2 consecutive years, or fails to pay it for 2 consecutive years, shall be deemed to have willfully violated this section and the provisions of NRS 679B.700. The late payment or nonpayment reflects on the competency of the management of the company.

Sec. 9. Chapter 680C of NAC is hereby amended by adding thereto the provisions set forth as sections 10 to 14, inclusive, of this regulation.

Sec. 10. *As used in this chapter, unless the context otherwise requires, “insurer” means:*

1. An insurer who is authorized to transact:

(a) Casualty insurance, as defined in NRS 681A.020;

(b) Health insurance, as defined in NRS 681A.030;

(c) Life insurance, as defined in NRS 681A.040; or

(d) Property insurance, as defined in NRS 681A.060;

2. A title insurer, as defined in NRS 692A.070;

3. A fraternal benefit society, as defined in NRS 695A.010;

4. A corporation subject to the provisions of chapter 695B of NRS;

5. A health maintenance organization, as defined in NRS 695C.030;

6. *An organization for dental care, as defined in NRS 695D.060; or*
7. *A prepaid limited health service organization, as defined in NRS 695F.050.*

Sec. 11. 1. *On or before May 31 of each year, the Commissioner will determine the amount of the annual fee required to be paid by an insurer pursuant to subsection 6 of NRS 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833.*

2. On or before June 1 of each year, the Division shall provide each insurer with an invoice for the amount of the annual fee determined by the Commissioner pursuant to subsection 1.

Sec. 12. 1. *Except as otherwise provided in subsection 2, an insurer shall pay the annual fee determined by the Commissioner pursuant to section 11 of this regulation not later than July 1 of each year.*

2. If an insurer pays the initial fee required pursuant to subsection 5 of NRS 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833:

(a) On or before July 1, the insurer shall make the initial payment of the annual fee determined by the Commissioner pursuant to section 11 of this regulation on or before July 15 of that year.

(b) After July 1, the insurer shall make the initial payment of the annual fee determined by the Commissioner pursuant to section 11 of this regulation not later than 30 days after the insurer pays the initial fee.

3. An insurer who fails to pay the annual fee by the date the fee is due is subject to an administrative fine of not less than \$25 for each day the fee remains unpaid.

Sec. 13. 1. *Each year before the Commissioner determines pursuant to section 11 of this regulation the amount of the annual fee required to be paid by an insurer pursuant to subsection 6 of NRS 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833, the Commissioner will hold a public meeting to present the budget of the Division as approved by the Legislature and the proposed amount of the annual fee. Notice of the meeting must be posted:*

(a) At least 5 working days before the meeting; and

(b) At a minimum:

(1) At the Grant Sawyer Office Building located at 555 East Washington Avenue, Las Vegas, Nevada, the Legislative Building and all offices of the Division; and

(2) In the location established on the official website of the State pursuant to NRS 232.2175 and on the official website of the Division.

2. In addition to the notice posted pursuant to subsection 1, the Commissioner will also send a notice of the meeting to each person included on the mailing list that the Division is required to maintain pursuant to paragraph (e) of subsection 1 of NRS 233B.0603.

Sec. 14. 1. *On or before April 30 of each even-numbered year, the Commissioner will hold a public meeting to present his or her preliminary budget request to be submitted for inclusion in the executive budget pursuant to the guidelines determined by the Office of Finance. Notice of the meeting must be posted at least 5 working days before the meeting.*

2. The preliminary budget request presented by the Commissioner must:

(a) To the extent practicable, contain:

(1) Base budget expenditures, including, without limitation, expenditures relating to personnel, operations, equipment and technology and other expenses necessary for the efficient and effective functioning of the Division as a regulatory agency; and

(2) Recommended enhancements to the budget.

(b) Provide any estimated change to the annual fee required to be paid by an insurer pursuant to subsection 6 of NRS 680C.110, as amended by section 4 of Assembly Bill No. 486, chapter 480, Statutes of Nevada 2015, at page 2833, and determined by the Commissioner pursuant to section 11 of this regulation, and the reason therefor.

3. The public meeting held pursuant to this section must provide all interested parties with an opportunity to comment on the preliminary budget request.

Sec. 15. NAC 679B.158 and 679B.160 are hereby repealed.

TEXT OF REPEALED SECTIONS

679B.158 Determination of amount of fee imposed by statute; notice. (NRS 679B.130, 679B.450)

1. The Commissioner will annually determine the amount of the fee required under NRS 679B.450 by dividing the amount of money appropriated by the Legislature for the support of the insurance cost stabilization activities outlined in NRS 679B.400 to 679B.460, inclusive, by the number of insurers authorized to transact casualty or property insurance in this State.

2. The Division will mail to each insurer required to pay the fee a notice of the amount of the fee on or before August 1 of each year.

679B.160 Payment of fee imposed by statute; administrative fine. (NRS 679B.130, 679B.450, 679B.460)

1. Each insurer authorized to transact casualty or property insurance in this State shall pay the fee required pursuant to NRS 679B.450 on or before September 1 of each year.

2. Each such insurer who fails to pay the fee or fails to deliver the fee to the Division by September 1 is subject to an administrative fine of not less than \$25 for each day the fee remains unpaid up to the maximum fine set forth in NRS 679B.460.