

PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

LCB File No. R072-16

April 27, 2016

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

AUTHORITY: NRS 616B.300; NRS 679B.130

A REGULATION relating to insurance; revising provisions pertaining to the determination of tangible net worth of an employer who is self-insured for workers' compensation and the circumstances under which the Commissioner may accept an additional deposit.

Section 1. NAC 616B.433 is hereby amended to read as follows:

NAC 616B.433 Determination of tangible net worth of employer; authority of Commissioner to accept additional deposit. (NRS 616B.300, 679B.130)

1. To determine the tangible net worth ~~[, as defined in NRS 616A.330,]~~ of a self-insured employer, he or she shall submit to the Commissioner all financial statements and accompanying footnotes, including an independent auditor's opinion. Each statement must be audited. *In determining the tangible net worth of a self-insured employer, the following items are disallowed as assets:*

(a) Goodwill.

(b) Any other items listed in the assets that are deemed unacceptable by the Commissioner because they do not directly support the insurer's ability to pay a claim.

2. The following factors must be used to review the audited financial statements:

(a) The auditor's opinion.

(b) The various financial ratios, including working capital and cash flow.

(c) Any footnotes related to:

(1) A contingency or commitment;

- (2) A party;
 - (3) A bad debt; or
 - (4) The restructuring of an operation.
3. If any of the factors in subsection 2 are deemed material, the Commissioner may deny certification.
4. If, after the adjustments are made pursuant to subsection 1, the employer ~~is~~ ~~statement~~ *does not* demonstrate ~~is~~ *a tangible net worth as required by subsection 1 of NRS 616B.300, but* demonstrates *an otherwise* ~~is~~ strong financial position and meets the tests in subsection 2, the Commissioner may accept as an additional deposit any instrument described in NAC 616B.436 in the amount of \$2,500,000 in lieu of the requirement set forth in subsection 1 of NAC 616B.424. The deposit described in this subsection must be separate from the deposit required pursuant to NRS 616B.300.