

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R087-17

December 6, 2017

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

AUTHORITY: §1, NRS 679B.130 and 683A.08522; §2, NRS 679B.130, 683A.08524 and 683A.0892; §3, NRS 679B.130.

A REGULATION relating to insurance; requiring certain applicants for a certificate of registration as an administrator to submit certain financial statements; authorizing certain applicants for a certificate of registration as an administrator to submit the financial statement of the parent company of such an applicant; requiring the financial statements submitted by an applicant for a certificate of registration as an administrator to contain certain information; requiring an administrator to notify the Commissioner of Insurance of certain changes within 30 days after the change occurs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code or as required to ensure compliance by the Commissioner with any federal law or regulation relating to insurance. (NRS 679B.130)

Existing law requires each application for a certificate of registration as an administrator to include a financial statement that is certified by an officer of the applicant. The financial statement must include: (1) the amount of money the applicant expects to collect from or disburse to residents of this State during the next calendar year; (2) financial information for the 90 days immediately preceding the date the application was filed with the Commissioner; and (3) an income statement and balance sheet for the 2 years immediately preceding the application that are prepared in accordance with generally accepted accounting principles. (NRS 683A.08522) Existing regulations require each applicant for a certificate of registration as an administrator, if the applicant is a newly formed business, to submit, in addition to the financial statement required by existing law, a pro forma balance sheet and a statement listing estimated income and expenses for the first year. (NAC 683A.105) **Section 1** of this regulation requires each applicant for a certificate of registration as an administrator to submit, if the applicant is not a newly

formed business, a financial statement that has been reviewed by an independent certified public accountant.

Existing law authorizes an administrator who is a wholly owned subsidiary of a parent company to submit to the Commissioner, in lieu of providing certain other information to the Commissioner for the annual report that the administrator is required to submit: (1) the financial statement of the parent company that has been audited by an independent certified public accountant; and (2) a parental guaranty which is signed by an officer of the parent company and which guarantees the financial solvency of the administrator. (NRS 683A.08528) **Section 1** authorizes an applicant for a certificate of registration as an administrator to satisfy the requirement to include a financial statement in an application for a certificate of registration as an administrator by submitting the financial statement of the parent company of such an applicant if the financial statement of the parent company: (1) is certified both by an officer of the applicant and by an officer of the parent company; (2) satisfies the requirements set forth in existing law; and (3) has been audited by an independent certified public accountant. **Section 1** further requires an applicant who submits the financial statement of the parent company to: (1) be a wholly owned subsidiary of the parent company; and (2) provide a parental guaranty of performance for a period of not less than 1 year. **Section 2** of this regulation makes conforming changes.

Existing regulations require the financial statement of an administrator to include: (1) a balance sheet that reports the assets, liabilities and net worth of the applicant; (2) an income statement that reports the revenue and expenses of the applicant; (3) a statement of cash flow; and (4) notes to the financial statement. (NAC 683A.131) **Section 1** requires the financial statement of an applicant or parent company to include such information as it applies to the applicant.

Existing law requires each application for a certificate of registration as an administrator to include a notarized affidavit from each person who manages or controls the administrator, including members, directors or officers, that contains certain information. (NRS 683A.08522) Existing regulations require an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 90 days after the change. (NAC 683A.125) **Section 3** of this regulation requires an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 30 days after the change. **Section 3** further requires the administrator to submit a notarized affidavit for each new member, owner, director, officer or any other person who manages or controls the administrator within 30 days after the change.

Existing law requires each application for a certificate of registration as an administrator to include the complete name and address of each office of the administrator, including offices located outside of this State. (NRS 683A.08522) **Section 3** requires an administrator to notify the Commissioner of any change in the physical location, the mailing address or the electronic mail address of an office of the administrator within 30 days after the change.

Existing regulations require an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 90 days after he or she enters into the agreement. (NAC 683A.125) **Section 3** requires an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 30 days after he or she enters into the agreement.

Section 1. NAC 683A.105 is hereby amended to read as follows:

683A.105 *1.* Each applicant for a certificate of registration as an administrator shall submit:

~~1.1~~ *(a)* If the applicant is a newly formed business, a pro forma balance sheet and a statement listing estimated income and expenses for the first year, compiled in a form which complies with generally accepted accounting principles.

~~1.2~~ *(b)* *If the applicant is not a newly formed business, a financial statement pursuant to subsection 2 of this section or subsection 1 of NRS 683A.08522, as applicable, that has been reviewed by an independent certified public accountant.*

(c) Evidence of the ability of the applicant to pay its obligations when they are due. The Division, in determining an applicant's ability to pay its obligations when due, will consider the capitalization and current financial condition of the applicant and may request credit reports of the applicant and the owners.

2. Each applicant for a certificate of registration as an administrator may satisfy the requirements set forth in subsection 1 of NRS 683A.08522 by submitting a financial statement of the parent company of the applicant if:

(a) The applicant:

(1) Is a wholly owned subsidiary of the parent company; and

(2) Provides a parental guaranty of performance for a period of not less than 1 year which is signed by an officer of the parent company and which guarantees the financial solvency of the applicant; and

(b) The financial statement of the parent company:

(1) Is certified by an officer of the applicant and by an officer of the parent company;

(2) Satisfies the requirements set forth in subsection 1 of NRS 683A.08522; and

(3) Has been audited by an independent certified public accountant.

3. The financial statement of an applicant for a certificate of registration as an administrator submitted pursuant to subsection 2 of this section or subsection 1 of NRS 683A.08522, as applicable, must include:

(a) A balance sheet that reports the assets, liabilities and net worth of the applicant;

(b) An income statement that reports the revenues and expenses of the applicant;

(c) A statement of cash flow; and

(d) Notes to the financial statement.

Sec. 2. NAC 683A.119 is hereby amended to read as follows:

683A.119 The Commissioner will consider the following to determine whether an administrator or an applicant for a certificate of registration as an administrator is financially unsound pursuant to NRS 683A.08524 or 683A.0892:

1. The administrator or applicant:

(a) Submits a financial statement to the Commissioner, pursuant to NRS 683A.08522 , ~~for~~ 683A.08528 ~~or~~ *or subsection 2 of NAC 683A.105*, reporting:

(1) The sum of its assets is less than the sum of its liabilities;

- (2) A recurring operating loss;
 - (3) Negative cash flow from operations; or
 - (4) A significant decrease in assets within a fiscal year or over a period of years;
- (b) Has defaulted on a loan or restructuring of debt;
 - (c) Has lost key personnel; or
 - (d) Has experienced an uninsured or underinsured catastrophe.
2. The administrator loses more than 50 percent of its contracts to act as an administrator within a fiscal year.
3. Adverse findings reported in examinations concerning the financial condition of the administrator or applicant that the Commissioner determines to be material.
4. Information and reports concerning the administrator or applicant from the Insurance Regulatory Information System of the National Association of Insurance Commissioners.
5. Whether the portfolio of assets of the administrator or applicant, when considered in light of the current economic conditions, is of sufficient value, liquidity or diversity to ensure the ability of the administrator or applicant to meet its outstanding obligations as those obligations mature.
6. An opinion issued by an independent certified public accountant that the administrator or applicant is unable to operate as a going concern.

Sec. 3. NAC 683A.125 is hereby amended to read as follows:

683A.125 An administrator shall:

- 1. Notify the Commissioner of any change in its members, owners, directors or officers within ~~90~~ 30 days after the change. *The administrator shall submit a notarized affidavit as*

described in subsection 6 of NRS 683A.08522 for each new member, owner, director, officer or any other person who manages or controls the administrator within 30 days after the change.

2. *Notify the Commissioner of any change in the physical location, the mailing address or the electronic mail address of an office of the administrator within 30 days after the change.*

3. Provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within ~~90~~ 30 days after he or she enters into the agreement.