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DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION
LCB File No. R185-22
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter(s) 683A and 697 of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: December 6, 2022
Time: 9:00 a.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=m58352ecd6ce45656a20fcde37fd9db4c>

Meeting Number: 2634 425 0989

Password: PBvZW3ip53r

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free

Access Code: 2634 425 0989

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Hearing Agenda.

* There is no physical location designated for this hearing. Accordingly, any person planning to participate must participate by using the Webex link, for video access, or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation, or expansion of a small business.

HEARING AGENDA

1. Open Hearing: R185-22.
2. Presentation of Proposed Regulation.

LCB File No. R185-22 BUSINESS OF BAIL

A REGULATION relating to bail; prohibiting certain acts by a person who does not hold an appropriate license; establishing certain requirements for the completion of certain courses of instruction and training by certain applicants for licensure; setting forth certain requirements regarding courses of instruction, training and continuing education courses; revising provisions governing the duties of and restrictions on licensees; revising provisions governing partnerships of licensees who engage in business in the bail industry; revising provisions governing sureties; requiring licensees to maintain certain records and forms; revising provisions governing the content, terms and modification of bail agreements; revising provisions governing collateral which secures an obligation; revising provisions which prohibit the early surrender of a defendant without good cause; eliminating requirements for certain annual reporting by licensees; and providing other matters properly relating thereto. A copy of the proposed regulation prepared by the Legislative Counsel is available by clicking on the following link: <https://www.leg.state.nv.us/Register/2022Register/R185-22P.pdf>

3. Public Comment.

The hearing officer will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Hearing: R185-22.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The hearing officer, within his/her discretion, may allow for public comment on individual agenda items.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division (regs@doi.nv.gov or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to regs@doi.nv.gov. Members of the public are encouraged to submit written comments for the record no later than **December 1, 2022**. Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex or telephone and/or may address their comments, data, views, or arguments in written form, by email to regs@doi.nv.gov or by mail to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing, no later than five (5) working days before the hearing via email to regs@doi.nv.gov.

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.

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

- (1) A statement of the need for and purpose of the proposed regulation.

The regulation is needed to remove provisions that no longer apply to the business of bail. Most of the bail regulations were promulgated in 1978, and bail statutes were significantly revised in 1997 and 1999. Due to the number of complaints the Division has received about the acts of bail licensees over the last 10 years, it is clear that the regulations no longer coordinate with the statutes and need to be revised. The purpose of these proposed regulations is to conform the Nevada Administrative Code to the Nevada Revised Statutes in order to make the regulation of bail easier to understand for both bail licensees and consumers, and to address safety concerns for both bail licensees and the public.

- (2) A statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel.

Most of the proposed regulations will eliminate outdated concepts and update regulations to correspond to statutory provisions that were enacted or amended after 1978. Through the review and investigation into many of the bail-related consumer complaints made to the Division of Insurance, many bail licensees are acting outside the scope of their licenses, and do not seem to understand the current bail statutory scheme.

The proposed regulations are intended to help bail licensees better understand their roles and obligations by providing definitions and explaining terminology (e.g., types of licenses and references to licenses that no longer exist), updating provisions related to duties of licensees, surety companies, records, agreements, collateral, and miscellaneous provisions, such as early surrender of defendants, and clarifying areas of frequent violations of law and frequently asked questions.

The Division anticipates that the proposed regulations will result in: fewer issues of fraud related to collateral security and fees not being properly managed; improvement of the bail industry’s reputation, which will lead to more people being willing to use commercial bail, thereby increasing competition and small business opportunities; improvements to community safety and public trust, as bail licensees act within the scope of their licenses, which will result in fewer resources being spent on public safety; fewer State resources spent on misunderstandings of law and addressing improper bail behavior; fewer complaints and calls to local law enforcement about bail licensees; and more effective use of law enforcement and court resources.

The text of the proposed regulation is available online at:
<https://www.leg.state.nv.us/Register/2022Register/R185-22P.pdf>

The text is available at the State of Nevada Register of Administrative Regulations: <https://www.leg.state.nv.us/Division/Legal/LawLibrary/Register/index.html>, listed under 2022 Regulations (Numerical Index “R185-22” or Subject Index “Insurance”).

The text is also available through the Division of Insurance as follows:

- The Division’s website, <https://doi.nv.gov/News-Notices/Regulations/>
- Email regs@doi.nv.gov
- Call (775) 687-0700

(3) What is the anticipated impact of the regulation on the problem(s)?

It is expected that the regulations will help bail licensees better understand their roles and obligations to decrease the number of consumer complaints and investigations involving bail, to improve the public’s experience in the business of bail, to improve public safety, and to improve the bail industry’s reputation.

(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?

When bail licensees and the public understand the roles and limitations of bail licenses, bail licensees will better serve the public. Further, the public trust in the business of bail will improve because communities will be safer, the bail industry’s reputation will improve, and the public will better understand the purpose of and process for bail.

(7) What is the anticipated economic benefit of the regulation? Provide a statement as to potential beneficial impact on the following:

a. Public

1. Immediate: Fewer violations and abuses and, consequently, fewer complaints due to bail licensees improperly keeping collateral security and charging fees; fewer resources spent to address community safety and complaints to law enforcement.
2. Long Term: Fewer instances of violations and abuses due to bail licensees improperly keeping collateral security and charging fees; fewer resources spent to address community safety and complaints to law enforcement.

b. Business of Bail

1. Immediate: The bail industry’s reputation will improve, leading to more people being willing to use commercial bail; fewer resources spent on complaints,

investigations, misunderstandings related to bail transactions, as well as community safety.

2. Long Term: The bail industry's reputation will improve, leading to more people being willing to use commercial bail; fewer resources spent on complaints, investigations, misunderstandings related to bail transactions, as well as community safety.

c. Small Businesses

1. Immediate: None anticipated.
2. Long Term: None anticipated.

d. Small Communities

1. Immediate: The proposed regulations will improve community safety and public trust when bail licensees act within the scope of their licenses, with fewer resources spent on complaints, investigations, misunderstandings related to bail transactions.
2. Long Term: The proposed regulations will improve community safety and public trust when bail licensees act within the scope of their licenses, with fewer resources spent on complaints, investigations, misunderstandings related to bail transactions.

e. Government Entities

1. Immediate: Fewer resources spent by local law enforcement on complaints, investigations, misunderstandings related to bail transactions, resulting in more effective use of law enforcement; bail licensees will be more professional with courts, and fewer court resources spent on addressing issues related to bail transactions; fewer Division resources spent on complaints, investigations, and hearings as a result of more effective regulation.
2. Long Term: Fewer resources spent by local law enforcement on complaints, investigations, misunderstandings related to bail transactions, resulting in more effective use of law enforcement; bail licensees will be more professional with courts, and fewer court resources spent on addressing issues related to bail transactions; fewer Division resources spent on complaints, investigations, and hearings as a result of more effective regulation.

(8) What is the anticipated adverse impact, if any? Provide a statement as to any anticipated adverse impact, including adverse economic effects, on the following:

a. Public

1. Immediate: None anticipated.
2. Long Term: None anticipated.

b. Business of Bail

1. Immediate: None anticipated.
2. Long Term: None anticipated.

c. Small Businesses

1. Immediate: None anticipated.
2. Long Term: None anticipated.

d. Small Communities

1. Immediate: None anticipated.
2. Long Term: None anticipated.

e. Government Entities

1. Immediate: None anticipated.
2. Long Term: None anticipated.

(9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:

- a. Enactment: None.
- b. Enforcement: No change.
- c. Compliance: No change.

(10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee.

The proposed regulation will neither establish a new fee nor increase an existing fee.

(11) Provide a statement which identifies 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.

The Division has undergone significant review and analysis of bail laws, studied the business of bail and examination results, and talked to bail associations, other states, and current and former bail licensees. The Division determined that small businesses in general are not involved in or affected by bail transactions unless the business is a bail agency—bail agencies tend to be small businesses. These proposed regulations should help bail agencies better understand Nevada bail laws and eliminate confusing or contradictory language between the statutes and the old regulations, which should make bail operations more efficient and transparent, making compliance much easier for bail agencies and potentially resulting in cost savings. These regulations are intended to eliminate outdated regulations and to make roles and obligations of bail licensees consistent with Nevada’s bail statutes, and are not intended to impose duties or obligations beyond what is currently required. The proposed regulations will not affect the formation or expansion of bail agencies that are small businesses.

(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.

None.

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

Not applicable, as this regulation is not required pursuant to federal law.

- (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.

Not applicable, as this regulation does not include more stringent provisions.

Notice of the hearing has been provided as follows:

By email to all persons on the Division's e-mail list for noticing of administrative regulations.
By email for posting by the Nevada State Library, Archives and Public Records Administrator.
By email for posting by the Nevada Legislature.
Published to the Nevada Legislature website: <https://leg.state.nv.us/>.
Published to the Division of Insurance website: <https://doi.nv.gov/>.
Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this _____ day of October 2022.

BARBARA D. RICHARDSON
Commissioner of Insurance