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SCOTT J. KIPPER
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION
LCB File No. R109-23
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter(s) 686A and 688A of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: December 18, 2023
Time: 9:30 a.m.
Location: This meeting will be held virtually via Webex and in person. See options below. (For help using Webex, visit <https://help.webex.com>.)

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=m0053a77d6a59ffa28da22d49098886dc>

Meeting Number: 2632 609 4891

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 723 2918

To attend in person, the following physical locations are being made available:

Nevada Division of Insurance
1818 E. College Pkwy., Ste. 103
Carson City, NV 89706

Nevada Division of Insurance
3300 W. Sahara Ave.
Nevada Room, Ste. 400, 4th Floor
Las Vegas, NV 89102

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

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: R109-23.
2. Presentation of Proposed Regulation.

LCB FILE NO. R109-23 - ANNUITY SUITABILITY AND BEST INTEREST

A regulation relating to insurance; adopting provisions concerning required training for producers of insurance who sell annuities; revising provisions governing the duties of producers of insurance and insurers with respect to the sale of annuities; revising requirements for systems to supervise persons engaged in the sale of annuities; and providing other matters properly relating thereto.

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: R109-23.

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 by email to regs@doi.nv.gov. 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 11, 2023**. 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) Why is the regulation necessary and what is its purpose?

The regulation is necessary to protect Nevada consumers when engaging in transactions relating to annuities. The purpose of the regulation is to expand the current annuity suitability regulations to conform to federal requirements as well as require insurers to establish a system to supervise recommendations. Additionally, this regulation will set forth standards and procedures for making annuity recommendations to consumers that are suitable and meet the insurance needs and financial objectives of consumers at the time of the transaction. The federal law, known as the Dodd-Frank Act, has incorporated into federal law the suitability provisions from the National Association of Insurance Commissioners (“NAIC”) 2010 Suitability in Annuity Transactions Model Regulation #275, and has directed states to adopt the 2010 or newer NAIC model.

(2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues and problems involved.

Annuity products are complicated financial products which carry fees, surrender charges, surrender periods and other components which can be difficult for a consumer to properly understand. The intent of this regulation is to provide consumer protection by updating with the NAIC Model Regulation #275. This entails expanding existing requirements related to recommendations made to consumers involving annuity transactions as well as expanding on the requirements of insurers and producers of insurance to establish a system for ensuring that recommendations made to consumers are in compliance with Nevada law and meet the insurance needs and financial objectives of the consumer.

Further protections are incorporated into this regulation by requiring producers or insurers to disclose information concerning the scope of their license, any material conflicts of interest, sources and types of compensation, and the annuity products they sell. The regulation also requires that no producer or insurer shall solicit the sale or replacement of an annuity product without adequate knowledge of the product, and it requires an insurance producer who engages in the sale of annuity products to complete a 4-hour training course. The regulation outlines what information must be covered in the 4-hour training course.

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

The Division anticipates that by requiring insurers or producers of insurance to better assess the suitability of the annuity products being recommended, the regulation will have a beneficial impact on consumers. The system for monitoring recommendations, the required disclosures, and the training requirements will ensure that knowledgeable individuals are selling the product, provide a system for monitoring compliance, and ultimately create a more transparent process to ensure that consumers’ insurance needs and financial objectives are being considered.

(4) Do other regulations address the same problem(s)?

NAC 688A currently contains provisions related to annuity suitability and systems for ensuring compliance with Nevada's laws on annuity suitability, but they are outdated and do not comply with federal requirements related to annuity transactions, nor do they include the provisions contained in this regulation to further protect Nevada consumers.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

No, the alternate forms of regulation are not sufficient to address the problem.

(6) What value does the regulation have to the public?

The value of the regulation to the public is that consumers are afforded greater protections. The complex nature of annuities and the difficulty the public can have understanding the various aspects of an annuity can potentially cause financial hardship to consumers. The provisions of this regulation will provide another layer of protection for Nevada consumers.

(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: The provisions of this regulation will provide additional protections for Nevada consumers. Consumers should be able to make better financial decisions due to the increased requirements related to annuity transactions and the considerations and disclosures which producers and insurers must adhere to under this regulation.

2. Long Term: The provisions of this regulation will provide additional protections for Nevada consumers. Consumers should be able to make better financial decisions due to the increased requirements related to annuity transactions and the considerations and disclosures which producers and insurers must adhere to under this regulation.

b. Insurance Business

1. Immediate: The provisions of the proposed regulation will better protect consumers when conducting annuity transactions and will allow insurance carriers to better understand the financial objectives of their consumers and more effectively select products that fit consumers' needs. In establishing a supervision system for making recommendations, as well as educating their producers on annuity products, the insurance carriers will have more complete information for assessing the quality of their producers and the recommendations they are making to consumers.

2. Long Term: Over time the carriers will be able to use the information provided to better train their producers on the annuities they offer; and, through the supervision system, they can better determine those producers making recommendations that are suitable and meet the insurance needs and financial objectives of consumers.

c. Small Businesses

1. Immediate: The Division does not anticipate an immediate economic benefit to small businesses.

2. Long Term: The Division does not anticipate a long-term economic benefit to small businesses.
- d. Small Communities
 1. Immediate: The Division does not anticipate an economic benefit for small communities beyond the additional consumer protections it will provide to the individual members of the public.
 2. Long Term: The Division does not anticipate an economic benefit for small communities beyond the additional consumer protections it will provide to the individual members of the public.
 - e. Government Entities
 1. Immediate: The Division does not anticipate an economic benefit on government entities.
 2. Long Term: The Division does not anticipate an economic benefit on government entities.

(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: The Division does not anticipate an adverse impact on the public.
 2. Long Term: The Division does not anticipate an adverse impact on the public.
- b. Insurance Business
 1. Immediate: The Division anticipates a small impact from this regulation for insurance carriers. The impact will be minimized given that most carriers operate in states outside of Nevada that have already adopted many of these provisions.
 2. Long Term: The Division anticipates a small impact from this regulation for insurance carriers. The impact will be minimized given that most carriers operate in states outside of Nevada that have already adopted many of these provisions.
- c. Small Businesses
 1. Immediate: The Division does not anticipate an adverse impact.
 2. Long Term: The Division does not anticipate a long-term adverse impact.
- d. Small Communities
 1. Immediate: No adverse impact is anticipated by this regulation.
 2. Long Term: No adverse impact is anticipated by this regulation.
- e. Government Entities
 1. Immediate: No adverse impact is anticipated by this regulation.
 2. Long Term: No adverse impact is anticipated by this regulation.

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

The Division anticipates no additional costs.

a. Enactment: The proposed regulation expands on existing requirements which have already been enacted by the Division. Therefore, the Division does not anticipate any additional costs from the proposed regulations.

b. Enforcement: The proposed regulation expands on existing requirements which have already been enacted and are currently being enforced by the Division, so the Division does not anticipate any additional costs from the proposed regulation. In regard to the new continuing education requirements, the Division already has procedures in place to monitor continuing education requirements for licensees in the state of Nevada. The Division, therefore, does not anticipate additional costs for enforcing this provision.

c. Compliance: The Division does not anticipate an additional cost.

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

The regulation does not create a new fee or 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 conducted a survey related to this regulation which was distributed through the Chambers of Commerce in Nevada. The survey was also sent out to agency organizations, life and health insurers, and other interested parties, for comments and feedback.

(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.

There are no regulations of other state or local governmental agencies that overlap or duplicate the proposed regulation. Although no federal law exists that duplicates this regulation, the Dodd-Frank Act requires states to implement suitability requirements that meet or exceed the requirements established by the Suitability in Annuity Transactions Model Regulation adopted by the National Association of Insurance Commissioners.

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

The Dodd-Frank Act requires states to implement suitability requirements that meet or exceed the requirements established by the Suitability in Annuity Transactions Model Regulation adopted by the National Association of Insurance Commissioners.

(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.

There are no federal regulations that address the requirements in the regulation.

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 State of Nevada County Libraries.

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 14th day of November 2023.

By:



SCOTT J. KIPPER
Commissioner of Insurance

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

**Revised Determination of Necessity - Small Business Impact Statement
NRS 233B.0608(1)**

Annuity Suitability

A regulation relating to transactions involving annuity products; the regulation introduces provisions related to recommendations to consumers to ensure that they are suitable and result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. The regulation includes provisions to ensure that an insurance producer has adequate knowledge of a product prior to soliciting the sale or replacement of an annuity product.

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. BACKGROUND.

The regulation was proposed under the authority of NRS 686A.015. The regulation amends NAC 688A, providing requirements for the solicitation of annuities, and providing other matters properly relating thereto. The purpose of the regulation is to expand the current annuity suitability regulations to conform to federal requirements as well as to require insurers to establish a system to supervise recommendations. Further, the regulation sets forth standards and procedures concerning recommendations to consumers to ensure that they are suitable and result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. The federal law, known as the Dodd-Frank Act, has incorporated into federal law the suitability provisions from the National Association of Insurance Commissioners ("NAIC") 2010 Suitability in Annuity Transactions Model Regulation #275, and has directed states to adopt the 2010 or newer NAIC model.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

The Division of Insurance drafted a survey using Survey Monkey requesting respondents self-identify as a statutory small business and provide feedback concerning the effects of the proposed regulation on business. The survey consisted of the following questions:

1. "Please provide us with your contact information."
2. "How many employees work at your company?"
3. "Please select the most * appropriate option."
 - a. "Insurance Company that provides Annuities"
 - b. "Insurance Company that does not provide Annuities"
 - c. "Producer/Broker that has sold an Annuity in the last year"
 - d. "Producer/Broker that has not sold an Annuity in the last year"
 - e. "Small Business Owner using Annuity products"
 - f. "Small Business Owner not using Annuity products"

4. "The proposed regulation amends NAC 688A.455 by expanding the responsibilities of an insurer or producer of insurance when making recommendations related to an annuity transaction. What type of impact does your company anticipate these expanded suitability and best interest provisions having on your day to day operations?"
5. "The proposed regulation amends NAC 688A.460 related to the establishment of a system to supervise recommendations. What type of impact does your company anticipate these amended provisions having?"
6. "Section 7 of the proposed regulation introduces requirements to ensure an insurance producer has adequate knowledge of the product to recommend an annuity. How much of an impact would the provisions of section 7 and the 4 hour annuity training requirement put on your business?"

The survey was sent out to the Chambers of Commerce throughout the state of Nevada for distribution to their members. The Division also sent the survey to the Commissioner's Agency Advisory Council and the Commissioner's Life and Health Advisory Committee for response and distribution to any interested parties. In addition to distributing the survey to the Commissioner's Life and Health Advisory Committee and the Commissioner's Agency Advisory Council, the Division sought discussion, feedback, and comments from both groups during their meetings.

3. 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).

NO YES


4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

Based on analysis done by Division staff, including feedback received from the survey and interested parties, the Division anticipates the impact of this regulation will primarily be on small independent agents, producers, and brokers conducting annuity transactions. The limited feedback the Division has received to date would indicate that there will not be a direct and significant economic burden placed upon a small business conducting annuity transactions to comply with the expanded provisions of the proposed regulation.

I, SCOTT J. KIPPER, Commissioner of Insurance for the State of Nevada, hereby 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 this statement is accurate. (NRS 233B.0608(3))

November 14, 2023

 (DATE)



 SCOTT J. KIPPER
 Commissioner of Insurance

Revised Small Business Impact Statement
NRS 233B.0608(2)-(4) and 233B.0609

Annuity Suitability

A regulation relating to transactions involving annuity products; the regulation introduces provisions related to recommendations to consumers to ensure that they are suitable and result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. The regulation includes provisions to ensure that an insurance producer has adequate knowledge of a product prior to soliciting the sale or replacement of an annuity product.

1. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).

To date the Division has received 11 responses to the survey related to the proposed regulation. Of those 11 responses, only 5 were considered small businesses in that they had 50 or fewer employees. The overall results indicated a low to moderate impact related to expanding the recommendation requirements, and a moderate impact to expanding the current provisions relating to establishing a system for supervising recommendations and implementing a 4-hour training course on annuity products.

When the results were isolated to companies with 50 or fewer employees, the results indicated a moderate impact related to expanding the recommendation requirements, a moderate to significant impact to expanding the current provisions relating to establishing a system for supervising recommendations, and a moderate impact to implementing a 4-hour training course on annuity products. Based upon the comments received, the only impacts on small businesses are related to those small businesses that are producers of insurance required to comply with the provisions of this regulation. This regulation does not have any impact on non-insurance related small businesses.

The feedback from the Commissioner's Agency Advisory Council is that most states have already adopted the Annuity Suitability Provisions of the NAIC 2015 model, and, for those agencies, producers, or brokers doing business outside of Nevada, they are already accustomed to these requirements. There was general concern expressed about the over-regulation of agents, brokers, and producers, given the limited resources they have, and that more of the regulation should be placed on the carriers.

The Division will continue to accept survey results, comments and feedback from interested parties and incorporate these into our analysis on the small business impact.

Other interested parties may receive a copy of this summary by contacting the Nevada Division of Insurance, at regs@doi.nv.gov.

2. HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).

Division personnel deemed subject matter experts analyzed the small business impact based upon the results of the survey, comments received, and analysis of the requirements of the regulation. Upon receipt of comments from the small business community, the Division personnel responsible for this analysis reviewed comments along with analysis completed by the Division's Life and Health Section.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).

The Division anticipates a very minor economic effect from the proposed regulation on those licensed producers selling annuity products. The Division anticipates that the impact will be lessened given that many of the proposed revisions are expansions of requirements already in place and do not represent a new regulatory requirement which must be implemented. The Division does not anticipate any economic impact on other small businesses in the state of Nevada.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).

The Division anticipates that the proposed regulation and the provisions it contains have been constructed to minimize the impact on the small business, while still affording the consumers the protections needed when conducting annuity transactions. Most of the producers from whom the Division obtained feedback indicated they were also licensed in other states that have previously enacted the updated NAIC model and, therefore, have already implemented most of the requirements contained in this proposed regulation.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

The proposed regulation expands on existing requirements which have already been enacted and are currently being enforced by the Division. The Division does not anticipate any additional costs associated from the proposed regulation. In regards to the new continuing education requirements, the Division already has procedures in place to monitor continuing education requirements for licensees in the state of Nevada and, therefore, does not anticipate additional costs for enforcing this provision.

6. FEE CHANGES. NRS 233B.0609(1)(f).

No new or additional fees are established.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).


There are no other regulations that overlap or duplicate the regulation.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

Based on analysis performed by Division staff, including feedback received from our survey and interested parties, the Division anticipates the impact of this proposed regulation will primarily be on small independent agents, producers, and brokers conducting annuity transactions. The limited feedback the Division has received to date would indicate an expected small impact on insurance producer-owned small businesses conducting annuity transactions to comply with the expanded provisions of the proposed regulation. The Division has tried to minimize the impact this regulation will have on these small businesses, while still affording protections to the consumers who conduct transactions related to annuities. No other Nevada small businesses are expected to have an economic impact from this regulation.

I, SCOTT J. KIPPER, Commissioner of Insurance for the State of Nevada, hereby 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 this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

November 14, 2023
(DATE)


SCOTT J. KIPPER
Commissioner of Insurance