

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB FILE NO. R155-24I**

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**PROPOSED PERMANENT REGULATION OF THE  
COMMISSIONER OF INSURANCE**

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February 27, 2024

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

AUTHORITY: § 1, NRS 616B.300 and 679B.130; §§ 2-4, NRS 616B.353, 616B.446 and 679B.130; § 5, 616B.446 and 679B.130; § 6, NRS 616B.404, 616B.446 and 679B.130

A REGULATION relating to insurance;

**Section 1.** NAC 616B.424 is hereby amended to read as follows:

NAC 616B.424                    In order to be eligible to establish a program of self-insurance, an employer must:

1. Except as otherwise provided in NAC 616B.427 and 616B.433, be a legally qualified business entity having a tangible net worth of at least \$2,500,000.
2. If other than a governmental employer, be licensed to do business in Nevada.
3. Make the deposits required by NAC 616B.436. If the business has been operated at a loss in any of the past 3 years, the Commissioner may increase the required deposit by a minimum amount of 20 percent of the deposit.
4. Provide a complete copy of a policy of excess insurance to the Commissioner within 60 days after the issuance of the policy as evidence of excess insurance in accordance with NRS 616B.300. The policy must, without limitation:
  - (a) Provide coverage for losses in excess of a self-insured retention of not less than \$100,000 *and not more than \$1,000,000*;

(b) Contain a provisions requiring at least 60 days' notice of cancellation; and

(c) Contain a provision which states that the bankruptcy or insolvency of the self-insured employer will not relieve the insurer of its duties under the policy and that reimbursement will be made by the insurer as if the self-insured employer had not become bankrupt or insolvent.

5. Present evidence that the business has administrative resources which will enable it to timely report, administer and settle all claims. The resources which are necessary include, without limitation:

(a) The ability of the employer to know and correctly apply the worker's compensation laws and regulations of this State;

(b) A qualified, licensed and competent administrator of the program who is located in Nevada;

(c) An existing and feasible plan for the program of self-insurance which provides for an immediate and personal response to an employee's claim;

(d) A plan for the administration of claims which includes written instructions or examples of how to apply the worker's compensation law to ensure continuity of services to employees as well as ease of audit by company personnel and regulatory agencies;

(e) The ability to communicate the plan for the administration of the program, including, without limitation, such topics as benefits, filing procedures and the right of appeal, to the appropriate managers of the business and to all employees; and

(f) Standards of performance for the administration of the program of self-insurance.

**Sec. 2.** NAC 616B.534 is hereby amended to read as follows:

NAC 616B.534            1.        Each association shall maintain a policy of specific and aggregate excess insurance ~~[with a self-insured retention of no less than \$100,000]~~ *and provide a*

*complete copy of the policy of excess insurance to the Commissioner within 60 days after the issuance of the policy as evidence of compliance with NRS 616B.353. The policy must, without limitation:*

*(a) Provide coverage for losses in excess of a self-insured retention of not less than \$100,000 and not greater than \$1,000,000;*

*(b) Contain a provision requiring at least 60 days' notice of cancellation; and*

*(c) Contain a provision which states that the bankruptcy or insolvency of the association will not relieve the insurer of its duties under the policy and that reimbursement will be made by the insurer as if the association had not become bankrupt or insolvent.*

2. The Commissioner will review the amount of insurance required for an association and may adjust the amount if he or she determines that changed conditions warrant an adjustment.

**Sec. 3.** 616B.537 is hereby amended to read as follows:

NAC 616B.537            1.        The Commissioner will determine the amount of security an association must deposit pursuant to paragraph (d) of subsection 1 of NRS 616B.353 by calculating an amount that is ~~one-half of~~ the association's expected annual incurred cost of claims and increasing or decreasing that amount, if necessary ~~and within the limitations set forth in subsection 2~~, based on:

- (a) The past and future experience of the association with losses and expenses;
- (b) The hazard of catastrophic loss for the association or the type of employers who are members of the association;
- (c) The current trends concerning losses within the State;
- (d) The nature of the businesses of the members of the association;

- (e) The financial ability of the association to pay all compensation due under chapters 616A to 617, inclusive, of NRS;
- (f) The probable stability and longevity of the operations of the association; and
- (g) Such other contingencies as the Commissioner deems necessary.

2. ~~[Except as otherwise provided in subsection 3, the]~~ *The* amount of security required must not be less than \$100,000 ~~[and must not exceed an amount equal to the sum of two times the amount of the self-insured retention maintained by the association pursuant to its policy of aggregate excess insurance and the annual amount paid out for the administration of claims].~~

3. *If the association has been operated at a loss in any of the past 3 years, the Commissioner may increase the required deposit by a minimum amount of 20 percent of the deposit.*

4. The Commissioner may adjust the amount of security required if he or she determines that changed conditions warrant such an adjustment, except in no case may the amount be less than \$100,000.

**Sec. 4.** NAC 616B.549 is hereby amended to read as follows:

NAC 616B.549                    1.        Except as otherwise provided in subsection 2, a third-party administrator of an association shall deposit with the Commissioner a bond in the amount of \$1,000 for each \$100,000, or portion thereof, of the association's money which he or she will control in the next calendar year ~~[, less the amount of any bond that he or she must file pursuant to NRS 683A.0857].~~ The Commissioner may require a third-party administrator to increase the amount of the bond if there is an increase in the amount of the association's money that he or she controls.

2. *The minimum bond required pursuant to this section is \$100,000.* The maximum bond required pursuant to this section is \$1,000,000.

3. On or before April 1 of each year, a third-party administrator of an association shall file with the Commissioner a statement of the actual amount of the association's money that he or she controlled in the previous calendar year and the amount of the association's money that he or she expects to control in the next calendar year. *The amount reported pursuant to this section shall be specific to the association and is distinct from the amount reported pursuant to NAC 683A.155.*

**Sec. 5.** NAC 616B.598 is hereby amended to read as follows:

NAC 616B.598            1.        An association must submit a request for approval of a declaration of a dividend to the Commissioner not less than 30 days before the proposed date of the declaration of the dividend.

2.        An association must submit a request for approval of a distribution of a dividend to the Commissioner not less than 30 days before the proposed date of the distribution of the dividend.

3.        A request for approval of a distribution of a dividend submitted by an association pursuant to subsection 2 must include:

(a) An actuarial analysis of loss reserves that was prepared by a member of the American Academy of Actuaries not more than 90 days before the date that the request is submitted pursuant to subsection 2;

(b) An analysis of the assets and obligations of the association by fund year that was prepared by the association on a form approved by the Commissioner and includes a detail of the unrealized gains and losses of the association;

(c) The proposed date of the distribution of the dividend;

- (d) The amount of the dividend by fund year;
- (e) A copy of the most recent financial statements of the association;
- (f) Any other information or report that the Commissioner determines to be necessary to evaluate the request; and
- (g) If an association has a deficit in any fund year, a plan for making up the deficit of the association that meets the requirements of NRS 616B.422.

3. *In determining whether to grant approval of a distribution of a dividend submitted by an association pursuant to subsection 2, the Commissioner may consider the following factors, without limitation:*

- (a) The leverage and liquidity ratios of the association;*
- (b) Any reoccurring losses of the association in the immediately preceding 3 years; and*
- (c) Any adverse findings from the most recent examination of the association.*

4. As used in this section:

(a) “Dividend” means any distribution of earnings or retained earnings, in the form of money or property, from an association to the members of the association.

(b) “Fund year” means the fiscal year used by an association for the purposes of financial reporting.

*(c) “Leverage ratio” means a financial measure indicative of the level of debt incurred by an association against one or more other accounts in its balance sheet, income statement, or cash flow statement. The term may include, without limitation:*

- (1) The ratio of debt to equity, including, without limitation, capital, surplus, policyholders’ surplus, or net position;*
- (3) The ratio of debt to assets;*

(4) *The ratio of assets to equity, including, without limitation, capital, surplus, policyholders' surplus, or net position; and*

(5) *The ratio of debt to earnings before interest, taxes, depreciation, and amortization.*

(d) *“Liquidity ratio” means a financial measure indicative of an association’s ability to pay short-term debt obligations. The term may include, without limitation:*

(1) *The ratio of current assets to current liabilities;*

(2) *The ratio of cash, accounts receivable and marketable securities to current liabilities; and*

(3) *The ratio of cash and marketable securities to current liabilities,*

↪ *including all incurred but not reported and incurred but not paid reserves.*

(e) *“Reoccurring losses” means two or more years of net operating losses without regard to the frequency or periodicity of the net operating losses.*

**Sec. 6.** NAC 616B.609 is hereby amended to read as follows:

NAC 616B.609                    The audited statement of the financial condition of an association required by NRS 616B.404 must be:

1. Prepared in accordance with generally accepted accounting principles of the United States, stated in United States dollars, and must contain the footnotes and opinions of the independent certified public accountant who prepared it.

2. Accompanied by a statement, *on a form prescribed by the Commissioner*, prepared by the independent certified public accountant who prepared the audited statement, certifying that the combined tangible net worth of all members of the association satisfies the requirements of



NRS 616B.353 and that all members meet the financial requirements for membership that are established by law, the bylaws of the association or the underwriting plan of the association.