

**PROPOSED REGULATION OF THE COMMISSIONER
OF FINANCIAL INSTITUTIONS**

LCB File No. R101-01

September 27, 2001

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

AUTHORITY: §§1-10, NRS 677.247 and 677.380.

Section 1. Chapter 677 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *“Commissioner” has the meaning ascribed to it in NRS 677.065.*

Sec. 3. *“Deposit” has the meaning ascribed to it in NRS 677.075.*

Sec. 4. 1. *Before the commissioner will approve a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247, the licensee must, in addition to satisfying the requirements of subsection 2 of NRS 677.247:*

(a) Create and maintain reserves of not less than 5 percent of deposits in a form set forth in subsection 1 of NRS 677.230;

(b) File with the commissioner a fidelity bond pursuant to NRS 677.170 that provides fidelity coverage on each officer, director and employee of at least \$300,000;

(c) Maintain stockholders’ equity of not less than \$500,000 plus an additional \$50,000 for each branch office of the thrift company of the licensee;

(d) Agree to forego entering into a contract for the insurance of deposits with a private insurer that is an affiliated business organization unless the contract has been approved by the commissioner and the commissioner of insurance; and

(e) Comply with any applicable provisions of federal law.

2. If the commissioner withdraws his approval from a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 because a licensee or private insurer who is a party to the contract violates a provision of this chapter or chapter 677 of NRS, the licensee or private insurer may request a hearing before the commissioner. The commissioner will schedule and hold such a hearing pursuant to chapter 233B of NRS.

3. If the commissioner of insurance withdraws his approval from a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 because a licensee or private insurer who is a party to the contract violates a provision of Title 57 of NRS or the regulations adopted pursuant thereto, the licensee or private insurer may request a hearing before the commissioner of insurance pursuant to NRS 679B.310.

4. As used in this section:

(a) "Affiliated business organization" means a business organization, including, without limitation, a corporation or partnership that controls, is controlled by or is under common control with the business organization of a licensee.

(b) "Stockholders' equity" has the meaning ascribed to it in NRS 677.125.

Sec. 5. 1. Before the commissioner will approve a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247, a private insurer must:

(a) Be licensed in this state by the commissioner of insurance;

(b) Be rated within one of the five highest rating categories by a national rating service or hold a certificate of authority as an acceptable surety on federal bonds issued by the Secretary of the Treasury pursuant to 31 C.F.R. § 223.3; and

(c) Agree to:

(1) Submit quarterly and annual financial statements to the commissioner and the commissioner of insurance;

(2) Maintain an investment portfolio that includes assets of sufficient liquidity to reimburse depositors fully and promptly for any losses which the depositors may incur, including, without limitation, cash, reinsurance and lines of credit; and

(3) Create and maintain reserves of not less than 15 percent of the amount of the insured deposits in the form of:

(I) Cash;

(II) United States treasury bills or notes;

(III) Short-term certificates of deposit;

(IV) Money market accounts;

(V) Lines of credit; or

(VI) The investments set forth in NRS 355.140.

2. As used in this section, "short-term" means having a maturity of 2 years or less.

Sec. 6. 1. In determining whether a private insurer is acceptable to issue a contract for the insurance of deposits, the commissioner will consider:

(a) The value of the insurer's capital;

(b) The qualifications of the directors, officers and managers of the insurance company;

(c) The insurer's articles of incorporation and its bylaws and all amendments thereto;

(d) The insurer's policies for investments; and

(e) The form of all insurance contracts entered into by the insurer, including contracts for reinsurance.

2. After a private insurer obtains the approval of the commissioner and the commissioner of insurance to issue a contract for the insurance of deposits, the commissioner, after consultation with the commissioner of insurance, may, for cause, require the insurer to establish and maintain, for such a time as the commissioner may require, an additional reserve, in cash or United States treasury bills or notes, in an amount fixed by the commissioner. If required, the reserve must be kept in an account approved by the commissioner in a federally insured financial institution located in this state.

Sec. 7. 1. A licensee who has obtained a contract for the insurance of deposits that is issued by a private insurer pursuant to subsection 2 of NRS 677.247 shall, before accepting a deposit from a person, require that person to sign and date a form which contains a disclosure written in substantially the following form:

Your deposit is not insured by the Federal Deposit Insurance Corporation or any other federal or state entity. The deposits with this thrift company are insured only by a private insurer. The name of the private insurer that is insuring your deposit is.....(insert name of private insurer). You are advised to fully consider this issue before depositing money with this company.

2. The disclosure set forth in subsection 1 must be printed in at least 8-point bold type. The licensee may place the disclosure on a form that contains other information if the block for the signature and date are in close proximity to the text of the disclosure.

3. The licensee shall:

- (a) Provide a copy of the form with the signed disclosure to each person who deposits money with the thrift company of the licensee;*
- (b) Retain the original form with the signed disclosure for at least 6 years after the form is signed;*
- (c) Present the original or a copy of the disclosure upon request by the commissioner or an employee of the division of financial institutions designated by the commissioner;*
- (d) Post a placard with the disclosure printed on it in at least 14-point bold type:
 - (1) At the main entrance to the principal office and each branch office of the thrift company of the licensee; and*
 - (2) In a conspicuous place at each teller's window located at the principal office and each branch office of the thrift company of the licensee; and**
- (e) Comply with any other applicable disclosure requirements set forth in federal law.*

Sec. 8. *The commissioner may request that the commissioner of insurance:*

- 1. Conduct an examination, in the manner set forth in chapter 679B of NRS, of a private insurer that issues a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247; and*
- 2. Report the results of the examination to the commissioner within 60 days of receipt of such a request.*

Sec. 9. *1. A private insurer that issues a contract for the insurance of deposits pursuant to subsection 2 of NRS 677.247 shall notify the commissioner within 3 business days after the private insurer has knowledge of any change:*

- (a) In the ownership of 10 percent or more of the outstanding voting stock of the private insurer if the private insurer is a corporation; or*

(b) Of the partners of the private insurer if the private insurer is a partnership.

2. Within 60 days after receipt of a notice of change pursuant to subsection 1, the commissioner will approve or disapprove the continuance of the insurance of deposits by the private insurer.

3. If the commissioner disapproves the continuance of the insurance of deposits by the private insurer, the private insurer may request a hearing before the commissioner. The commissioner will schedule and hold such a hearing pursuant to chapter 233B of NRS.

Sec. 10. NAC 677.010 is hereby amended to read as follows:

677.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 677.020 to 677.110, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.