

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R025-02

Effective May 31, 2002

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

AUTHORITY: §1, NRS 679B.130, 680A.265 and 680A.270; §2, NRS 679B.130.

Section 1. NAC 680A.160 is hereby amended to read as follows:

680A.160 1. As a condition of doing business in this state, each insurer must file with the commissioner an annual statement that:

(a) Conforms to the format prescribed by the National Association of Insurance Commissioners in the Annual Statement Instructions ~~;~~ *and the Accounting Practices and Procedures Manual*; and

(b) Contains exhibits and schedules that follow the specifications developed by the National Association of Insurance Commissioners.

2. ~~[Except as otherwise provided in subsection 7, information]~~ *Information* from the insurer's annual statement must be filed:

(a) Pursuant to the specifications adopted by the National Association of Insurance Commissioners for filing information ~~[on diskette;]~~ *in an electronic format*;

(b) At the central office of the National Association of Insurance Commissioners, ~~[120 West 12th Street, Suite 1100,]~~ *2301 McGee Street, Suite 800*, Kansas City, Missouri ~~[64105;]~~ *64108-2604*; and

(c) On or before March 1 of each year.

3. The form of an annual statement required by NRS 680A.270 to be filed with the commissioner must be the most current adopted by the National Association of Insurance Commissioners for the type of insurer reporting. The forms are hereby adopted by reference. Each insurer filing the form shall follow the instructions *adopted by the National Association of Insurance Commissioners* for ~~[an]~~ *the type of* annual statement ~~[. A copy of the form for fire and casualty insurers, or a copy of the form for life, accident and health insurers, may be obtained at a cost of \$75. A copy of the form for health maintenance organizations may be obtained at a cost of \$50.]~~ *to be filed*. These forms may be obtained from the National Association of Insurance Commissioners, ~~[120 West 12th Street,]~~ *Publications Department, 2301 McGee Street, Suite 800*, Kansas City, Missouri ~~[64105-1925.]~~ *64108-2604 for the following costs:*

(a) *For forms for an annual statement for property or casualty insurers, \$175.*

(b) *For forms for an annual statement for life, accident or health insurers, \$175.*

(c) *For forms for an annual statement for health insurers, \$125.*

4. If necessary to determine *a foreign or an alien* insurer's financial condition, fulfillment of contractual obligations and compliance with law, the commissioner will require the *foreign or alien* insurer to file a financial statement more frequently than annually. ~~[If a quarterly statement is required by the commissioner, it]~~ *Such a statement* must be:

(a) Filed on the most current form adopted by the National Association of Insurance Commissioners for the type of insurer reporting; ~~[and]~~

(b) Completed in accordance with the instructions accompanying that form ~~[.]~~; *and*

(c) *Filed with the National Association of Insurance Commissioners in an electronic format.*

5. *Each domestic insurer shall file a quarterly statement. A quarterly statement must be:*

(a) Filed on the most current form adopted by the National Association of Insurance

Commissioners for the type of insurer reporting;

(b) Completed in accordance with the instructions accompanying that form; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

6. A domestic insurer that is not licensed or authorized to do business in any state other than this state may apply for an exemption from the requirement to complete the “Statement of Actuarial Opinion” required by the Annual Statement Instructions of the National Association of Insurance Commissioners as part of the domestic insurer’s annual statement. The application must:

(a) Be in writing.

(b) Be submitted by December 1 of the calendar year which will be covered in the annual statement.

(c) Include an agreement and acknowledgment from the domestic insurer that the commissioner may use the services of an independent actuary to certify losses and reserves for loss adjustment expenses in relation to any examination of the domestic insurer pursuant to NRS 679B.230.

(d) Demonstrate that no significant changes and no unusual or large claims have occurred or are expected to occur during the calendar year which will be covered in the annual statement.

~~6.~~ 7. The commissioner will grant an application for an exemption made pursuant to subsection ~~5~~ 6 if he determines, upon review of the application, that having to file the “Statement of Actuarial Opinion” would constitute a financial or organizational hardship upon

the domestic insurer or that the insurer has shown other good cause why it should not have to file the statement. A domestic insurer which has been granted an exemption pursuant to this subsection must file with its annual statement a signed affidavit given by one of its officers under oath that certifies the accuracy and adequacy of the reserves stated in its annual statement.

~~[7.]~~ 8. A domestic insurer ~~[that is]~~ *licensed only to sell insurance for home protection but not licensed or authorized to do business in any state other than this state is ~~[not required to file an annual statement with the National Association of Insurance Commissioners pursuant to subsection 2 for any year in which its written premium is less than \$1,000,000.] exempt from the requirement to complete the “Statement of Actuarial Opinion” required by the Annual Statement Instructions of the National Association of Insurance Commissioners as part of the annual statement of the domestic insurer if the domestic insurer:~~*

(a) Completes and submits with its annual statement forms provided by the commissioner for reporting information concerning claims; and

(b) Complies with the requirements of paragraphs (c) and (d) of subsection 6.

Sec. 2. NAC 680A.198 is hereby amended to read as follows:

680A.198 1. A certified public accountant of an insurer required to furnish an annual audited financial report shall report to the board of directors or audit committee of the insurer each determination by the accountant that the insurer:

(a) Has materially misstated its financial condition as reported to the commissioner as of the date of the balance sheet currently under examination; or

(b) Does not, as of that date, meet the minimum requirements for capital and surplus as set forth in chapter 680A of NRS.

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The report must be in writing and provided to the insurer not later than 5 business days after the accountant makes such a determination.

2. An insurer who receives a report from its certified public accountant pursuant to this section shall, not later than 5 business days after the date on which it receives the report from the accountant:

(a) Forward a copy of the report to the commissioner; and

(b) Provide the certified public accountant who made the report with evidence that the insurer has forwarded a copy of the report to the commissioner. If the certified public accountant does not, within the 5-business day period, receive evidence from the insurer that the insurer has forwarded a copy of the report to the commissioner in accordance with this section, the certified public accountant shall file with the commissioner a copy of its report within the next 5 business days.

3. A certified public accountant is not liable in any manner to any person for any statement made in connection with this section if the statement is made in good faith in compliance with this section.

4. If the certified public accountant, after the annual audited financial report reviewed by the accountant has been filed pursuant to NRS 680A.265 and NAC 680A.172 to 680A.204, inclusive, becomes aware of any facts which affect his report, the accountant shall take such action as prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants, which is hereby adopted by reference. A copy of the Professional Standards may be obtained from the American Institute of Certified Public Accountants ~~[, Order Department,]~~ :

(a) By mail at The American Institute of Certified Public Accountants, AICPA/CPA2Biz, Customer Service Center, P.O. Box 2209, Jersey City, New Jersey 07303-2209 ~~☒~~;

(b) By telephone at 1-888-777-7077; or

(c) On the Internet at <<http://www.cpa2biz.com>>,

FLUSH at a cost of ~~[\$94.25.]~~ \$145.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R024-02

The Commissioner of Insurance adopted regulations assigned LCB File No. R024-02 which pertain to chapter 680A of the Nevada Administrative Code on April 26, 2002.

Notice date: 2/25/2002
Hearing date: 3/27/2002

Date of adoption by agency: 4/26/2002
Filing date: 5/31/2002

INFORMATIONAL STATEMENT

A hearing was held on March 27, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104, regarding the adoption of the regulation concerning filing of financial statements and NAIC accounting practices and procedures.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Carson City Courthouse, State Library, County Libraries, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Division maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

Oral testimony was received by the Division. Copies of any comments received by the Division can be obtained from the Division at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270.

Considering the comments by those attending the hearing, the Commissioner has issued an order adopting the regulation as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the regulation was changed from the proposed regulation as follows:

1. Subsection 4 of section 1 is amended to read as follows:

If necessary to determine a foreign or alien insurer's financial condition, fulfillment of contractual obligations and compliance with law, the commissioner will require the foreign or alien insurer to file a financial statement more frequently than annually. Every domestic insurer shall file a quarterly statement. A quarterly statement must be:

(a) Filed on the most current form adopted by the National Association of Insurance Commissioners for the type of insurer reporting;

(b) Completed in accordance with the instructions accompanying that form; and

(c) Filed with the National Association of Insurance Commissioners in an electronic format.

The economic impact of the regulation is as follows:

(a) Regulated Industry: Minimal.

(b) Public: None.

The regulation imposes no direct costs upon members of the public at large. The regulation imposes no direct cost upon the agency to enforce the regulation.

This regulation does not duplicate or overlap any other regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **02.045**
LCB FILE NO. **R025-02**

**REGULATION CONCERNING
FILING OF FINANCIAL STATEMENTS
AND NAIC ACCOUNTING PRACTICES
AND PROCEDURES.**

**SUMMARY OF PROCEEDINGS
AND ORDER**

A hearing on the proposed regulation concerning the filing of financial statements and NAIC accounting practices and procedures was held before the Commissioner of Insurance (Commissioner), on March 27, 2002, at the offices of the Department of Business and Industry, Division of Insurance (Division), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. Immediately prior to the hearing, the Commissioner held a workshop concerning this matter.

The Division did not receive any written comments. Approximately 17 individuals attended the workshop and subsequent hearing. During the workshop, testimony was given by Jack H. Kim, representing Health Plan of Nevada; Fred Hillerby and Troy Smith, representing Hometown Health Plan; Janice C. Pine, representing St. Mary's; Jan Bowman, representing Western Insurance Company; Bob Feldman, representing Nevada General Insurance Company. Peggy Willard-Ross and Bruce Heffner, representing the Division, provided testimony at the workshop. Bob Burch, representing the Division, testified at the workshop and the hearing.

Bob Burch testified that the intent of the regulation was to include the requirement that insurers file with the Commissioner annual statements conforming with the National Association of Insurance Commissioners Accounting Practices and Procedures Manual; to

require insurers to file annual statements in an electronic format with the National Association of Insurance Commissioners; to update the cost of the various annual statement forms; to require all domestic insurers to file a quarterly statement; and to provide an exemption for domestic insurers licensed to sell only insurance for home protection and not authorized to do business in any state other than this state from the filing of the “Statement of Actuarial Opinion.”

Commissioner Molasky-Arman questioned why subsection 4 of section 1 of the Legislative Counsel Bureau (LCB) version changed the language requiring all domestic companies to file quarterly statements to, “if the commissioner required.”

Jack Kim suggested that the change may have been due to the LCB drafter’s view that the sentence contradicted with the prior sentence in that section.

Janice C. Pine suggested that the section be broken up into two separate sections.

Bob Burch responded that the first section should include the word “foreign” after “insurer” to specify which insurer is addressed.

Commissioner Molasky-Arman directed that the word “alien” also be included with “foreign”, because the provisions apply to both foreign and alien insurers.

Jan Bowman suggested starting the second sentence with the word “when” instead of “if” after the first sentence referring to foreign or alien insurers.

Commissioner Molasky-Arman responded that the requirement must be absolute.

Bob Feldman suggested the wording be, “Domestic insurer shall file a statement quarterly.”

Commissioner Molasky-Arman responded that the wording should state that a quarterly statement must be filed by domestic insurers.

Jack Kim testified that the prices for the annual statement form in the Division’s draft were different from those in the LCB version.

Commissioner Molasky-Arman questioned why the LCB changed the prices.

Peggy Willard-Ross retrieved the NAIC publication book and, after checking the prices, testified that the LCB version was correct.

Bob Burch clarified that the difference in prices was that the Division's draft referenced the prices for the 2002 annual statement form, but the LCB version referenced the prices for the 2003 annual statement form.

Commissioner Molasky-Arman directed that the Division make certain it follows the pricing instructions and the revisions of the annual statement forms and update these simultaneously with the NAIC revisions so that the Division is providing the appropriate information.

Based upon the testimony received at the hearing, the regulation is changed from the proposed regulation as follows:

Subsection 4 of section 1 is amended to read as follows:

If necessary to determine a foreign or alien insurer's financial condition, fulfillment of contractual obligations and compliance with law, the commissioner will require the foreign or alien insurer to file a financial statement more frequently than annually. Every domestic insurer shall file a quarterly statement. A quarterly statement must be:

- (a) Filed on the most current form adopted by the National Association of Insurance Commissioners for the type of insurer reporting;
- (b) Completed in accordance with the instructions accompanying that form; and
- (c) Filed with the National Association of Insurance Commissioners in an electronic format.

ORDER

Based upon the information presented at the hearing, it is hereby ordered that the proposed regulation relating to the filing of financial statements and NAIC accounting practices

and procedures, LCB File No. R025-02, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this _____ day of April, 2002.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance