

LCB File No. R120-06

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS**

The Department of Business and Industry, Division of Insurance (Division), is proposing a new regulation pertaining to viatical settlement providers and brokers, and providing instruction and supervision to title agents and escrow officers. A workshop has been set for **9:00 a.m., on June 22, 2006**, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested parties may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulation.

The purpose of the amendments to Nevada Administrative Code (NAC) Chapter 688C concerns ensuring the financial accountability of viatical settlement providers and brokers.

The purpose of the amendments to NAC Chapter 692A concerns providing instruction and supervision to title agents and escrow officers, written procedures and maintenance of records. They also concern new experience requirements to qualify as a title agent.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the **State of Nevada Register of Administrative Regulations** which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at **www.leg.state.nv.us**. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations:

Department of Business and Industry
Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
Capitol Complex
Carson City, NV 89710

Blasdel Building
Capitol Complex
Carson City, NV 89710

State Capitol
Capitol Complex
Carson City, NV 89710

Capitol Press Room
State Capitol Basement
Carson City, NV 89710

County Clerk
Courthouse
Carson City, NV 89710

Nevada State Library & Archives
Capitol Complex
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Churchill County Library
553 South Maine Street
Fallon, NV 89406

Las Vegas Library
833 Las Vegas Blvd. North
Las Vegas, NV 89101

Douglas County Library
1625 Library Lane
P.O. Box 337
Minden, NV 89423

Elko County Library
720 Court Street
Elko, NV 89801

Goldfield Public Library
Fourth & Cook Street
P.O. Box 430
Goldfield, NV 89013

Eureka Branch Library
10190 Monroe Street
P.O. Box 293
Eureka, NV 89316

Humboldt County Library
85 East 5th Street
Winnemucca, NV 89445

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

Lincoln County Library
93 Main Street
P.O. Box 330
Pioche, NV 89043

Lyon County Library
20 Nevin Way
Yerington, NV 89447

Mineral County Library
First & A Street
P.O. Box 1390
Hawthorne, NV 89415

Tonopah Public Library
171 Central Street
P.O. Box 449
Tonopah, NV 89049

Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
Attn: Reference
P.O. Box 2151
Reno, NV 89505-2151

White Pine County Library
950 Campton Street
Ely, NV 89301

Clark County Library
1401 East Flamingo Road
Las Vegas, NV 89119

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, or by calling no later than 5 working days prior to the hearing, (702) 687-4270, extension 260.

NOTICE OF INTENT TO ACT UPON REGULATIONS

Notice of Hearing for the Adoption of Regulations of the Department of Business and Industry, Division of Insurance

The Department of Business and Industry, Division of Insurance (Division), will hold a public hearing at **9:00 a.m., on June 22, 2006**, immediately following a public workshop, at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Interested persons may also participate through a simultaneous video-conference conducted at the Bradley Building, 2501 East Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

PROPOSED REGULATION AMENDMENTS TO NAC CHAPTER 688C CONCERNING VIATICAL SETTLEMENT PROVIDERS AND BROKERS

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. A statement of the need for and purpose of the proposed regulation:

To ensure financial accountability of viatical settlement providers and brokers.

2. Either the terms or substance of the proposed regulation or a description of the subjects and issues involved:

The proposed regulation amends chapter 688C of NAC to require proof of financial responsibility: \$500,000 for a viatical provider and \$250,000 for a viatical broker.

3. Estimated economic effect of the regulation:

On the business it is to regulate:

The proposed regulation will have some immediate effect on the industry, however, many forms of financial responsibility are accepted. The viatical business is a prospering industry and there should be no long term adverse effects.

On the public:

The proposed regulation will have a beneficial, immediate and long term effect on the public by partially protecting investors from total loss of investment monies.

4. A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608:

Most viatical settlement providers and brokers are not small businesses. They must have large amounts of capital and seek investors for additional capital. Consequently, there would not be any impact on small business.

5. The estimated cost to the agency for enforcement of the proposed regulation:

The Division will incur minimal cost to enforce the regulation. There may be an increase in hearings on administrative action for non-compliance.

6. 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, the notice must include the name of the regulating federal agency:

The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

7. If the regulation is required pursuant to federal law, a citation and description of the federal law:

The proposed regulation is not pursuant to federal law.

8. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:

The Division is not aware of any federal regulations that regulate this industry.

9. Include a statement indicating whether the regulation establishes a new fee or increases an existing fee:

The proposed regulation does not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701. Written submissions must be received by the Division on or before June 15, 2006. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during

business hours. This notice and the text of the proposed regulation are also available in the **State of Nevada Register of Administrative Regulations** which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

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Division of Insurance
788 Fairview Drive, Suite 300
Carson City, NV 89701

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2501 East Sahara Avenue, Suite 302
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P.O. Box 781
Lovelock, NV 89419

Storey County Library
95 South R Street
P.O. Box 14
Virginia City, NV 89440

Washoe County Library
ATTN: Reference
P.O. Box 2151
Reno, NV 89505-2151

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950 Campton Street
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1401 East Flamingo Road
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LCB File No. R120-06

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

**PROPOSED REGULATION AMENDMENTS REGARDING VIATICAL
SETTLEMENT PROVIDERS AND BROKERS**

AUTHORITY: NRS 679B.130 and 688C.170(2)

Section 1. Chapter 688C of NAC is hereby amended by adding thereto a new section to read as follows.

Sec 2. *A provider of viatical settlements shall file and keep in force with the Commissioner, and thereafter for as long as the license remains in effect, evidence of financial responsibility pursuant to NRS 100.065 or an errors and omissions policy of insurance. A provider of viatical settlements must provide evidence of financial responsibility in the sum of \$500,000. The financial responsibility required by this section shall not be terminated without thirty (30) days prior written notice to the Commissioner.*

Sec 3. *A broker of viatical settlements shall file and shall keep in force with the Commissioner, and thereafter for as long as the license remains in effect, evidence of financial responsibility pursuant to NRS 100.065 or an errors and omissions policy of insurance. A broker of viatical settlements must provide evidence of financial responsibility in the sum of \$250,000. The financial responsibility required by this section shall not be terminated without thirty (30) days prior written notice to the Commissioner.*

Sec. 4. NAC 688C.220 is amended to read as follows:

1. On or before March 1 of each year, a provider of viatical settlements shall submit a report to the Commissioner that must include:

(a) The viatical settlements that the provider of viatical settlements entered into during the previous calendar year with a viator who is a resident of this State; and

(b) The viatical settlements that the provider of viatical settlements entered into in which a death occurred during the previous calendar year.

2. For each viatical settlement that a provider of viatical settlements must report pursuant to paragraph (a) of subsection 1, the provider of viatical settlements shall submit to the Commissioner the following information:

(a) The date on which the viatical settlement was entered;

(b) The state in which the viator resided at the time of the viatical settlement;

(c) The mean life expectancy in months of the insured at the time of the viatical settlement;

(d) The face value of the benefit of the policy purchased;

(e) The net death benefit of the policy purchased;

(f) The estimated total of premiums that will be required to be paid to keep the policy in force for the mean life expectancy of the insured;

(g) The net amount paid to the viator;

(h) If the policy was purchased from a person other than the original viator, the name of the person from whom the policy was purchased;

(i) Whether the policy was issued as an individual policy or as part of a group policy;

(j) Whether the viatical settlement was entered into during the contestable period in the policy, the period for exclusion for deaths because of suicide in the policy or both the contestable period and the period for exclusion for deaths because of suicide in the policy;

(k) The type of funding used to pay the viatical settlement;

(l) The applicable rating by a rating service recognized by the insurance industry of the insurance company that issued the policy at the time the viator enters into the viatical settlement; and

(m) Whether the insured suffered from:

- (1) A disease of the cardiovascular system;
- (2) A disease of the central nervous system;
- (3) A disease of the peripheral nervous system;
- (4) A disease associated with old age;
- (5) An infectious disease;
- (6) A disease of the autoimmune system;
- (7) A disease of the liver or renal system;
- (8) Neoplasms;
- (9) Nonneoplastic diseases of the pulmonary system; or
- (10) A disease or injury not listed in subparagraphs (1) to (9), inclusive.

3. For each viatical settlement that a provider of viatical settlements must report pursuant to paragraph (b) of subsection 1, the provider of viatical settlements shall submit to the Commissioner the following information:

- (a) The date upon which the viatical settlement was entered;
- (b) The state in which the viator resided at the time of the viatical settlement;
- (c) The mean life expectancy in months of the insured at the time of the viatical settlement;
- (d) The net death benefit received by the provider of viatical settlements;
- (e) The total of premiums paid to keep the policy in force before the death of the insured;
- (f) The net amount paid to the viator;
- (g) The date of death of the insured;

(h) The number of months between the date of the viatical settlement and the date of death of the insured;

(i) The difference between:

(1) The number of months between the date of the viatical settlement and the date of death of the insured; and

(2) The mean life expectancy in months of the insured as determined by the provider of viatical settlements;

(j) Whether the policy was issued as an individual policy or as part of a group policy;

(k) Whether the viatical settlement was entered into during the contestable period in the policy, the period for exclusion for deaths because of suicide in the policy or both the contestable period and the period for exclusion for deaths because of suicide in the policy; and

(l) Whether the insured died from:

(1) A disease of the cardiovascular system;

(2) A disease of the central nervous system;

(3) A disease of the peripheral nervous system;

(4) A disease associated with old age;

(5) An infectious disease;

(6) A disease of the autoimmune system;

(7) A disease of the liver or renal system;

(8) Neoplasms;

(9) Nonneoplastic diseases of the pulmonary system; or

(10) A disease or injury not listed in subparagraphs (1) to (9), inclusive.

4. *Certification by an officer or director evidencing that the provider of viatical settlements is in compliance with the financial responsibility requirements of Section 2.*

~~[4.]~~5. The first report required pursuant to subsection 1 must be filed with the Commissioner on or before March 1, 2005, for the period of January 1, 2004, to December 31, 2004.

Sec. 5. NAC 688C.230 is amended to read as follows:

1. On or before March 1 of each year, a broker of viatical settlements shall submit a report to the Commissioner detailing the business of viatical settlements conducted by the broker of viatical settlements during the previous calendar year.

2. The report submitted pursuant to subsection 1 must contain:

(a) A title called “Broker Reporting Form”;

(b) The complete name and license number of the broker of viatical settlements submitting the report;

(c) The calendar year for which the report is submitted;

(d) A list of all providers of viatical settlements with whom the broker arranged a viatical settlement;

(e) An attestation that the information contained in the report is true and accurate to the best knowledge, information and belief of the broker of viatical settlements submitting the report;

(f) The signature of the broker of viatical settlements submitting the report; and

(g) The date on which the broker of viatical settlements signed the report.

3. *Certification by the broker of viatical settlements evidencing compliance with the financial responsibility requirements of Section 3.*

~~[3.]~~4. The first report required pursuant to subsection 1 must be filed with the Commissioner on or before March 1, 2005, for the period of January 1, 2004, to December 31, 2004.