

LCB File No. R121-06

**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 692A CONCERNING:

- **Standards for determining whether a title insurer or title agent has maintained adequate instruction and supervision of a title agent or escrow officer.**
- **Formalizes the Division's position regarding maintenance and electronic storage of records.**
- **Amends NAC 692A.030 to add a 1 year experience requirement for title agents.**

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:

First, NRS 692A.1045(3) requires the Commissioner to adopt regulations prescribing the standards for determining whether a title insurer or title agent has maintained adequate supervision of a title agent or escrow officer. This proposed amendment would establish those standards. It also formalizes the Division's position regarding electronic storage of records.

Also, concerning the proposed amendment to require a Title Agent to have 1 year experience, currently there is an inconsistency in NRS 692A.103 which requires an Escrow Officer to have 1 year experience and NAC 692A.030 which requires no experience of a Title Agent. A Title Agent can also do escrow transactions. Some applicants, without the required experience, have been reported to have applied for a Title Agent license instead of the Escrow Agent license, in order to circumvent the experience requirement.

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

The proposed amendment requires title insurers and agencies to provide instruction to their title agents and escrow officers regarding title insurance law, establish written

procedures for their title agents and escrow officers to follow, maintain records as to the instruction and supervision of title agents and escrow officers, and have a supervisor immediately available at least 50 percent of the time the business is open to the public. The proposed amendment also allows title insurers and agents to maintain their records electronically.

The proposal also amends NAC 692A.030 to add a 1 year experience requirement for Title Agents.

3. Estimated economic effect of the regulation:

These amendments are not anticipated to have any adverse impact on the regulated business or the public, either immediately or in the long-term. The proposed amendment will have some effect on the industry in that it will now have to hire individuals with at least 1 year experience. The proposed regulation will have a beneficial effect on the public by providing for more experienced Title Agents handling the transactions.

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:

The proposed change is not expected to have a direct and significant impact on small businesses because the cost of providing the required adequate supervision should not be significant. Additionally, the title industry is not a small business. Consequently, there would not be any direct or significant impact on small business.

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

Enforcement would be handled in the existing examination process. There is no anticipated cost to the State. The Division uses contract examiners. The Division will not incur any additional cost to enforce the regulation.

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 amendments are 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 area of the title industry.

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

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

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Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104

Legislative Counsel Bureau
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Carson City, NV 89710

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Carson City, NV 89710

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900 North Roop Street
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833 Las Vegas Blvd. North
Las Vegas, NV 89101

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720 Court Street
Elko, NV 89801

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

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

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

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

White Pine County Library
950 Campton Street
Ely, NV 89301

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

Churchill County Library
553 South Maine Street
Fallon, NV 89406

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

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

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

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

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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

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

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

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LCB File No. R121-06

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

**PROPOSED REGULATION AMENDMENTS TO NAC CHAPTER 692C
CONCERNING TITLE INSURANCE**

AUTHORITY: NRS 679B.130

Section 1. Chapter 692A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive of this regulation.

Sec. 2. *As used in NRS 692A.105 and 692A.107 the Commissioner will interpret “adequate supervision” to mean supervision which at least fulfills the requirements set forth in section 3 of this regulation.*

Sec. 3. *A title insurer who certifies an escrow officer or a title agent pursuant to subsection 3 of NRS 692A.110, or a title agent who appoints or employs an escrow officer or title agent shall:*

1. Maintain records which set forth in detail the manner in which the title agent or escrow officer is supervised or provided instruction and the frequency of the supervision or instruction.

2. Ensure that the title agent or escrow officer does not issue a policy of title insurance or disburse money from an escrow account until he has been certified to the Commissioner pursuant to NRS 692A.110 and NAC 692A.110.

3. Provide a supervisor who is on the premises or immediately available, at least 50 percent of the hours during which the premises is open to the public, to assist the title agent or escrow officer.

4. Provide each title agent or escrow officer with instruction which includes, without limitation, the provisions of:

- (a) Chapter 686A of NRS,*
- (b) Chapter 692A of NRS, and*
- (c) This chapter.*

5. Establish and make readily available to each title agent or escrow officer written policies and procedures which set forth the duties of the title agent or escrow officer and the manner in which he is to perform his duties.

6. During the supervision and examination of the title insurer or title agent, make available to the Commissioner or his authorized representative the policies and procedures required by subsection 5.

Sec. 4. *The records, books, papers and other data required pursuant to NRS 692A.260 may be kept in an electronic format if, using the electronic format, the records are retained in accordance with that section.*

Sec. 5. NAC 692A.030 is hereby amended to read as follows:

1. A written application for a title agent's or escrow officer's license must be filed with the commissioner by the person applying for the license, accompanied by the applicable fee. The application must include the following:

- (a) The name of the person applying for a license.
- (b) Evidence that he is a bona fide resident of this state or resides not more than 50 miles from the border of this state.
- (c) The name and address of each of his employers for at least 2 years immediately preceding the application.

(d) If applying for a title agent license, proof of having at least 1 year of recent experience with respect to placing title policies which would allow him to fulfill the responsibilities of a title agent.

(e) ~~[(d)]~~ (e) A description of his experience relating to title insurance or escrow and evidence of his knowledge of the laws of this state pertaining to insurance.

~~[(e)]~~ (f) A statement whether:

(1) The person is or was previously licensed to transact the business of insurance or to handle escrows, settlements or closings, and if so, where he was licensed and whether that license was ever suspended or revoked or the renewal or continuance of it refused;

(2) The person has even been denied such a license; and

(3) The person has ever had a contract as an agent or escrow officer canceled and, if so, the reasons for that cancellation.

~~[(f)]~~ (g) Any other information reasonably required by the commissioner to determine the person's qualifications for the license.

2. The application must be verified by the person applying for the license.