

**LCB File No. R161-06**

**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 surplus lines. A workshop has been set for **9:00 a.m., on August 7, 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, Real Estate Division Conference Room, 2<sup>nd</sup> 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 NAC 685A.240, 685A.350 and 685A.370 concern requirements of the broker's affidavit and report of coverage; the survey to be performed by organization; the amount of the fee each broker, who is a member of an organization, shall pay to the organization for the review of surplus lines coverage.**

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 5<sup>th</sup> 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.

DATED this \_\_\_\_\_ day of June, 2006.

By: \_\_\_\_\_  
ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance

## 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 August 7, 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, Real Estate Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

**REGULATION AMENDING NAC 685A.240, 685A.350 AND 685A.370 CONCERNING REQUIREMENTS OF THE BROKER'S AFFIDAVIT AND REPORT OF COVERAGE; THE SURVEY TO BE PERFORMED BY ORGANIZATION; AND THE AMOUNT OF THE FEE EACH BROKER, WHO IS A MEMBER OF AN ORGANIZATION, SHALL PAY TO THE ORGANIZATION FOR THE REVIEW OF SURPLUS LINES COVERAGE.**

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:

NAC 685A.240

This change will save time and paperwork as policies within the industry are being endorsed to extend the policy period. This will have the added benefit of preventing brokers from filing amended affidavits and not performing due diligence as the amendment clarifies that endorsements extending policy periods must be handled in the same manner as a renewal. Additionally, the electronic system used within the industry is not designed to accept partial affidavits.

NAC 685A.350

Since the inception of the original regulation, industry has performed surveys, as requested by the Commissioner, and all but one has involved a scope broader than just surplus lines. The industry has performed multiple surveys in a given year, and this amendment will allow the Commissioner to request surveys as necessary.

NAC 685A.370

The amendment clarifies the calculation of the fee.

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

NAC 685A.240

The following provisions apply to the broker's affidavit and report of coverage:

...

(c) A separate affidavit and report of coverage must be filed with the broker's organization upon any renewal *or extension of coverage* of a contract of insurance.

...

(e) If all the information which is required to be stated on the affidavit and report of coverage is not available within 90 days after the insurance becomes effective, an affidavit and report of coverage listing all the information which is available must be filed with the broker's organization. ~~[An amended affidavit and report of coverage listing any information which was previously omitted must be filed with the broker's organization within 30 days after the initial filing.]~~

#### NAC 685A.350

...

8. Perform ~~[an annual survey of surplus lines]~~ *a survey upon the Commissioner's request of* insurance transacted in this State that reflects coverage placed in this State which involves major risks. The organization shall submit the results of the survey to the Commissioner with the report required by subsection 6.

#### NAC 685A.370

Each broker who is a member of an organization shall pay to the organization a fee for the review of surplus lines coverage. The fee must be paid within 30 days after the broker receives an invoice from the organization. The fee for each policy ~~[, regardless of whether the policy is a new policy or a renewal of a policy, is \$25 or one half of 1 percent of the premium, whichever is greater.]~~ *is 0.4 percent of the aggregate gross premiums and fees including, but not limited to, policy, broker and/or inspection fees.*

3. Estimated economic effect of the regulation:

#### NAC 685A.240

Both proposed changes will have beneficial effects on the regulated businesses as these clarify and sharpen the focus of the regulation to better capture the necessary activities. The effect, both immediate and long term, is better clarity to the regulated industry.

#### NAC 685A.350

Both proposed changes will have beneficial effects on the regulated businesses and the division as the Commissioner will have stated discretion to request surveys as needed. The effect, both immediate and long term, is better clarity to the regulated industry.

#### NAC 685A.370

Beneficial to business as fee reduction. Reduced costs to business upon effective date of regulation.

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:

#### NAC 685A.240

This regulation has been proposed by industry.

NAC 685A.350

This regulation has been proposed by industry.

NAC 685A.370

This regulation has been proposed by industry.

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

NAC 685A.240

Because neither is a material change to the operation of the regulation, there should be no change in current enforcement costs.

NAC 685A.350

The regulation codifies the current practice of the Division as costs for enforcement should remain the same.

NAC 685A.370

None

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:

NAC 685A.240

None known

NAC 685A.350

None known

NAC 685A.370

None

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

NAC 685A.240

Not applicable

NAC 685A.350

Not applicable

NAC 685A.370

Not applicable

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

NAC 685A.240

Not applicable

NAC 685A.350

Not applicable

NAC 685A.370

Not applicable

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

NAC 685A.240

This regulation establishes no new fees or increase on an existing fee.

NAC 685A.350

This regulation establishes no new fees or increase on an existing fee.

NAC 685A.370

Not applicable

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 July 31, 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.

This notice of hearing has been posted at the following locations:

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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  
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Eureka, NV 89316

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Winnemucca, NV 89445

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93 Main Street  
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Hawthorne, NV 89415

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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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Ely, NV 89301

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1401 East Flamingo Road  
Las Vegas, NV 89119

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DATED this \_\_\_\_\_ day of June, 2006.

By: \_\_\_\_\_  
ALICE A. MOLASKY-ARMAN  
Commissioner of Insurance

**LCB File No. R161-06**

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

AUTHORITY: NRS 679B.130, 685A.210.

A REGULATION relating to insurance; concerning requirements of the broker's affidavit and report of coverage; survey to be performed by organization; amount of the fee each broker who is a member of an organization shall pay to the organization for the review of surplus lines coverage.

**Section 1.** NAC 685A.240 is hereby amended to read as follows:

685A.240. 1. The following provisions apply to the broker's affidavit and report of coverage:

(a) Except as otherwise provided in subsection 3, the affidavit and report of coverage must bear the original signature of the broker.

(b) The affidavit and report constitutes the broker's statement of compliance with NRS 685A.040, 685A.070, 685A.080 and 685A.090.

(c) A separate affidavit and report of coverage must be filed with the broker's organization upon any renewal *or extension of coverage* of a contract of insurance.

(d) An amended affidavit and report of coverage must be filed with the broker's organization for each cancellation and each endorsement which changes the named insured, the description or location of the subject of insurance, or the coverage, conditions, terms, premium, or participating insurers.

(e) If all the information which is required to be stated on the affidavit and report of coverage is not available within 90 days after the insurance becomes effective, an affidavit and report of coverage listing all the information which is available must be filed with the broker's organization.

~~[An amended affidavit and report of coverage listing any information which was previously omitted must be filed with the broker's organization within 30 days after the initial filing.]~~

(f) The broker shall exercise due care in accounting for the premium, including any inspection fee charged as part of the premium, and for the premium tax on each affidavit and report of coverage. The premium tax must be computed upon the total premium or deposit premium, plus the fee allowed by NRS 685A.155, minus any return premium. The premium must include policy, membership, and other fees and assessments charged by the insurer as considerations for the insurance.

(g) If a type of coverage is on the list of open lines eligible for export which is approved by the Commissioner, statements of declinations from admitted insurers pursuant to subsection 1 of NAC 685A.215 are not required on the affidavit and report of coverage.

(h) The Commissioner may require a broker to file with the broker's organization a complete copy of the policy, certificate, or cover note to substantiate information which he has provided in an affidavit or report of coverage.

2. The annual statement must:

(a) Except as otherwise provided in subsection 3, bear the original signature of the broker;

(b) Include the total direct premiums written on surplus lines coverage, calculated in the same manner as premiums are calculated pursuant to NRS 685A.180;

(c) Include a report, in a form prescribed by the Commissioner, showing the allocation of premiums as required by NRS 680B.030; and

(d) Include a calculation of the premium taxes due to each state or other jurisdiction.

3. If a broker's affidavit and report of coverage or an annual statement is filed electronically, the broker's affidavit and report of coverage or the annual statement must be signed with an electronic signature of the broker pursuant to the provisions of chapter 719 of NRS.

**Sec. 2.** NAC 685A.350 is hereby amended to read as follows:

685A.350. (NRS 679B.130, 685A.210) An organization shall:

1. Establish and maintain an office in this State to carry out the applicable provisions of this chapter and chapter 685A of NRS.

2. Maintain a plan of operation which ensures that the members of the organization and all associated surplus lines insurance transactions comply with the provisions of title 57 of NRS and all other applicable rules and regulations adopted by the Commissioner.

3. Require each broker who is a member of the organization to file with the organization:

(a) The broker's affidavit and report of coverage required by NRS 685A.050 and NAC 685A.240;

(b) A copy of the broker's cover note, declarations page, or certificate;

(c) A copy of the annual statement required by NRS 685A.170; and

(d) A copy of the quarterly tax report required by NRS 685A.175.

4. Maintain each document filed with the organization pursuant to subsection 3.

5. Distribute to the members of the organization the current list of eligible surplus lines insurers and open lines eligible for export.

6. Prepare and submit to the Commissioner on or before May 1 of each year a report summarizing the premiums written in this State as of December 31 of the previous year through eligible surplus lines insurers. The report must identify for each premium written:

(a) The name of the insurer, including the identification number issued to the insurer by the National Association of Insurance Commissioners;

(b) The broker; and

(c) The line of coverage provided.

7. Cooperate with the Commissioner to resolve inquiries concerning the availability of coverage with admitted insurers and provide assistance in the placement of coverage with an eligible surplus lines insurer.

8. Perform ~~[an annual survey of surplus line]~~ *a survey upon the Commissioner's request of* insurance transacted in this State that reflects coverage placed in this State which involves major risks. The organization shall submit the results of the survey to the Commissioner with the report required by subsection 6.

9. Hold a meeting at least annually.

**Sec. 3.** NAC 685A.370 is hereby amended to read as follows:

685A.370. (NRS 679B.130, 685A.075, 685A.210) Each broker who is a member of an organization shall pay to the organization a fee for the review of surplus lines coverage. The fee must be paid within 30 days after the broker receives an invoice from the organization. The fee for each policy ~~;~~ ~~regardless of whether the policy is a new policy or a renewal of a policy, is \$25 or one-half of 1 percent of the premium, whichever is greater.]~~ *is 0.4 percent of the aggregate gross premiums and fees including, but not limited to, policy, broker and/or inspection fees.*