

**LCB File No. R071-09**

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

(This regulation was previously adopted as T034-09)

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

AUTHORITY: NRS 679B.130, 694C.170

A REGULATION relating to captive insurers and conflict of interest statements to enhance disclosure requirements.

**Section 1.** Chapter 694C.290 of NAC is hereby amended as follows:

NAC 694C.290 Conflict of interest *policy and* ~~[Statement;]~~ disclosure ~~[.]~~; *Material Service Provider Contracts*. (NRS 679B.130, 694C.170)

1. A captive insurer chartered in this State shall adopt a ~~[statement for]~~ conflict of interest *policy* for its *attorney in fact, trustee*, managers, officers, *and* directors ~~[and key employees]~~. The ~~[statement must provide for a disclosure that the manager, officer, director or employee has no outside commitments, personal or otherwise, that would divert him from his duty to further the interest of the captive insurer which he represents, except that the statement for conflict of interest must not preclude the manager, officer, director or employee from being a director or officer in more than one insurance company or captive insurer, or both]~~ *policy must contain the following provisions:*

*(a) A requirement that the attorney in fact, manager, officer, director, or trustee, must annually disclose that he has no outside commitments, personal or otherwise, that would divert him from his duty to further the interests of the captive insurer which he represents, except that the statement for conflict of interest must not preclude the attorney in fact,*

*manager, officer, director or trustee from being a director or officer in more than one insurance company or captive insurer, or both.*

*(b) A clear expression that each attorney in fact, manager, officer, director, or trustee, has a duty of care to protect the interests of the captive insurance company above those of any person including, but not limited to, the attorney in fact, manager, officer, director, trustee, or service provider.*

*(c) A requirement that each attorney in fact, manager, officer, director, or trustee must provide a complete annual disclosure of each material relationship that each has with the captive insurance company. A "material relationship" exists when the attorney in fact, manager, officer, director or trustee, a member of such person's immediate family or any business with which such person is affiliated receives compensation or payment of any other items of value from the captive insurance company or a consultant or service provider to the captive insurance company of an amount greater than \$15,000 within any one 12-month period.*

2. ~~[A]~~ Every manager, ~~[an]~~ officer, ~~[a]~~ director, *trustee, and attorney in fact* ~~[and a key employee]~~ of a captive insurer shall file a disclosure of his conflicts of interest with the board of directors *or subscribers advisory committee* of the captive insurer annually.

3. *Contracts between a captive insurer and service providers are subject to the following:*

*(a) "Service provider" means captive managers, auditors, accountants, actuaries, investment advisors, attorneys, managing general underwriters, managing general agents, attorneys in fact, or any other party responsible for underwriting, the determination of rates, the collection of premium, adjusting and settling claims or the preparation of financial statements.*

*(b) "Material service provider contract" means a contract between a captive insurer and a service provider under which the amount to be paid to the service provider by the captive insurer is greater than \$15,000 during any one 12-month period.*

*(c) The term of any material service provider contract with a captive insurer or risk retention group shall not exceed five years.*

*(d) A material service provider contract, or its renewal, shall require the approval of the majority of the captive insurer's directors or subscribers advisory committee members.*

*(e) A material service provider contract shall be filed with the Division within 30 days after the effective date of the material service provider contract.*