

**REVISED PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R102-09

November 19, 2009

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

AUTHORITY: §1, NRS 616B.300 and 679B.130; §§2 and 3, NRS 616B.353, 616B.446 and 679B.130; §4, NRS 679B.130; §5, NRS 679B.130 and 680A.300.

A REGULATION relating to insurance; eliminating certain restrictions regarding countersignatures and residency requirements; and providing other matters properly relating thereto.

Section 1. NAC 616B.436 is hereby amended to read as follows:

616B.436 1. Except as otherwise provided in subsection 3 of NRS 616B.300, a self-insured employer shall meet the deposit requirement of the self-insured program of workers' compensation by depositing with the Commissioner ~~[]~~ *any of the following:*

(a) Cash.

(b) A certificate of deposit, from a financial institution in this State that is insured federally, made payable to the Commissioner of Insurance and the employer.

(c) The following securities, if they have a date of maturity that is not more than 1 year:

(1) Any obligation guaranteed by the full faith and credit of the United States, including:

(I) United States treasury notes;

(II) United States treasury bills; and

(III) Internal money market funds related to United States treasury notes or treasury bills, if the account is maintained with a financial institution in this State and does not exceed \$10,000; or

(2) Any obligation of an agency of the United States, including the Federal National Mortgage Association, Federal Housing Finance Board and Federal Home Loan Mortgage Corporation, that is guaranteed by the full faith and credit of the United States. If the obligation is an internal money market fund related to the Federal National Mortgage Association, Federal Housing Finance Board or Federal Home Loan Mortgage Corporation, the account must be maintained with a financial institution in this State and may not exceed \$10,000.

↪ The securities deposited in compliance with this paragraph must have a fair market value of not less than 105 percent of the employer's expected annual incurred cost of claims, unless reduced by excess insurance in an amount approved by the Commissioner.

(d) A surety bond, if it is:

(1) Written by a company authorized and licensed to transact the business of surety insurance in this State; and

(2) Countersigned by a ~~resident agent licensed in this State.~~ *producer of insurance.*

(e) A letter of credit that meets the standards set forth in NAC 616B.439.

(f) Any combination of cash, certificates of deposit, securities guaranteed by the full faith and credit of the United States, surety bonds or letters of credit. Priority of payment in case of loss must be in the order stated in this paragraph.

2. Securities guaranteed by the full faith and credit of the United States that are deposited in accordance with this section will be held in trust and administered by the Commissioner, unless:

(a) The self-insured employer elects to use the services of a custodial financial institution in this State for trust investments;

(b) The custodial financial institution holds and administers the securities on behalf of the Commissioner under an agreement approved by the Commissioner; and

(c) The custodial financial institution provides monthly statements of the account to the Division of Insurance. The accuracy of each such statement must be certified monthly by a trust officer of the financial institution.

↪ A deposit made pursuant to this subsection may not be withdrawn except upon written order of the Commissioner. A deposit must be revised on or before June 30 each year or as the Commissioner determines to be appropriate and necessary.

3. If necessary, the Commissioner may select a competent specialist to make an evaluation:

(a) Before accepting for deposit any security of the United States or asset; or

(b) At any time after the security of the United States or asset is deposited with the Commissioner or held by a custodial financial institution in this State.

↪ The self-insured employer shall pay the cost of any such evaluation.

4. As used in this section, “producer of insurance” has the meaning ascribed to it in NRS 679A.117.

Sec. 2. NAC 616B.534 is hereby amended to read as follows:

616B.534 1. Each association shall maintain a policy of specific and aggregate excess insurance with a self-insured retention of no less than \$100,000.

2. The policy of excess insurance and any proof of that insurance must be countersigned by a ~~licensed resident agent of~~ ***producer of insurance appointed by*** the insurer which issued the policy.

3. The Commissioner will review the amount of insurance required for an association and may adjust the amount if he determines that changed conditions warrant an adjustment.

4. As used in this section, “producer of insurance” has the meaning ascribed to it in NRS 679A.117.

Sec. 3. NAC 616B.540 is hereby amended to read as follows:

616B.540 **1.** Except as otherwise provided in paragraph (e) of subsection 1 of NRS 616B.353, an association shall satisfy the requirement to make a security deposit by depositing with the Commissioner:

~~{1.}~~ **(a)** Cash;

~~{2.}~~ **(b)** A certificate of deposit, from a financial institution in this State that is insured federally, made payable to the Commissioner and the association;

~~{3.}~~ **(c)** A surety bond, if it is:

~~{a)}~~ **(1)** Written by a company authorized and licensed to transact the business of surety insurance in this State; and

~~{b)}~~ **(2)** Countersigned by a ~~[resident agent licensed in this State;]~~ *producer of insurance;*

~~{4.}~~ **(d)** A letter of credit that meets the standards set forth in NAC 616B.543; or

~~{5.}~~ **(e)** Any combination of cash, certificates of deposit, surety bonds or letters of credit.

↪ Priority of payment in case of loss must be in the order stated in this section.

2. As used in this section, “producer of insurance” has the meaning ascribed to it in NRS 679A.117.

Sec. 4. NAC 680A.110 is hereby amended to read as follows:

680A.110 Insurance companies licensed to do an insurance business in Nevada may merchandise any type of insurance permitted by the Division through any type of vending machine under the following conditions:

1. All policy forms must be filed with, and approved by, the Commissioner in accordance with the filing procedures for other policy forms.
2. Reasonable means, as determined by the Commissioner, must be provided for informing the prospective purchaser of the coverage and restrictions of the policy.
3. The name of the insurer, the location of its home office, the name of the responsible ~~[agent]~~ *producer of insurance appointed by the insurer* and his office address, and the serial number of the machine must be clearly displayed on each machine.
4. Prompt refund of money inserted in a defective machine and for which no insurance, or a lesser amount than paid for, must be provided to the applicant or prospective applicant.
5. Vending machines must be constructed and operated to retain a copy of the application showing the date of application, name and address of the applicant and of the beneficiary and the amount of insurance afforded by each policy issued.
6. All machines must be operated under the supervision of a ~~[duly licensed resident agent of]~~ *producer of insurance appointed by* the company issuing the policies.
7. Vending machines must be constructed and operated to affix the facsimile signature of the ~~[licensed resident agent of]~~ *producer of insurance appointed by* the company upon all policies issued therefrom, unless the ~~[resident agent]~~ *producer of insurance* is on the premises and personally countersigns them.

Sec. 5. NAC 680A.410 is hereby amended to read as follows:

680A.410 1. ~~Commissions and fees for countersignatures must be paid to a countersigning resident agent on all premiums collected on policies of property and casualty insurance of agents and brokers other than resident agents and brokers which insure risks located in Nevada.~~

~~—(a) The insurer must provide for payment of fees and commissions.~~

~~—(b) Fees and commissions must be paid on premiums developed by audit and on anniversary installments.~~

~~—2.] Countersignature fees and commissions may be negotiated [upwards from the minimum set by law] for [additional] services required of [the] a countersigning [agent, but may not be negotiated below the legal minimum.] *producer of insurance appointed by an insurer.*~~

~~[3.—The] 2. A countersigning [agent] *producer of insurance appointed by an insurer* shall maintain complete records of countersignature transactions, including daily reports, correspondence, names of [nonresident] agents and brokers who wrote the policies, and evidence of fees and commissions charged.~~

~~[4.—The] 3. A countersigning [agent] *producer of insurance appointed by an insurer* shall handle normal problems arising between agents and customers, and is answerable to the Division for complaints and problems relating to policies which he has countersigned.~~

~~[5.] 4. All commissions on property and casualty insurance which was sold by an agent or broker who is not licensed in Nevada and which covers a risk located in Nevada must be paid to [the] a countersigning [resident agent.] *producer of insurance appointed by the applicable insurer.*~~