

**Chapter 694C of NAC**

**LCB File No. T033-09**

**ADOPTED TEMPORARY REGULATION OF  
THE COMMISSIONER OF INSURANCE**

**Filed with the Secretary of State on July 29, 2009**

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

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

A TEMPORARY REGULATION relating to officers and directors of captive insurers to require prior approval of the board of directors or subscribers advisory committee for performance and payment of services rendered to the captive by an officer, director or employee of a captive insurance company.

**Section 1.** Chapter 694C.280 of NAC is hereby amended as follows:

NAC 694C.280 Officers and directors. (NRS 679B.130, 694C.170)

1. Within 30 days after any change in the executive officers and directors of a captive insurer, the captive insurer shall report the change to the Commissioner. The report must include a statement of the business and professional affiliations of the new executive officer or director. The new executive officer or director must meet the same standards that were indicated in the initial application of the captive insurer for that officer or director position.

2. A director, an officer or an employee of a captive insurer shall not, except on behalf of the captive insurer, accept or be the beneficiary of any fee, brokerage, gift or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the captive insurer, but such a person may receive reasonable compensation for necessary services rendered to the captive insurer in his usual private, professional or business capacity. *Under this provision the person performing the necessary services rendered to the captive must obtain the prior consent of*

*the board of directors or subscribers advisory committee to the performance of and payment for such necessary services.*

3. Any profit or gain received by or on behalf of any person in violation of this section is recoverable by the captive insurer.

**Sec. 2.** *Effective date. Pursuant to NRS 233B.063, as a temporary regulation, sections 1 to 2 become effective as of the date filed with the Secretary of State and remain in effect until November 1, 2009, unless otherwise replaced or repealed prior to that date.*

**NOTICE OF ADOPTION OF TEMPORARY REGULATION**  
**LCB File No. T033-09**

The Commissioner of Insurance adopted temporary regulations assigned LCB File No. T033-09 which pertain to chapter 694C of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

A workshop was held on May 8, 2009, and a hearing was held on May 22, 2009, at the offices of the Department of Business and Industry, Division of Insurance (“Division”), 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, with a simultaneous video-conference conducted at the Bradley Building, 2501 E. Sahara Avenue, Real Estate Division Conference Room, 2<sup>nd</sup> Floor, Las Vegas, Nevada 89104, regarding the adoption of the temporary regulation concerning officers and directors of captive insurance companies.

Public comment was solicited by posting notice of the hearing in the following public locations: the Division’s Carson City and Las Vegas offices, Carson City Courthouse, Office of the Attorney General, the Donald W. Reynolds Press Center, Capitol Building Lobby, Capitol Building Press Room, Blasdel Building, Legislative Counsel Bureau, Nevada State Library, Carson City Library, Churchill County Library, Clark County District Library, Douglas County Library, Elko County Library, Esmeralda County Library, Eureka Branch Library, Humboldt County Library, Lander County Library, Lincoln County Library, Lyon County Library, Mineral County Library, Pershing County Library, Storey County Library, Tonopah Public Library, Washoe County Library, and White Pine County Library.

The Division maintains a general list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The workshop was attended by seven (7) interested parties in Carson City and six (6) interested parties in Las Vegas. The hearing was attended by three (3) interested parties in Carson City and one (1) interested party in Las Vegas. The Division did not receive any written comments or oral testimony from the industry or from interested parties regarding the proposed changes to NAC 694C.280.

The rule-making process began on April 9, 2009, when the Nevada Captive Insurance Association filed petitions pursuant to NAC 679B.482 to amend NAC 694C.280 and NAC 694C.290. The Commissioner approved the petitions on April 17, 2009.

Based upon the testimony received at the public workshop and formal hearing, no amendments were made to the temporary regulation as proposed. After considering the record and the recommendation of the hearing officer, the Commissioner has issued an order adopting the temporary regulation, LCB File No. T033-09, as proposed, as a temporary regulation of the Division.

The new language being added to NAC 694C.280 requires that a person who performs necessary services for a captive and receives payments from the captive must first obtain prior consent from the board of directors or subscribers advisory committee before the services and payments can take place. This new language allows the captive board or subscribers advisory committee to know of any affiliated business that the director, officer or employee of the captive may own, or have an affiliation with, that is receiving remuneration from the captive. Please see the enclosed Summary of Proceedings and Order, including the temporary regulation attached thereto.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: None.
- (b) On Small Business: None.
- (c) On the public: None.

The Division does not anticipate an expense to enforce the proposed regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF THE

CAUSE NO. **09.0160**  
LCB FILE NO. **T033-09**

**TEMPORARY REGULATION  
CONCERNING OFFICERS AND  
DIRECTORS OF CAPTIVE  
INSURANCE COMPANIES**

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**SUMMARY OF  
PROCEEDINGS  
AND ORDER**

**SUMMARY OF PROCEEDINGS**

A public workshop, as required by NRS 233B.061, on the proposed temporary regulation to amend NAC 694C.280 relating to officers and directors of captive insurance companies was held before Amy L. Parks, Hearing Officer, on May 8, 2009, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed temporary regulation to amend NAC 694C.280 was held before the Hearing Officer on May 22, 2009, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130. This rule-making process began on April 9, 2009, when the Nevada Captive Insurance Association filed petitions pursuant to NAC 679B.482 to amend NAC 694C.280 and NAC 694C.290. The Commissioner approved the petitions on April 17, 2009.

The Department of Business and Industry, Division of Insurance (“Division”), did not receive any written comments or oral testimony from the industry and interested parties regarding the proposed changes to NAC 694C.280. The workshop was attended by seven (7) interested parties in Carson City and six (6) interested parties in Las Vegas. Gary Cooper, representing the Division, provided testimony before the Hearing Officer. The hearing was attended by three (3) interested parties in Carson City and one (1) interested party in Las Vegas. The Hearing Officer asked that Division staff address the proposed changes to NAC 694C.280.

Mr. Cooper testified that the new language would require a person who performs necessary services for a captive to first obtain prior consent from the captive board of directors or subscribers advisory committee before those services and payments can take place.

Based upon the testimony received at the public workshop and formal hearing, no changes were made to the temporary regulation, LCB File No. T033-09, as proposed. See Exhibit "A", attached hereto.

### **RECOMMENDATION OF THE HEARING OFFICER**

Based upon the testimony received at the hearing, it is recommended that the proposed temporary regulation concerning officers and directors of captive insurance companies, Division's Cause No. 09.0160, LCB File No. T033-09, be adopted, as proposed, as a temporary regulation of the Division.

SO RECOMMENDED this 18th day of June, 2009.

/s/  
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AMY L. PARKS  
Hearing Officer

### **ORDER OF THE COMMISSIONER**

Having reviewed the record in this matter, and considering the Recommendation of the Hearing Officer, it is hereby ordered that the proposed temporary regulation concerning officers and directors of captive insurance companies, Division's Cause No. 09.0160, LCB File No. T033-09, be adopted, as proposed, as a temporary regulation of the Division.

SO ORDERED this 23rd day of June, 2009.

/S/  
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SCOTT J. KIPPER  
Commissioner of Insurance