

Chapter 694C of NAC

LCB File No. T033-09

**PROPOSED TEMPORARY REGULATION OF
THE COMMISSIONER OF INSURANCE**

**NOTICE OF WORKSHOPS TO SOLICIT COMMENTS ON
PROPOSED TEMPORARY REGULATIONS**

The State of Nevada Department of Business and Industry, Division of Insurance (Division), (775) 687-4270, is proposing the adoption of temporary regulations pertaining to chapter 694C of the Nevada Administrative Code (NAC). Workshops have been set for **9:00 a.m., on May 8, 2009**, 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, 2nd Floor, Las Vegas, Nevada 89104. The purpose of the workshops is to solicit comments from interested persons on the following general topics that may be addressed in the proposed temporary regulations.¹

Officers and Directors of Captive Insurers. The proposed temporary regulation will amend NAC 694C.280 and 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.

Captive Insurer Conflict of Interest and Disclosure. The proposed temporary regulation will amend NAC 694C.290 relating to captive insurers and conflict of interest statements to enhance disclosure requirements.

A copy of all materials relating to the proposals may be obtained at the workshops or by contacting the Division, 788 Fairview Drive, Suite 300, Carson City, Nevada 89701, (775) 687-4270. A reasonable fee for copying may be charged.

This Notice of Workshops to Solicit Comments on Proposed Temporary 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
Capitol Press Room

Department of Business and Industry
Division of Insurance
2501 East Sahara Avenue, Suite 302
Las Vegas, NV 89104
Donald W. Reynolds Press Center

1 NRS 233B.063(3) An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

Capitol Building Basement
Carson City, NV 89710

Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701

Blasdel Building
209 East Musser Street
Carson City, NV 89701
Office of the Governor
Capitol Building
Carson City, NV 89710

Carson City Library
900 North Roop Street
Carson City, NV 89701

Clark County District Library
833 Las Vegas Boulevard North
Las Vegas, NV 89101

Elko County Library
720 Court Street
Elko, NV 89801

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Lander County Library
P.O. Box 141
Battle Mountain, NV 89820

Lyon County Library
20 Nevin Way
Yerington, NV 89447

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

Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049

White Pine County Library
950 Campton Street
Ely, NV 89301

102 North Curry Street
Carson City, NV 89701

Office of the Attorney General
100 North Carson Street
Carson City, NV 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, NV 89701
Carson City Courthouse
885 East Musser Street
Carson City, NV 89701

Churchill County Library
553 South Main Street
Fallon, NV 89406

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

Esmeralda County Library
P.O. Box 430
Goldfield, NV 89013

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

Lincoln County Library
P.O. Box 330
Pioche, NV 89043-0330

Mineral County Public Library
P.O. Box 1390
Hawthorne, NV 89415

Storey County Public Library
P.O. Box 14
Virginia City, NV 89440

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

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, (775) 687-4270, extension 260.

DATED this _____ day of April, 2009.

SCOTT J. KIPPER
Commissioner of Insurance

NOTICE OF INTENT TO ACT UPON TEMPORARY REGULATION

Notice of Hearing for the Adoption of Temporary Regulations of the Department of Business and Industry, Division of Insurance²

The State of Nevada Department of Business and Industry, Division of Insurance (Division), will hold a public hearing at **9:00 a.m., on May 22, 2009**, 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 E. Sahara Avenue, Real Estate 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 the temporary regulation that pertains to Nevada Administrative Code (NAC) 694C.280.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed temporary regulation or amendment.

The purpose of this regulation is to provide protection to a captive through a prior approval process whenever a director, officer or employee is to receive compensation from the captive for performing necessary services. The regulation provides a higher degree of open dealing between the captive and a director, officer or employee.

2. Either the terms or substance of the regulation to be adopted, amended, or repealed, or a description of the subjects and issues involved.

Requires the captive director, officer or employee to receive prior approval of the board of directors when the director, officer or employee is to receive payment for performing necessary services to the captive.

3. The estimated economic effect of the regulation on the business that it is to regulate and on the public.

None.

4. The estimated cost to the agency for the enforcement of the proposed temporary regulation.

None.

5. A description of and citation to any regulations of other state or local governmental agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a

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federal regulation, the notice must include the name of the regulating federal agency.

None.

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

Not applicable.

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

Not applicable.

8. Whether the proposed temporary regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee or increase an existing fee.

9. 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 prior approval process will have no impact on a small business.

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 **May 15, 2009**. 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 temporary regulation to be amended 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 temporary regulation to be amended 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 temporary 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 of this notice and the proposed temporary regulation 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 does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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

Department of Business and Industry
Division of Insurance
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Pioche, NV 89043-0330

Lyon County Library
20 Nevin Way

Mineral County Public Library
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Virginia City, NV 89440

Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049

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

White Pine County Library
950 Campton Street
Ely, NV 89301

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DATED this _____ day of April, 2009.

SCOTT J. KIPPER
Commissioner of Insurance

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THE COMMISSIONER OF INSURANCE**

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.*