

PROPOSED REGULATION OF THE COMMISSIONER OF INSURANCE

LCB File No. R072-10

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

AUTHORITY: NRS 679B.130, NRS 679B.137, NRS 680A.270, NRS 681B.050

A REGULATION prescribing requirements for the filing of actuarial opinions of reserves and supporting documentation thereof for property and casualty insurance companies

Section 1. *Chapter 681B of NAC is hereby amended by adding thereto the provisions set forth as sections two to seven, inclusive, of this regulation.*

Sec. 2. *“Property and casualty insurance company” means an insurance company authorized to write:*

- (a) Casualty insurance as defined pursuant to NRS 681A.020;*
- (b) Marine and transportation insurance or wet marine and transportation insurance as defined pursuant to NRS 681A.050;*
- (c) Property insurance as defined pursuant to NRS 681A.060; or*
- (d) Surety insurance as defined pursuant to NRS 681A.070.*

Sec. 3. *Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, shall annually submit the opinion of an Appointed Actuary entitled “Statement of Actuarial Opinion.” This opinion shall be filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions and shall be treated as a public document.*

Sec. 4. *An Actuarial Opinion Summary prepared by the company's Appointed Actuary to support the Actuarial Opinion required pursuant to Section 3 shall be filed in accordance with the appropriate National Association of Insurance Commissioners Instructions:*

(a) Annually by every property and casualty insurance company domiciled in Nevada that is required to submit a Statement of Actuarial Opinion; and

(b) Upon request of the Commissioner by a company licensed but not domiciled in Nevada.

Sec. 5. *An Actuarial Report and underlying work papers as required by the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion required pursuant to Section 3 and shall be made available to the Commissioner upon his request. If the insurance company fails to provide a supporting Actuarial Report or work papers at the request of the Commissioner or the Commissioner determines that the supporting Actuarial Report or work papers provided by the insurance company are otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting Actuarial Report or work papers.*

Sec. 6. *The Appointed Actuary shall not be liable for damages to any person (other than the insurance company and the Commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the Appointed Actuary.*

Sec. 7. *If submitted with the express condition that they remain confidential, the Actuarial Opinion Summary, the Actuarial Report and work papers shall be confidential by law and privileged, are not public record, and shall not be subject to the “Freedom of Information Act,” 5 U.S.C. § 552 or the disclosure requirements of chapter 239 of NRS, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. Neither the Commissioner nor any person who received documents, materials or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information pursuant to this section. The confidentiality provisions shall not be construed to limit the Commissioner’s authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) or successor organization so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the Commissioner’s authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the Commissioner’s official duties. In order to assist in the performance of the Commissioner’s duties, the Commissioner may:*

- (a) Share documents, materials or other information, including the confidential and privileged documents, materials or information pursuant to this section with other state, federal and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality*

and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;

- (b) Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and*
- (c) Enter into agreements governing sharing and use of information consistent with this section.*

No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner or as the result of sharing as authorized in this section.