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*Governor*

STATE OF NEVADA

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DEPARTMENT OF BUSINESS AND INDUSTRY

DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION  
LCB File No. R187-22  
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption of regulations pertaining to chapter 681A of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

**Date:** November 1, 2022  
**Time:** 9:00 a.m.  
**Location:** This meeting will be held virtually via Webex, which allows participation by video or telephone.\*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=mde559b870b3288ec48cf906c4f08cbcc>  
Meeting Number: 2631 476 7673  
Password: 7Z3iBmQHwH8

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free  
Access Code: 2631 476 7673

If you need help using Webex, visit <https://help.webex.com>.

Live public comment and written public comment will be taken as designated in the Hearing Agenda.

\* There is no physical location designated for this hearing. Accordingly, any person planning to participate must participate by using the Webex link, for video access, or by calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing is to solicit comments from interested persons on the general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation, or expansion of a small business.

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## HEARING AGENDA

1. Open Hearing: R187-22.
2. Presentation of Proposed Regulation.

### [LCB File No. R187-22 - ESTABLISHES PROVISIONS GOVERNING TERM AND UNIVERSAL LIFE INSURANCE](#)

A REGULATION relating to insurance; establishing uniform standards governing reserve financing arrangements pertaining to certain life insurance policies; requiring certain ceding insurers to hold certain levels of primary security and other security in reserve financing arrangements; and providing other matters properly relating thereto. A copy of the proposed regulation prepared by the Legislative Counsel is available by clicking on the following link:

<https://www.leg.state.nv.us/Register/2022Register/R187-22P.pdf>

3. Public Comment.

The hearing officer will indicate when live public comment will be taken. Public comment may be limited to three minutes per speaker.

4. Close Hearing: R187-22.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The hearing officer, within his/her discretion, may allow for public comment on individual agenda items.

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A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <https://doi.nv.gov/News-Notices/Regulations/> or by contacting the Division ([regs@doi.nv.gov](mailto:regs@doi.nv.gov) or 775-687-0700). Members of the public who would like additional information about a proposed regulation may contact the Division by email to [regs@doi.nv.gov](mailto:regs@doi.nv.gov). Members of the public are encouraged to submit written comments for the record no later than **October 25, 2022**. Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex or telephone and/or may address their comments, data, views, or arguments in written form, by email to [regs@doi.nv.gov](mailto:regs@doi.nv.gov) or by mail to 1818 E. College Parkway, Suite 103, Carson City, NV 89706.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division of your request for reasonable accommodation in writing, no later than five (5) working days before the hearing via email to [regs@doj.nv.gov](mailto:regs@doj.nv.gov).

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.

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

(1) Why is the regulation necessary and what is its purpose?

The proposed regulation is necessary to meet NAIC accreditation standards and to develop a national uniform standard regarding reserve financing for life insurance policies with guaranteed nonlevel gross premiums and/or guaranteed nonlevel benefits, and flexible premium universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period. This regulation is intended to discourage movement of these transactions to off-shore domiciles.

(2) What are the terms or substance of the proposed regulation? Provide a description of the subjects, issues and problems involved.

The proposed regulation, for which language is taken from the NAIC Model Regulation No. 787 (Term and Universal Life Insurance Reserve Financing Model Regulation), establishes requirements for reinsurance ceded to captive insurers, special purpose vehicles (“SPVs”), reinsurers that are not eligible to become certified reinsurers, or reinsurers that materially deviate from statutory accounting and/or risk-based capital requirements. The issue has caused scrutiny by state insurance regulators and other institutions such as the Federal Insurance Office (“FIO”), the Federal Reserve, and the Financial Stability Oversight Council (“FSOC”) regarding the inconsistency between states, and the lack of transparency since states allow certain captives to keep their financial statements confidential.

The purpose and intent of this regulation is to establish uniform, national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed nonlevel gross premiums, guaranteed nonlevel benefits and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security are held by or on behalf of ceding insurers in the forms and amounts required herein.

(3) What is the anticipated impact of the regulation on the problem(s)?

The proposed regulation establishes uniform standards for life insurers, governing reserve financing arrangements. This regulation will provide additional security for policyholders by ensuring that appropriate funds consisting of primary and other security are held by or on behalf of ceding insurers in the amounts required by this regulation.

(4) Do other regulations address the same problem(s)?

No.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

No, this regulation is required in order for Nevada to maintain its NAIC accreditation standards.

(6) What value does the regulation have to the public?

Life insurers would be required to carry sufficient assets to match liabilities established for policies issued, which would prevent insolvencies of life insurers.

(7) What is the anticipated economic benefit of the regulation? Provide a statement as to potential beneficial impact on the following:

a. Public

1. Immediate: Safer assets to pay life insurance claims.
2. Long Term: Safer assets to pay life insurance claims.

b. Insurance Business

1. Immediate: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
2. Long Term: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.

c. Small Businesses

1. Immediate: Life insurance products should not impact small businesses.
2. Long Term: Life insurance products should not impact small businesses.

d. Small Communities

1. Immediate: No impact to small communities identified that would be different than impact to the public.
2. Long Term: No impact to small communities identified that would be different than impact to the public.

e. Government Entities

1. Immediate: Less complicated transactions for the Division to review.
2. Long Term: Less complicated transactions for the Division to review.

(8) What is the anticipated adverse impact, if any? Provide a statement as to any anticipated adverse impact, including adverse economic effects, on the following:

a. Public

1. Immediate: None identified.
2. Long Term: None identified.

- b. Insurance Business
  - 1. Immediate: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
  - 2. Long Term: Eliminate using off-shore captives, and make more transparent the financial condition for the public, investors, and regulators.
- c. Small Businesses
  - 1. Immediate: None identified.
  - 2. Long Term: None identified.
- d. Small Communities
  - 1. Immediate: No impact to small communities identified that would be different than impact to the public.
  - 2. Long Term: No impact to small communities identified that would be different than impact to the public.
- e. Government Entities
  - 1. Immediate: None identified.
  - 2. Long Term: None identified.

(9) What is the anticipated cost of the regulation, both direct and indirect? Provide a statement as to the cost of:

- a. Enactment – None, as most life insurers do not get involved in these transactions, and the ones that do utilize principal-based reserves to eliminate the need for these transactions.
- b. Enforcement – None, as the Division does not currently have any life insurers domiciled in Nevada.
- c. Compliance – None, as most life insurers do not get involved in these transactions, and the ones that do utilize principal-based reserves to eliminate the need for these transactions.

(10) Provide a statement indicating whether the regulation establishes a new fee or increases an existing fee.

This regulation will not establish a new fee or increase an existing fee.

(11) Provide a statement which identifies the methods used by the agency in determining the impact of the proposed regulation on a small business, prepared pursuant to subsection 3 of NRS 233B.0608.

The Division relied upon the expertise and experience of Division staff, along with testimony from industry representatives at the NAIC meetings. The Division also relied upon the evaluation of the entities that this proposed regulation would impact.

(12) Provide a description of any regulations of other state or local governmental agencies which the

proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, state the name of the regulating federal agency.

There are no other regulations of other state or local governmental agencies that overlap with this regulation.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

Not applicable, as this regulation is not required pursuant to federal law.

(14) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, provide a summary of such provisions.

Not applicable, as this regulation does not contain provisions which are more stringent than a federal regulation.

(15) ATTACH PROPOSED REGULATION.

Proposed Regulation (Term and Universal Life Insurance Reserve Financing Regulation)


(16) ATTACH SMALL BUSINESS IMPACT STATEMENT.

Small Business Impact Statement (Term and Universal Life Insurance Reserve Financing Regulation)

Notice of the hearing has been provided as follows:

By email to all persons on the Division's e-mail list for noticing of administrative regulations.  
By email for posting by the Nevada State Library, Archives and Public Records Administrator.  
By email for posting by the Nevada Legislature.  
Published to the Nevada Legislature website: <https://leg.state.nv.us/>.  
Published to the Division of Insurance website: <https://doi.nv.gov/>.  
Published to the State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this 29th day of September 2022.

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS & INDUSTRY  
DIVISION OF INSURANCE**

**Determination of Necessity of Small Business Impact Statement**

**R187-22**

**NRS 233B.0608(1)**

TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

EFFECTIVE DATE OF REGULATION:

Upon Adoption

1. BACKGROUND.

The purpose and intent of this regulation is to establish uniform national standards governing reserve financing arrangements pertaining to life insurance policies containing guaranteed non-level gross premiums, guaranteed non-level benefits, and universal life insurance policies with secondary guarantees; and to ensure that, with respect to each such financing arrangement, funds consisting of Primary Security and Other Security, as defined in Sections 11 and 12, are held by or on behalf of ceding insurers in the forms and amounts required therein. In general, reinsurance ceded for reserve financing purposes has one or more of the following characteristics: Some or all of the assets used to secure the reinsurance treaty or to capitalize the reinsurer (1) are issued by the ceding insurer or its affiliates, (2) are not unconditionally available to satisfy the general account obligations of the ceding insurer, or (3) create a reimbursement, indemnification or other similar obligation on the part of the ceding insurer or any if its affiliates (other than a payment obligation under a derivative contract acquired in the normal course and used to support and hedge liabilities pertaining to the actual risks in the policies ceded pursuant to the reinsurance treaty). The State needs to implement this regulation as a result of the 2017 Nevada Legislature, Assembly Bill 83, Section 22, which is now codified as NRS 681A.145; and to maintain National Association of Insurance Commissioners (“NAIC”) Accreditation Standards.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

The Division relied upon the expertise and experience of the Division staff, along with testimony from industry representatives at the NAIC meetings. The Division also relied upon the evaluation of the entities that this proposed regulation would impact.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

NO

YES

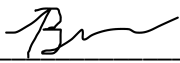
4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

Currently there are no life insurers domiciled in Nevada, so this proposed regulation would not impact any Nevada insurers. Life insurance products and regulation of the associated reserving do not affect small

businesses.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly, and the information contained herein is accurate. (NRS 233B.0608(3))

September 26, 2022  
(DATE)

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance

**Small Business Impact Statement**  
**NRS 233B.0608(2)-(4) and 233B.0609**

TERM AND UNIVERSAL LIFE INSURANCE RESERVE FINANCING

1. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).

Comments were received from industry and other interested parties at the NAIC committee hearings that were held on the proposed Model Regulation No. 787 (Term and Universal Life Insurance Reserve Financing Model Regulation). The Nevada Division of Insurance has not received any additional comments from small businesses in Nevada. Since there are currently no life insurers domiciled in Nevada, this regulation would not impact any Nevada domestic insurance carriers. Life insurance products and regulation of the associated reserving do not affect small businesses.

A copy of this summary may be requested by emailing [regs@doi.nv.gov](mailto:regs@doi.nv.gov).

2. HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).

The regulation applies to life insurers domiciled in Nevada, and currently there are no life insurers domiciled in Nevada that write the products described in the regulation. The Corporate and Financial Affairs Section of the Division of Insurance analyzed this proposed regulation and the comments presented at NAIC committee hearings.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).

There is no anticipated impact on small businesses, either by rate increases or by limiting the participants in the market.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).



Since there are no life insurers domiciled in Nevada, there would be no impact on Nevada insurers or small businesses. Methods to reduce impact are not applicable.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

There is no additional cost to enforce this regulation.

6. FEE CHANGES. NRS 233B.0609(1)(f).

No new fees will be generated by the adoption of this regulation.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).


There are no duplicative regulations or provisions in Nevada statutes or regulations.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

Division staff expertise and discussions at NAIC meetings where this regulation was created, reviewed, and approved provide the basis for this conclusion. This regulation would only impact Nevada domiciled life insurers, of which there are currently none. Additionally, such life insurance carriers are not small businesses. Because of this, there will be no impact on small businesses in this state.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly, and the information contained herein is accurate. (NRS 233B.0609(2))

September 26, 2022  
(DATE)

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance