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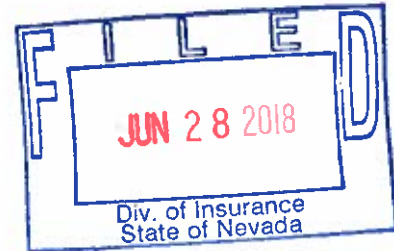
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June 26, 2018

Ms. Sue Bell
Legal Secretary
Commissioner of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706



Re: LCB File No. R064-18

Dear Ms. Bell,

A regulation adopted by the Commissioner of Insurance has been filed today with the Secretary of State pursuant to NRS 233B.067 or 233B.0675 as appropriate. As provided in NRS 233B.070, this regulation becomes effective upon filing, unless otherwise indicated.

Enclosed are two copies of the regulation bearing the stamp of the Secretary of State which indicates that it has been filed. One copy is for your records and the other is for delivery to the State Library and Archives Administrator pursuant to subsection 6 of NRS 233B.070.

Sincerely,

Handwritten signature of Allan L. Amburn in blue ink.

Allan L. Amburn
Deputy Legislative Counsel

William L. Keane
Senior Principal Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

ALA/slj
Enclosure

SECRETARY OF STATE
FILING DATA

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**Form For Filing
Administrative Regulations**

Agency

Dept. of Business and Industry

Division of Insurance

R064-18

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action Regulation concerning Service Contract Transfer Fees and Emergency Repairs

Authority citation other than 233B NRS 679B.130 and 690C.300

Notice date 5/3/18

Date of Adoption by Agency 6/12/18

Hearing date 6/11/18

**APPROVED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R064-18

Effective June 26, 2018

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

AUTHORITY: §§1 and 2, NRS 679B.130 and 690C.300.

A REGULATION relating to service contracts; requiring the Commissioner of Insurance to receive a status report in certain circumstances; requiring a service contract to include a certain statement regarding the handling of a claim under the service contract; authorizing the imposition of a transfer fee in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to adopt: (1) reasonable regulations for the administration of the Nevada Insurance Code; and (2) such regulations as are necessary to carry out the provisions relating to service contracts. (NRS 679B.130, 690C.300)

Existing regulations require a service contract to: (1) clearly state the procedures for making a claim on the service contract; and (2) for certain service contracts, contain a statement that the provider of the service contract will provide a status report to the holder in certain circumstances. Existing regulations require such a status report to be provided to the holder: (1) not later than 3 calendar days after the report of the claim; and (2) by verifiable means. (NAC 690C.110) **Section 1** of this regulation requires the provider to provide such a status report not later than 3 calendar days after the report of the claim to: (1) the holder by verifiable means; and (2) the Commissioner by electronic mail.

Section 1 additionally requires a service contract to include, for the purposes of clearly stating the procedures for making a claim on the service contract, a statement explaining that the holder may contact the Commissioner if the holder is not satisfied with how the provider is handling the claim on the service contract.

Existing regulations authorize a provider to charge a cancellation fee in certain circumstances if such a fee is provided for in the terms of the service contract. (NAC 690C.120) **Section 2** of this regulation authorizes a provider to impose a transfer fee if: (1) the provider

transfers a service contract at the request of the holder; and (2) such a fee is provided for in the terms of the service contract.

Section 1. NAC 690C.110 is hereby amended to read as follows:

690C.110 1. A service contract must clearly state the procedures for making a claim on the contract, including, without limitation:

(a) A toll-free telephone number for claim service.

(b) Procedures for obtaining prior approval of work if such approval is required by the contract.

(c) If the service contract relates to goods that are essential to the health and safety of the holder and the repair of such goods is covered under the terms and conditions of the service contract, procedures for obtaining emergency service on such goods outside of normal business hours, including, without limitation, a statement which provides that if the emergency involves the loss of heating or cooling, loss of plumbing or substantial loss of electrical service and the emergency renders a dwelling unfit for a person to live in because of defects that immediately endanger the health and safety of the occupants of the dwelling:

(1) Repairs will commence within 24 hours after the report of the claim and will be completed as soon as reasonably practicable thereafter; and

(2) If the provider determines that repairs cannot practicably be completed within 3 calendar days after the report of the claim, the provider will provide a status report to the holder *and to the Commissioner* as described in subsection 2.

(d) A statement that if the holder is not satisfied with the manner in which the provider is handling the claim on the contract, the holder may contact the Commissioner by use of the

toll-free telephone number of the Division. The statement must include the current toll-free telephone number of the Division which can be obtained from the Internet website of the Division.

2. A status report must:

(a) Be provided *to the holder by verifiable means* not later than 3 calendar days after the report of the claim;

(b) Be provided ~~{by verifiable means;}~~ *to the Commissioner by electronic mail not later than 3 calendar days after the report of the claim;* and

(c) Include, without limitation:

(1) A list of the required repairs or services;

(2) The primary reason causing the required repairs or services to extend beyond the 3-day period set forth in subparagraph (2) of paragraph (c) of subsection 1, including, without limitation, the status of any parts required for the repairs or services;

(3) The current estimated time to complete the repairs or services; and

(4) Contact information for the holder *and the Commissioner* to make additional inquiries concerning any aspect of the claim and a commitment by the provider to respond to such inquiries not later than 1 business day after such an inquiry is made.

3. If any preexisting conditions are excluded from coverage, the service contract must state the basis upon which service may be denied for such preexisting conditions.

4. As used in this section, “verifiable means” includes, without limitation, communication given by ~~{facsimile}~~:

(a) *Facsimile* transmission ~~{-electronic}~~;

(b) *Electronic* mail ~~{, mail, telephone,}~~ ;

(c) *Telephone*, if there is an auditable record of the communication by telephone ; ~~{}~~ or ~~{by any}~~

(d) *Any* similar mode of communication that is appropriate given the course of dealing between the provider and the holder.

Sec. 2. NAC 690C.120 is hereby amended to read as follows:

690C.120 1. Except as otherwise provided in this subsection, if a provider cancels a service contract pursuant to NRS 690C.270, the provider shall refund to the holder the portion of the purchase price that is unearned by the provider. The provider may deduct any outstanding balance on the account of the holder from the amount of the purchase price that is unearned by the provider when calculating the amount of the refund. A provider who cancels a contract pursuant to NRS 690C.270 may not impose a cancellation fee.

2. Except as otherwise provided in this section, if a holder who is the original purchaser of a service contract submits to the provider a request in writing to cancel the service contract in accordance with the terms of the contract, the provider shall refund to the holder the portion of the purchase price that is unearned by the provider.

3. If a holder requests the cancellation of a service contract pursuant to subsection 2, the provider may impose a reasonable cancellation fee if such a fee is provided for in the terms of the service contract.

4. *If the provider transfers a service contract at the request of the holder, the provider may impose a reasonable transfer fee if such a fee is provided for in the terms of the service contract.*

5. When calculating the amount of a refund pursuant to subsection 2, the provider may deduct from the portion of the purchase price that is unearned by the provider:

- (a) Any outstanding balance on the account of the holder; and
- (b) Any cancellation fee imposed pursuant to this section.

~~{5.}~~ 6. Except as otherwise provided in this subsection, if the purchase price of a service contract is financed and the loan has not been paid in full by the holder, the provider may provide a refund to the holder pursuant to this section or NRS 690C.250 by sending the refund to the lender. The amount of refund that may be sent to the lender must not exceed the holder's outstanding balance on the loan.

~~{6. As used in this section, "holder" has the meaning ascribed to it in NRS 690C.060.}~~

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS
INFORMATIONAL STATEMENT AS REQUIRED BY NRS 233B.066**

LCB FILE NO. R064-18

The following statement is submitted by the State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 690C.

1. A clear and concise explanation of the need for the adopted regulation.

This regulation is needed to ensure that emergency repairs under a service contract are performed in a timely manner. Providers must currently provide the contract holder with a status report of emergency repairs to dwellings. They must now additionally notify the Commissioner by sending a copy of the status report by electronic mail. The status report is a notification of emergency repairs for a service contract claim that immediately endanger the health and safety of the occupants and cannot practicably be completed within 3 days. Previously the Division was unaware that emergency claims were not conducted in a timely manner. The Division will now be alerted when such repairs are not performed within a reasonable amount of time.

Additionally, consumers may not be aware that service contracts are regulated by the Division of Insurance and that they can contact the Division for assistance. This regulation requires the service contract provider to notify insureds that if they are dissatisfied with the handling of a claim, they may contact the Division telephonically at the number listed on the Division's website.

Lastly, this regulation is needed to clarify that transfer fees contained in a service contract must be reasonable when a current service contract holder transfers his or her contract rights to a new contract holder. It is necessary because the Division has observed increasing and excessive transfer fees and it is not clear that the Division currently has the authority to review such fees.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

- (a) A description of how public comment was solicited:

Public comment was solicited by e-mailing the proposed regulation, notice of workshop, notice of intent to act upon the regulation, and small business impact statement to persons on the Division's mailing list requesting notification of proposed regulations. The documents were also made available on the website of the Division, <http://doi.nv.gov/>, mailed to the main library for each county in Nevada, and posted at the following locations:

*Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706*

*Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102*

*Legislative Building
401 South Carson Street
Carson City, Nevada 89701*

*Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102*

*Blasdel Building
209 East Musser Street
Carson City, Nevada 89701*

*Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101*

*Capitol Building
101 North Carson Street
Carson City, Nevada 89701*

*Nevada Department of Employment,
Training and Rehabilitation
2800 E. Saint Louis Avenue
Las Vegas, Nevada 89104*

Public comment was also solicited at the workshop held on May 29, 2018, and at the hearing held on June 11, 2018. The public workshop and hearing took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Nevada State Business Center, 3300 West Sahara Avenue, Las Vegas, Nevada 89102.

(b) A summary of the public response:

The Division received one written comment from the service contract industry. The comment expressed concern that the requirement that a statement be added to the contract regarding the contract holder's ability to contact the Commissioner would require all approved forms to be re-filed for approval and that this would impose a significant administrative burden.

The comment also proposed that emergency-repair status reports be maintained by the provider and only provided to the Commissioner upon request. It stated that requiring the report to be proactively filed with the Division in all instances was unnecessary and overly burdensome.

(c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 2(b) above reflects the public comments and testimony that transpired with regard to regulation R064-18. A copy of said summary may be obtained by contacting Rajat Jain, at (775) 687-0700 or rjain@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

3. The number of persons who:

- (a) Attended the **hearing**: 5
- (b) Testified at the **hearing**: 1
- (c) Submitted to the agency written statements: 1

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified above in #3 (b) and (c), as provided to the agency:

Testified at the hearing:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
<i>Tim Ghan</i>	<i>Division of Insurance</i>	<i>1818 East College Pkwy Carson City NV 89706</i>	<i>(775) 687-0767</i>	<i>tghan@doi.nv.gov</i>

Submitted to the agency written statements:

Name	Entity/Organization Represented	Business Address	Telephone No.	E-Mail Address
<i>Stephen K. McDaniel</i>	<i>Service Contract Industry Council</i>	<i>PO Box 11247 Tallahassee FL 32302-1247</i>	<i>(850) 681-1058</i>	<i>Stephen@meenanlawfirm.com</i>

5. A description of how comments were solicited from affected businesses, a summary of their responses, and an explanation of how other interested persons may obtain a copy of the summary.

(a) A description of how comments were solicited from affected businesses: *Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see #2(a).*

(b) A summary of the responses from affected businesses:

The Division received one written comment from the service contract industry. The comment expressed concern that the requirement that a statement be added to the contract regarding the contract holder's ability to contact the Commissioner would require all approved forms to be re-filed for approval and that this would impose a significant administrative burden.

The comment also proposed that emergency-repair status reports be maintained by the provider and only provided to the Commissioner upon request. It stated that requiring the report to be proactively filed with the Division in all instances was unnecessary and overly burdensome.

- (c) An explanation of how other interested persons may obtain a copy of the summary:

The summary in part 5(b) above reflects the public comments and testimony that transpired with regard to regulation R064-18. A copy of said summary may be obtained by contacting Rajat Jain, at (775) 687-0700 or rjain@doi.nv.gov. This summary will also be made available by e-mail request to insinfo@doi.nv.gov.

6. If after consideration of public comment the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

There was no testimony from the industry or interested parties at either the workshop or hearing. The Division received one comment from the service contract industry regarding two issues. First, it expressed concern that requiring a new disclosure would necessitate re-filing all previously approved forms, imposing a significant administrative burden on providers. The Division addressed this concern by explaining that a service contract provider could simply file an addendum containing the disclosure once, and the addendum containing the disclosure could be attached to any previously approved form. It would not be necessary to re-file previously approved contracts.

The second concern was that requiring status reports to be proactively filed with the Division in all instances seems unnecessary and overly burdensome. The commenter suggested that such status reports be simply maintained by the provider upon request. The Division does not believe this requirement to be overly burdensome. The provider is already required to send the status report to the contract holder. This regulation merely requires that a copy of the status report also be emailed to the Commissioner. There are no burdensome filing procedures. Regarding the suggestion that the provider maintain such status reports and provide them upon request, this would not serve the purpose of alerting the Commissioner when repairs are not being performed in a timely manner.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:
- (1) Both adverse and beneficial effects: *None.*
 - (2) Both immediate and long-term effects: *None.*
- (b) The estimated economic effect of the adopted regulation on the public:
- (1) Both adverse and beneficial effects: *None.*

(2) Both immediate and long-term effects: *None*.

8. The estimated cost to the agency for enforcement of the adopted regulation.

None.

9. A description of any regulations of other state or government 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, the name of the regulating federal agency.

Not applicable, as there is no overlap or duplication.

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

Not applicable, as there are not more stringent provisions.

11. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable, as this regulation does not establish a new fee or increase an existing fee.