

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

**Revised Determination of Necessity of Small Business Impact Statement  
NRS 233B.0608(1)**

A REGULATION relating to insurance; prohibiting insurers that use information from a consumer credit report from increasing a policyholder's or insured's premium, or engaging in an adverse underwriting decision, due to deterioration in consumer credit information occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; determining such adverse consideration of such deterioration in consumer credit information to be unfairly discriminatory; specifying the circumstances under which updated consumer credit information may be used in rating; and requiring insurers that use information from a consumer credit report to provide refunds to all renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020.

EFFECTIVE DATE OF REGULATION:  
Upon filing with the Nevada Secretary of State

1. BACKGROUND.

This regulation is aimed at protecting Nevada consumers from premium increases in personal lines of property and casualty insurance arising out of deteriorations in consumer credit information resulting from the COVID-19 pandemic.

In Nevada, property and casualty insurers in personal lines of insurance are currently permitted to engage in credit-based insurance scoring, subject to the statutory requirements of NRS 686A.600 through 686A.730 and the provisions of NAC 686A.700 through 686A.710. At least 40 unique credit-based insurance scoring models are in use in Nevada today, largely in personal automobile and home insurance. Some insurers currently adjust their customers' credit-based insurance scores at renewal, based on changes to credit-report information that had occurred since the most recent prior score calculations. This practice, to the extent that it can cause some consumers' premiums to increase at renewal, is not reasonable at this time in light of the severe systemic economic disruptions that have arisen out of the COVID-19 pandemic.

Accordingly, to fully implement the mandate to protect consumers from the adverse impacts of COVID-19 on their credit histories, it is also necessary to prevent all missed payments or other derogatory credit-report items during the emergency from indirectly harming consumers through premium increases that are inherently unrelated to the prospective risk of insurance loss. This protection should apply both during the state of emergency which is presently in effect, as well as for two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020. An expiration of two years after the cessation of the

Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, was selected by considering several factors related to the financial and economic ramifications of the pandemic and the time that many individuals will need to recover fully. Since 1900, the historical average duration of a recession in the United States has been 15 months.<sup>1</sup> However, even in the aftermath of a recession, a recovery takes time, and involuntarily unemployed workers may take many months to find a job after a layoff, even as the general economy begins to rebound. In the United States, it is estimated that a worker will typically require three to six months after a layoff to find a job.<sup>2</sup> In Nevada, the unemployment rate has historically remained high even years after a recession officially concluded. For example, although the Great Recession officially concluded in June 2009, Nevada's unemployment rate remained at 14.5 percent in December 2010, at the same level as during the most adverse period of the Great Recession.<sup>3</sup> Allowing two years of recovery to occur in the aftermath of the Declaration of Emergency being lifted would be reasonable to accommodate affected workers and give them time to regain employment and financial stability.

The Division of Insurance concludes that adverse consideration of any deterioration in a policyholder's or insured's consumer credit information or credit-based insurance score due to changes occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, is not a reasonable way, as that term is utilized in NRS 686B.060(2), to classify risks due to the lack of relationship of such deterioration of consumer credit information or credit-based insurance score to individual behavior and due to the systemic causes of such deterioration arising out of the COVID-19 pandemic.

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

No comment was solicited, however, the proposed regulation and any potential impact on Nevada's small business was discussed by the Nevada Division of Insurance's Property and Casualty section staff. It was determined that this regulation does not have the ability to create a negative impact on any of the state's small businesses, as it pertains solely to a rating practice utilized by large insurers for personal-lines policies.

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<sup>1</sup> Tom Huddleston Jr. April 9, 2020. "How many recessions you've actually lived through and what happened in every one". CNBC. Available at <https://www.cnbc.com/2020/04/09/what-happened-in-every-us-recession-since-the-great-depression.html>. Nancy Mann Jackson. March 10, 2020. "How Long Do Downturns Last?" Acorns Advisers, LLC. Available at <https://www.acorns.com/money-basics/the-economy/how-long-do-downturns-last/>.

<sup>2</sup> "How Long Does It Take to Find a Job? (After Layoffs and More)". Career Sidekick. Available at <https://careersidekick.com/average-job-search-time/>.

<sup>3</sup> Daniel Indiviglio. January 25, 2011. "Nevada's 14.5% Unemployment Rate Matches Recession High". The Atlantic. Available at <https://www.theatlantic.com/business/archive/2011/01/nevadas-145-unemployment-rate-matches-recession-high/70158/>.

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).

None of the insurers utilizing credit-based insurance scoring in Nevada could be considered small businesses. The practice of credit-based insurance scoring today affects personal lines of insurance rather than coverage for businesses. No adverse effects for Nevada small businesses are possible as a result of this regulation, however, there could be indirect favorable effects on small businesses.

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 the information contained in this statement is accurate. (NRS 233B.0608(3))

August 5, 2020  
(DATE)

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance

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

A REGULATION relating to insurance; prohibiting insurers that use information from a consumer credit report from increasing any policyholder's or insured's premium, or engaging in any adverse underwriting decision, due to deterioration in consumer credit information occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; determining such adverse consideration of such deterioration in consumer credit information to be unfairly discriminatory; specifying the circumstances under which updated consumer credit information may be used in rating; and requiring insurers that use information from a consumer credit report to provide refunds to any renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020.

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

N/A – No comments were solicited because this regulation does not impose any requirements on small businesses. The Division will consider written comments received during the comment period once this regulation is scheduled for a workshop and hearing, in addition to comments that may be received at those public meetings.

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

The proposed regulation and any potential impact on Nevada's small business was discussed by the Nevada Division of Insurance's Property and Casualty section staff. The Nevada Division of Insurance has expertise in reviewing credit-based insurance scoring models in rate filings for personal lines of insurance and has extensive familiarity with the applicable provisions of law in NRS 686A.600 through 686A.730. These provisions pertain solely to use of consumer credit information personal lines of insurance and not to any insurance policies covering small businesses. Credit-based insurance scoring is not used for commercial insurance rating in Nevada, and commercial-lines rates for businessowners' policies are deregulated pursuant to NRS 686B.030(1)(g) and do not need to be filed. Accordingly, it was possible for the Nevada Division of Insurance to conclude that this regulation could not impose any adverse impact on any Nevada small business.

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

No adverse or direct effects of this regulation on Nevada small businesses are possible, as this regulation does not affect the practices of small businesses, but rather addresses a rating approach used solely by large insurers writing personal-lines products.

There could be indirect beneficial effects on small businesses as a result of this regulation. This regulation will prevent consumers from experiencing unjustified increases to their insurance

premiums and, therefore, will increase the probability that those consumers will remain financially secure. Consumers who are more financially secure will be more likely to patronize Nevada businesses and to start or support small businesses during the economic recovery phase. The consumer protections in this regulation are expected to promote Nevada's business recovery in the long term.

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

No methods were considered to reduce the impact upon small businesses, as there is no direct or significant impact to be considered.

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

No additional cost will be needed to enforce this regulation. All enforcement can be absorbed within existing rate-review processes.

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

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

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


There is no overlap or duplication of any existing law. There are not more stringent provisions in any existing law.

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

The conclusions presented in items 2 through 4 arise from Nevada insurance law on credit-based insurance scoring – NRS 686A.600 through 686A.730 – which only applies to use of consumer credit information in personal lines of insurance, not to commercial insurance for small businesses, for which the rates are deregulated pursuant to NRS 686B.030(1)(g).

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))

August 5, 2020  
(DATE)

  
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BARBARA D. RICHARDSON  
Commissioner of Insurance