

Bulletin 05-002

March 4, 2005

LETTER OF CREDIT REQUIREMENTS PURSUANT TO NRS 681A.240

The Department of Business and Industry, Division of Insurance (Division), has determined that paragraph b of subsection 1 of section 340 of the Nevada Administrative Code (NAC) needs to be clarified in order to be consistent with section 240 of chapter 681A of the Nevada Revised Statutes (NRS).

- NRS 681A.240 requires that letters of credit issued for the purposes set forth in NRS 681A.240 be “[i]rrevocable, unconditional letters of credit”
- NAC 681A.340(1)(b) indicates:
 1. A letter of credit issued for the purposes of NRS 681A.240 must stipulate that:
... ;
(b) The letter is not subject to any conditions or qualifications outside of the letter of credit, except as provided in a reinsurance agreement in conjunction with which the letter of credit is obtained . . . ;

CLARIFICATION: To the extent NAC 681A.340(1)(b) conflicts with NRS 681A.240, NAC 681A.340(1)(b) is a nullity. The Division cannot approve a letter of credit that conflicts with NRS 681A.240. Therefore, a letter of credit issued for the purposes of NRS 681A.240 must be unconditional and may not require reference to a document other than the letter of credit.

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Commissioner of Insurance