

## NOTICE OF INTENT TO ACT UPON REGULATION

### Notice of Hearing for the Adoption, Amendment or Repeal of Regulations of The Department of Business and Industry, Division of Insurance

The State of Nevada Department of Business and Industry, Division of Insurance (“Division”), (775) 687-0700, will hold a public hearing at **10:30 a.m. on October 20, 2015**, at the Division’s office located at 1818 East College Parkway, 1<sup>st</sup> floor hearing room, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted at the Bradley Building, 2501 East Sahara Avenue, 2<sup>nd</sup> floor conference room, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations that pertain to **chapters 693A** of the Nevada Administrative Code (“NAC”).

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

#### **LCB File No. R094-14. Producer Controlled Insurers.**

A regulation relating to insurance; revising provisions relating to insurers which are controlled by a producer; and providing other matters properly relating thereto.

#### **Statement of Purpose for LCB File No. R094-14. Producer Controlled Insurers.**

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

*This regulation is required per the National Association of Insurance Commissioners (NAIC) Financial Accreditation Standards Part A requirements for Laws and Regulations Standards and is necessary to address the Business Transacted with Producer Controlled Property/Casualty Insurers Act (Model #325). In 2011, the NAIC adopted additional Part A standards for risk retention groups (RRGs) which requires that all states have a regulatory framework similar to the Model.*

*This is an existing regulation that requires amending to bring it into compliance with the revised NAIC model acts. Nevada had adopted Model language in 1996 but has not amended the language to address the changes in the Model, nor adopted the changes to the Producer licensing references that were adopted in 2001 and 2003.*

- (2) What are the terms or substance of the proposed regulation?

*The NAIC Financial Accreditation Standards requires this regulation to be in place for Nevada to maintain its Accreditation status. The revisions / amendments are essential to maintain the Accreditation status of Nevada and to ensure that any insurers that are controlled by producers are in compliance with the required regulatory framework that is outlined in the Model.*

*As this is an existing regulation, there are no issues or problems involved.*

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

*As this is an existing regulation, there are no issues or problems involved, thus no anticipated impact of the regulation.*

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

*This is an existing regulation; no other regulations address this issue.*

(5) Are alternate forms of regulation sufficient to address the problem(s)?  
*As this is an existing regulation, the only alternative form of regulatory authority available to the Division would be an administrative bulletin. The administrative bulletin would not carry the same regulatory authority as the regulation.*

(6) What value does the regulation have to the public?  
*This is an existing regulation that aids the Division in ensuring that all of the insurance companies that are operating in the state of Nevada and who are controlled by Producers will be in compliance with the regulatory framework that is outlined in the Model.*

(7) What is the anticipated economic benefit of the regulation?  
*As this is an existing regulation, there is no change to the impact of the regulation on the following.*

a. Public  
1. Immediate: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*  
2. Long Term: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*

b. Insurance Business  
1. Immediate: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*  
2. Long Term: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*

c. Small Businesses  
1. Immediate: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*  
2. Long Term: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*

d. Small Communities  
1. Immediate: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*  
2. Long Term: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*

e. Government Entities  
1. Immediate: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*  
2. Long Term: *Regulation assists the Division in maintaining the compliance of any Producer controlled insurance companies that operate in the state of Nevada.*

(8) What is the anticipated adverse impact, if any?

a. Public

1. Immediate: *No adverse impact created by amending the regulation.*
  2. Long Term: *No adverse impact created by amending the regulation.*
- b. Insurance Business
1. Immediate: *No adverse impact created by amending the regulation.*
  2. Long Term: *No adverse impact created by amending the regulation.*
- c. Small Businesses
1. Immediate: *No adverse impact created by amending the regulation.*
  2. Long Term: *No adverse impact created by amending the regulation.*
- d. Small Communities
1. Immediate: *No adverse impact created by amending the regulation.*
  2. Long Term: *No adverse impact created by amending the regulation.*
- e. Government Entities
1. Immediate: *No adverse impact created by amending the regulation.*
  2. Long Term: *No adverse impact created by amending the regulation.*
- (9) What is the anticipated cost of the regulation, both direct and indirect?
- a. Enactment: *No additional Cost anticipated. This is an existing regulation.*
  - b. Enforcement: *No additional Cost anticipated. This is an existing regulation.*
  - c. Compliance: *No additional Cost anticipated. This is an existing regulation.*
- (10) Does the regulation establish a new fee or increase an existing fee?  
*This is an existing regulation and there are no fees associated with this regulation.*
- (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.  
*No adverse impact on small businesses.*
- (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 in the state that overlap or duplicate the proposed amendments to the existing regulation.*
- (13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.  
*The requirements of the NAIC Financial Accreditation Standards outline the requirements for all accredited states to have the authority to set regulatory framework or standards which the Commissioner of Insurance may use for the compliance of Producer controlled insurance companies.*  
*It is not a 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.

*There are no federal regulations that address the requirements in this proposed amendment to the existing regulation.*

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. **Written submissions must be received by the Division on or before October 13, 2015.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the offices of the Division, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, and 2501 East Sahara Avenue, Suite 302, Las Vegas, Nevada 89104, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us/register/>. Copies of this notice and the proposed regulation will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

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.

Notice of the hearing was provided via electronic means to all persons on the agency's e-mail list for administrative regulation noticing, and this Notice of Intent to Act Upon Regulation was posted to the agency's Internet Web site at <http://doi.nv.gov/> and was provided to or posted at the following locations:

Department of Business and Industry  
Division of Insurance  
1818 East College Parkway, Suite 103  
Carson City, Nevada 89706

Department of Business and Industry  
Division of Insurance  
2501 East Sahara Avenue, Suite 302  
Las Vegas, Nevada 89104

Legislative Building  
401 South Carson Street  
Carson City, Nevada 89701

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

Blasdel Building  
209 East Musser Street  
Carson City, Nevada 89701

Capitol Building Main Floor  
101 North Carson Street  
Carson City, Nevada 89701

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

Nevada State Library & Archives  
100 North Stewart Street  
Carson City, Nevada 89701

Carson City Library  
900 North Roop Street  
Carson City, Nevada 89701

Churchill County Library  
553 South Main Street  
Fallon, Nevada 89406

Clark County District Library  
833 Las Vegas Boulevard North  
Las Vegas, Nevada 89101

Douglas County Library  
P.O. Box 337  
Minden, Nevada 89423

Elko County Library  
720 Court Street  
Elko, Nevada 89801

Esmeralda County Library  
P.O. Box 430  
Goldfield, Nevada 89013

Eureka Branch Library  
P.O. Box 293  
Eureka, Nevada 89316

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, Nevada 89445

Lander County Library  
P.O. Box 141  
Battle Mountain, Nevada 89820

Lincoln County Library  
P.O. Box 330  
Pioche, Nevada 89043-0330

Lyon County Library  
20 Nevin Way  
Yerington, Nevada 89447

Mineral County Public Library  
P.O. Box 1390  
Hawthorne, Nevada 89415

Pershing County Library  
P.O. Box 781  
Lovelock, Nevada 89419

Storey County Clerk  
P.O. Drawer D  
Virginia City, Nevada 89440

Tonopah Public Library  
P.O. Box 449  
Tonopah, Nevada 89049

Washoe County Library  
P.O. Box 2151  
Reno, Nevada 89505-2151

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301

Members of the public who would like additional information about the proposed regulations may contact Omar Akel, Chief Insurance Examiner, at (775) 687-0743, or via e-mail to [oakel@doi.nv.gov](mailto:oakel@doi.nv.gov).

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Commissioner's secretary in writing at 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, or by calling (775) 687-0700, no later than five (5) working days prior to the hearing.

DATED this 15<sup>th</sup> day of September, 2015.



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AMY L. PARKS  
Acting Commissioner of Insurance

BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA

BRUCE H. BRESLOW  
*Director*



AMY L. PARKS  
*Acting Commissioner*

DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

1818 East College Pkwy., Suite 103  
Carson City, Nevada 89706  
(775) 687-0700 • Fax (775) 687-0787  
Website: [doi.nv.gov](http://doi.nv.gov)  
E-mail: [insinfo@doi.nv.gov](mailto:insinfo@doi.nv.gov)

**Notice of Intent to Act Upon Regulation & Hearing Agenda**  
**LCB File No. R094-14, Producer Controlled Insurers**

**Agenda**

**Tuesday, October 20, 2015 • 10:30 A.M.**

**Location of Hearing:**

Offices of the Division of Insurance  
1818 E. College Pkwy., 1<sup>st</sup> Floor Hearing Room  
Carson City, NV 89706  
(Division Offices located in Suite 103)

**Available via Videoconference at:**

Offices of the Division of Insurance  
2501 E. Sahara Ave., 2<sup>nd</sup> Floor Conference Room  
Las Vegas, NV 89104  
(Division Offices located in Suite 302)

- 1. Call to Order.**
- 2. Public Comment.**
- 3. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**  
**LCB File No. R094-14, Producer Controlled Insurers.**  
A regulation relating to insurance; revising provisions relating to insurers which are controlled by a producer; and providing other matters properly relating thereto.
- 4. Public Comment.**
- 5. Adjournment.**

Supporting public material for this meeting may be requested from Sue Dummar, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, by e-mail to [sdummar@doi.nv.gov](mailto:sdummar@doi.nv.gov), or by calling (775) 687-0704. In your request, please state that you are requesting meeting materials for LCB File No. R094-14, Producer Controlled Insurers, and provide the date of the meeting.

Note: Any agenda item may be taken out-of-order; items may be combined for consideration by the public body; and items may be pulled or removed from the agenda at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public Comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify Sheri LeTourneau, Assistant to the Commissioner, at (775) 687-0771, a day prior to the meeting.

**NOTICES FOR THIS MEETING HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:**

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706

Nevada Division of Insurance, 2501 E. Sahara Avenue, Suite 302, Las Vegas, Nevada 89104

Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701

Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101

Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701

Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701

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

The State of Nevada Website ([www.nv.gov](http://www.nv.gov))

The Nevada State Legislature Website ([www.leg.state.nv.us](http://www.leg.state.nv.us))

The Nevada Division of Insurance Website ([www.doi.nv.gov](http://www.doi.nv.gov))

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

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

LCB File No. R094-14

A regulation revising provisions relating to insurers which are controlled by a producer, provisions governing the management and agency contracts of insurers, and providing other matters properly related thereto.

Effective Date of Regulation: Upon filing with the Secretary of State.

**1. BACKGROUND**

Section 6 of this regulation adopts the same definition of "control" for controlled insurers and controlling producers that is used for insurance holding companies. Section 8 of this regulation includes certain risk retention groups with the definition of "controlled insurer." Section 9 of this regulation: (1) limits the applicability of regulations governing controlled insurers to certain licensed insurers; and (2) provides that, if a conflict exists with the laws or regulations of this State governing holding companies, those laws or regulations control. Sections 3 and 7-19 of this regulation replace the terms "broker" and "controlling broker" with "producer" and "controlling producer," respectively.

**2. DESCRIPTION OF SOLICITATION**

To the extent practicable, the Division of Insurance made a concerted effort to determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business, or directly restrict the formation, operation or expansion of a small business. The Division solicited comments by consulting with the legal counsel, owners and officers of the one and only business that is affected by the proposed regulation. This proposed regulation is required for maintaining accreditation with the National Association of Insurance Commissioners and establishes requirements for continuing regulatory oversight and consumer protection. The proposed regulation imposes a requirement to file a regulatory compliance document and for contract review for the addition of provisions that provide consumer protection. The Division also conducted an analysis of the likely impact of the proposed regulation on the business and also considered methods to reduce any impact of the proposed regulation on the business utilizing the criteria described herein. The Division concluded that the proposed regulation is likely to impose little or no direct or significant economic burden on the small business. The Division also concluded that the proposed regulation does not directly restrict the formation, operation or expansion of a small business.

**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){circle one}**

NO (answer #4)

YES (skip to #5)

**4. HOW WAS THAT CONCLUSION REACHED? (NRS 233B.0608.3)**

After careful consideration and evaluation of all comments and potential impact to small business by consideration and adoption of the proposed regulations, it was determined there is limited to no impact to small business in the State of Nevada upon consideration and adoption of the proposed regulations.

I, Amy L. Parks, Acting Commissioner of Insurance for the State of Nevada, 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 the statement above is accurate. (NRS 233B.0608.3)

9/15/15  
(DATE)

  
AMY L. PARKS  
Acting Commissioner of Insurance

**Small Business Impact Statement**

LCB File No. R094-14

5. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES (NRS 233B.0609.1.a)  
N/A
6. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE (NRS 233B.0609.1.c)  
N/A
7. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES (NRS 233B.0609.1.d)  
N/A
8. ESTIMATED COST OF ENFORCEMENT (NRS 233B.0609.1.e)  
N/A
9. FEE CHANGES (NRS 233B.0609.1.f)  
N/A
10. DUPLICATIVE PROVISIONS (NRS 233B.0609.1.g)  
N/A
11. HOW WAS THE ANALYSIS CONDUCTED? (NRS 233B.0609.1.b)  
N/A
12. REASONS FOR CONCLUSIONS (NRS 233B.0609.1.h)  
N/A

I, Amy L. Parks, Acting Commissioner of Insurance for the State of Nevada, certify that, to the best of my knowledge or belief, the information contained in the statement above was prepared properly and is accurate. (NRS 233B.0609.2)

9/15/15  
(DATE)

  
AMY L. PARKS  
Acting Commissioner of Insurance

**PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R094-14**

July 23, 2014

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

AUTHORITY: §§1-19, NRS 679B.130 and 693A.110.

A REGULATION relating to insurance; revising provisions relating to insurers which are controlled by a producer; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law authorizes the Commissioner of Insurance to adopt regulations governing the management and agency contracts of insurers. (NRS 693A.110)

**Section 6** of this regulation adopts the same definition of “control” for controlled insurers and controlling producers that is used for insurance holding companies. **Section 8** of this regulation includes certain risk retention groups within the definition of “controlled insurer.” **Section 9** of this regulation: (1) limits the applicability of regulations governing controlled insurers to certain licensed insurers; and (2) provides that, if a conflict exists with the laws or regulations of this State governing holding companies, those laws or regulations control. **Sections 3 and 7-19** of this regulation replace the terms “broker” and “controlling broker” with “producer” and “controlling producer,” respectively.

**Section 1.** Chapter 693A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

**Sec. 2.** *“Licensed insurer” means a person, firm, association or corporation duly licensed to transact property and casualty insurance business in this State.*

**Sec. 3.** *“Producer” has the meaning ascribed to “producer of insurance” in NRS 679A.117.*

**Sec. 4.** NAC 693A.600 is hereby amended to read as follows:

693A.600 As used in NAC 693A.600 to 693A.770, inclusive, *and sections 2 and 3 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 693A.610 to 693A.660, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 5.** NAC 693A.610 is hereby amended to read as follows:

693A.610 “Accredited state” means a state in which the agency which regulates insurance in that state has qualified as meeting the minimum financial regulatory standards established *and promulgated from time to time* by the National Association of Insurance Commissioners.

**Sec. 6.** NAC 693A.640 is hereby amended to read as follows:

693A.640 “Control” or “controlled” ~~means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a controlled insurer, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services or otherwise, unless the power is the result of an official position with or corporate office held by the controlled insurer, if the person possessing that power placed, in a calendar year, an aggregate amount of gross written premiums on business with the controlled insurer that is equal to or greater than 5 percent of the assets of the controlled insurer that were reported in the controlled insurer’s annual statement filed with the Commissioner as of March 1 preceding;~~ *has the meaning ascribed to “control” in NRS*

*692C.050.*

**Sec. 7.** NAC 693A.650 is hereby amended to read as follows:

693A.650 “Controlling ~~broker~~ *producer*” means a ~~broker~~ *producer* who controls an insurer.

**Sec. 8.** NAC 693A.660 is hereby amended to read as follows:

693A.660 “Controlled insurer” means a licensed insurer which is domiciled in this State or an insurer which is domiciled in a state that is not an accredited state and which is controlled by a ~~broker~~ *producer*. The term does not include:

1. ~~Risk retention groups covered by 15 U.S.C. § 3902, 42 U.S.C. § 9673 and chapter 695E of NRS;~~

~~2.~~ Residual market pools;

~~3.~~ 2. Joint underwriting authorities or associations; and

~~4.~~ 3. Captive insurers ~~+~~, *other than risk retention groups covered by 15 U.S.C. § 3902, 42 U.S.C. § 9673 and chapter 695E of NRS.*

**Sec. 9.** NAC 693A.670 is hereby amended to read as follows:

693A.670 1. *Except as otherwise provided in subsection 2 or 3, the provisions of NAC 693A.600 to 693A.770, inclusive, and sections 2 and 3 of this regulation apply to licensed insurers:*

*(a) Domiciled in this State or in a state that is not an accredited state and does not have in effect a substantially similar law; and*

*(b) Who, in any calendar year, have an aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer equal to or greater than 5 percent of the admitted assets of the controlled insurer, as reported in the controlled insurer’s quarterly financial statement filed on or before September 30 of the immediately preceding calendar year.*

2. The provisions of NAC 693A.600 to 693A.770, inclusive, *and sections 2 and 3 of this regulation* do not apply if:

~~1.~~ (a) A controlling ~~broker~~ *producer*:

~~{(a)}~~ (1) Places insurance only with a controlled insurer, or only with the controlled insurer and ~~{an}~~ *a member of the controlled insurer's holding company system or a parent, subsidiary or* affiliate of the controlled insurer, and receives no compensation based upon the amount of premiums written in connection with that insurance; and

~~{(b)}~~ (2) Accepts insurance only from other nonaffiliated ~~{brokers}~~ *producers* and not directly from insureds; and

~~{2}~~ (b) The controlled insurer, except for insurance business written through a residual market plan, accepts insurance business only from a controlling ~~{broker}~~ *producer, a producer controlled by the controlled insurer* or a ~~{broker}~~ *producer* that is a subsidiary of the controlled insurer.

3. *To the extent that the provisions of this chapter conflict with the provisions of chapter 692C of NRS or chapter 692C of NAC, the provisions of chapter 692C of NRS or chapter 692C of NAC control.*

**Sec. 10.** NAC 693A.680 is hereby amended to read as follows:

693A.680 1. A controlled insurer shall not accept insurance business from a controlling ~~{broker}~~ *producer* and a controlling ~~{broker}~~ *producer* shall not place insurance with a controlled insurer unless there is a written contract, which has been approved by the board of directors of the controlled insurer, between the controlling ~~{broker}~~ *producer* and the controlled insurer that specifies the responsibilities of each party.

2. Such a contract must contain a provision that allows a controlled insurer, upon written notice to a controlling ~~{broker}~~ *producer*, to terminate the contract for cause. The controlled insurer shall *suspend the authority of the controlling producer to place insurance with the controlled insurer and shall* not accept insurance business from the controlling ~~{broker}~~

*producer* during the pendency of any dispute regarding the cause for the termination of the contract.

3. A controlling ~~{broker}~~ *producer* shall not assign, in whole or in part, a contract entered into pursuant to subsection 1.

**Sec. 11.** NAC 693A.690 is hereby amended to read as follows:

693A.690 1. A controlling ~~{broker}~~ *producer* shall provide an accounting to a controlled insurer that sets forth all material transactions executed by the controlling ~~{broker}~~ *producer* that affect the controlled insurer, including information necessary to identify and explain all commissions, charges and other fees already received by the controlling ~~{broker}~~ *producer* or still owing by the controlled insurer to the controlling ~~{broker}~~ *producer*.

2. A controlling ~~{broker}~~ *producer* shall remit all money due under the terms of a contract entered into with a controlled insurer to the controlled insurer at least once each month on a date agreed to by the parties. Premiums or installments thereof must be remitted to the controlled insurer no later than 90 days after the effective date of any policy of insurance placed with the controlled insurer pursuant to the contract.

3. Except as otherwise provided in this subsection, all money collected by a controlling ~~{broker}~~ *producer* for a controlled insurer must be held by the controlling ~~{broker}~~ *producer* in a fiduciary capacity, in one or more bank accounts established for the controlled insurer in banks that are members of the Federal Reserve System. A controlling ~~{broker}~~ *producer* which is not required to be licensed in this State shall hold money for the controlled insurer in compliance with the requirements of the controlling ~~{broker's}~~ *producer's* domiciliary jurisdiction.

4. A controlling ~~{broker}~~ *producer* shall maintain records of all insurance business written for a controlled insurer separate from all other records of the controlling ~~{broker}~~ *producer*.

**Sec. 12.** NAC 693A.700 is hereby amended to read as follows:

693A.700 1. A controlled insurer shall provide to the controlling ~~{broker}~~ *producer* its underwriting standards, rules, procedures and manuals setting forth the rates to be charged and the conditions for the acceptance or rejection of risks. The controlling ~~{broker}~~ *producer* shall adhere to the standards, rules, procedures, rates and conditions of the controlled insurer. The standards, rules, procedures, rates and conditions of the controlled insurer must be the same as those the insurer applies to comparable business placed with the controlled insurer by a ~~{broker}~~ *producer* other than the controlling ~~{broker}~~ *producer*.

2. The contract between the controlling ~~{broker}~~ *producer* and the controlled insurer must specify the rates and terms of the controlling ~~{broker's}~~ *producer's* commissions, charges or other fees and the purposes for those commissions, charges and fees. The rates of the commissions, charges and other fees must not be greater than those applicable to comparable business placed with the controlled insurer by ~~{brokers}~~ *producers* other than the controlling ~~{broker}~~ *producer*.

3. As used in this section, “comparable business” includes insurance of the same lines, insurance of the same kinds, risks of the same kinds, limits on policies of insurance that are similar and business of a similar quality to the business between the controlling ~~{broker}~~ *producer* and the controlled insurer.

**Sec. 13.** NAC 693A.710 is hereby amended to read as follows:

693A.710 1. If a contract between a controlling ~~{broker}~~ *producer* and a controlled insurer provides that the controlling ~~{broker}~~ *producer* is to be compensated for insurance business placed with the controlled insurer contingent upon the controlled insurer making a profit on that business, the compensation may not be determined or paid:

(a) If the insurance is liability insurance, for at least 5 years after the premiums on the insurance are earned.

(b) If the insurance is other than liability insurance, for at least 1 year after the premiums are earned on the insurance.

2. Any commissions owed to a controlling ~~{broker}~~ *producer* may not be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subsection 1 of NAC 693A.750.

**Sec. 14.** NAC 693A.720 is hereby amended to read as follows:

693A.720 1. A contract between a controlling ~~{broker}~~ *producer* and a controlled insurer must provide a limit on the controlling ~~{broker's}~~ *producer's* writings that is within the limit on the controlled insurer's *surplus and* total writings. A different limit for each line or subline of insurance may be established in the contract.

2. A controlled insurer shall notify the controlling ~~{broker}~~ *producer* when the ~~{broker}~~ *producer* is approaching the limit established pursuant to subsection 1. The controlled insurer shall not accept insurance business from the controlling ~~{broker}~~ *producer* if the ~~{broker}~~ *producer* has reached the limit. The controlling ~~{broker}~~ *producer* shall not place insurance business with the controlled insurer if the ~~{broker}~~ *producer* has been notified by the controlled insurer that he or she has reached his or her limit.

**Sec. 15.** NAC 693A.730 is hereby amended to read as follows:

693A.730 Except as otherwise provided in this section, a controlling ~~{broker}~~ *producer* may negotiate for but shall not require a controlled insurer to reinsure business that the controlling ~~{broker}~~ *producer* places with the controlled insurer. The controlling ~~{broker}~~ *producer* may require the controlled insurer to enter into contracts for facultative reinsurance pursuant to

obligatory facultative agreements if the written contract between the controlling ~~{broker}~~ *producer* and the controlled insurer contains guidelines for underwriting. If the reinsurance has been ceded and assumed, the guidelines for underwriting must include a list of reinsurers with whom obligatory facultative agreements are in effect, the coverages and amounts or percentages that may be reinsured and a schedule of commissions.

**Sec. 16.** NAC 693A.750 is hereby amended to read as follows:

693A.750 1. In addition to any other required certification of reserves for losses, a controlled insurer shall, on April 1 of each year, file with the Commissioner an opinion of an independent actuary or other independent specialist on reserves for losses who is acceptable to the Commissioner, a report of loss ratios for each line of insurance written which attests to the adequacy of reserves established for losses incurred and outstanding as of December 31, preceding, including the losses incurred but not reported on insurance business placed with the controlled insurer by his or her controlling ~~{broker}~~ *producer*.

2. The controlled insurer shall report annually to the Commissioner the amount of commissions paid to the controlling ~~{broker}~~ *producer*, the percentage which the amount represents of the net premiums written, and comparable amounts and percentages paid to noncontrolling ~~{brokers}~~ *producers* for placements of the same kinds of insurance.

**Sec. 17.** NAC 693A.760 is hereby amended to read as follows:

693A.760 1. A controlling ~~{broker}~~ *producer*, before the effective date of a policy of insurance, shall deliver written notice to the prospective insured that discloses the relationship between the controlling ~~{broker}~~ *producer* and the controlled insurer.

2. If a controlling ~~{broker}~~ *producer* places insurance business through a ~~{broker}~~ *producer* who is not a controlling ~~{broker}~~ *producer*, the controlling ~~{broker}~~ *producer* shall retain in his

or her records a signed statement from the other ~~{broker}~~ *producer* indicating that the other ~~{broker}~~ *producer* is aware of the relationship between the controlling ~~{broker}~~ *producer* and the controlled insurer and will notify the insured of the relationship.

**Sec. 18.** NAC 693A.770 is hereby amended to read as follows:

693A.770 1. If the Commissioner believes that a controlling ~~{broker}~~ *producer* has not complied with a provision of NAC 693A.600 to 693A.770, inclusive, *and sections 2 and 3 of this regulation* or any order issued pursuant to those sections, the Commissioner may:

(a) After giving notice and an opportunity to be heard pursuant to NRS 679B.310 to 679B.370, inclusive, order the controlling ~~{broker}~~ *producer* to cease placing insurance business with a controlled insurer.

(b) Invoke the aid of the courts to enjoin an existing or threatened violation of a provision of NAC 693A.600 to 693A.770, inclusive, *and sections 2 and 3 of this regulation* or to enforce an order made pursuant to paragraph (a).

2. If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to chapter 696B of NRS and the Commissioner, acting as domiciliary receiver, believes that the controlling ~~{broker}~~ *producer* has not complied with a provision of NAC 693A.600 to 693A.770, inclusive, *and sections 2 and 3 of this regulation* or any order issued pursuant to those sections, and the controlled insurer suffered a loss or damage therefrom, the receiver may, on behalf of the controlled insurer and pursuant to NRS 696B.290, maintain a civil action to recover compensatory damages or obtain other appropriate relief against the controlling ~~{broker}~~ *producer*.

3. This section does not affect:

(a) The right of the Commissioner to impose any other penalties provided for in title 57 of NRS; or

(b) The rights of policyholders, claimants, creditors or other third parties to maintain any civil action against a controlling ~~broker~~ *producer*.

**Sec. 19.** NAC 693A.620 is hereby repealed.

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**TEXT OF REPEALED SECTION**

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**693A.620 “Broker” defined. (NRS 679B.130, 693A.110)** “Broker” has the meaning ascribed to it in NRS 683A.321.