

**NOTICE OF INTENT TO ACT UPON REGULATION  
AND  
HEARING AGENDA**

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 September 22, 2016**, at the Division’s offices, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706, 1<sup>st</sup> Floor Hearing Room. Interested persons may also participate through a simultaneous videoconference conducted at the Division’s offices, 2501 East Sahara Avenue (Bradley Building), Suite 302, Las Vegas, Nevada 89104, 3<sup>rd</sup> floor conference room. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of the regulation(s) that pertain(s) to **chapter(s) 616B** 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. R072-16. Tangible Net Worth of Self-Insured Employers, Additional Deposit.** (NAC 616B)

A REGULATION relating to insurance; revising provisions governing the circumstances under which the Commissioner of Insurance may accept from an employer a deposit of financial instruments in lieu of the demonstration of net worth otherwise required to qualify as a self-insured employer for industrial insurance and occupational disease; and providing other matters properly relating thereto.

- (1) Why is the regulation necessary and what is its purpose? *NAC 616B.433 was last amended in 2007 (R119-07). At that time, R119-07 was adopted incorrectly, citing an unrelated statute (NRS 616A.330) and eliminating critical provisions that were included in its original draft. The currently-proposed regulation corrects NAC 616B.433 and further clarifies the circumstances under which the Commissioner may accept an additional deposit from an employer who does not meet the requirement of a tangible net worth of \$2,500,000.*
- (2) What are the terms or substance of the proposed regulation? *The proposed regulation: 1) eliminates an incorrect reference to NRS 616A.330; 2) adds provisions describing disallowed assets; and 3) amends language to clarify when the Commissioner would accept an additional deposit if an employer fails to meet the tangible net worth requirement of \$2,500,000.*
- (3) What is the anticipated impact of the regulation on the problem(s)? *The proposed regulation will correct a prior amendment. Clarified language will eliminate confusion and make the purpose of the regulation clearly understood.*
- (4) Do other regulations address the same problem(s)? *No.*
- (5) Are alternate forms of regulation sufficient to address the problem(s)? *No.*

(6) What value does the regulation have to the public? *It makes available a correct, clear and unambiguous regulation.*

(7) What is the anticipated economic benefit of the regulation?

- a. Public
  - 1. Immediate: *N/A*
  - 2. Long Term: *N/A*
- b. Insurance Business
  - 1. Immediate: *N/A*
  - 2. Long Term: *N/A*
- c. Small Businesses
  - 1. Immediate: *N/A*
  - 2. Long Term: *N/A*
- d. Small Communities
  - 1. Immediate: *N/A*
  - 2. Long Term: *N/A*
- e. Government Entities
  - 1. Immediate: *N/A*
  - 2. Long Term: *N/A*

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

- a. Public
  - 1. Immediate: *None*
  - 2. Long Term: *None*
- b. Insurance Business
  - 1. Immediate: *None*
  - 2. Long Term: *None*
- c. Small Businesses
  - 1. Immediate: *None*
  - 2. Long Term: *None*
- d. Small Communities
  - 1. Immediate: *None*
  - 2. Long Term: *None*
- e. Government Entities
  - 1. Immediate: *None*
  - 2. Long Term: *None*

- (9) What is the anticipated cost of the regulation, both direct and indirect?
- a. Enactment: *None*
  - b. Enforcement: *None*
  - c. Compliance: *None*
- (10) Does the regulation establish a new fee or increase an existing fee? *No.*
- (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 proposed regulation does not pertain to small business and would have no 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. *The proposed regulation does not overlap or duplicate a federal, state or local regulation.*
- (13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law. *N/A*
- (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. *N/A*

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 September 15, 2016.** 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 North 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 regulations, 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

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

Las Vegas-Clark County Library District  
7060 W. Windmill Lane  
Las Vegas, NV 89113

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/Downtown Reno 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 regulation may contact Terri Chambers, Chief of the Self-Insured Workers' Compensation Section, at (775) 687-0777, or via e-mail to [tchambers@doi.nv.gov](mailto:tchambers@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, no later than five (5) working days before the meeting: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

DATED this 11<sup>th</sup> day of August, 2016.

  
BARBARA D. RICHARDSON  
Commissioner of Insurance

### HEARING AGENDA

The State of Nevada, Department of Business and Industry  
Division of Insurance

**September 22, 2016 • 10:30 a.m.**

**Location of Hearing:**

Office 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:**

Office of the Division of Insurance  
2501 E. Sahara Ave., 3<sup>rd</sup> Floor Conference Room  
Las Vegas, NV 89104  
(Division Offices located in Suite 302)

- 1. Call to Order: R072-16.**
- 2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)**

**LCB File No. R072-16. Tangible Net Worth of Self-Insured Employers, Additional Deposit.** (NAC 616B)

A REGULATION relating to insurance; revising provisions governing the circumstances under which the Commissioner of Insurance may accept from an employer a deposit of financial instruments in lieu of the demonstration of net worth otherwise required to qualify as a self-insured employer for industrial insurance and occupational disease; and providing other matters properly relating thereto.

**3. Public Comment.**

**4. Closure: R072-16.**

**5. Adjournment.**

Supporting public material for this meeting may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or [suebell@doi.nv.gov](mailto:suebell@doi.nv.gov).

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 the Commissioner's Assistant, at (775) 687-0771, no later than five (5) working days before 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 Dept. 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))

**REVISED PROPOSED REGULATION OF THE  
COMMISSIONER OF INSURANCE**

**LCB File No. R072-16**

August 4, 2016

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

AUTHORITY: §1, NRS 616B.300 and 679B.130.

A REGULATION relating to insurance; revising provisions governing the circumstances under which the Commissioner of Insurance may accept from an employer a deposit of financial instruments in lieu of the demonstration of net worth otherwise required to qualify as a self-insured employer for industrial insurance and occupational disease; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Under existing law, a private employer that wishes to qualify and remain qualified as a self-insured employer for industrial insurance or occupational disease must satisfy the Commissioner of Insurance that the employer has sufficient financial resources to make certain the prompt payment of all compensation that may be due to employees under those programs. An employer is deemed to have sufficient financial resources if the employer maintains at all times during the first 3 years of operation as a self-insured employer a tangible net worth of at least \$2,500,000. The employer must provide evidence of that tangible net worth by submitting audited financial statements. (NRS 616B.300; NAC 616B.424)

Existing regulations incorporate by reference a statutory definition of “tangible net worth” that excludes as assets of an association of self-insured employers or its members: (1) goodwill; and (2) any other item listed as an asset that is deemed unacceptable by the Commissioner because it cannot be justified or does not directly support the ability to pay a claim. (NRS 616A.330; NAC 616B.433) This regulation removes the reference to this definition but incorporates the substance of the definition. This aspect of the regulation does not change existing law.

Existing regulations also provide that if an employer’s financial statements demonstrate a “strong financial position,” the Commissioner may, in lieu of a demonstration that the employer has a tangible net worth of at least \$2,500,000, accept a deposit of certain financial instruments in the amount of \$2,500,000. (NAC 616B.433) This regulation eliminates the “strong financial position” standard and allows the Commissioner to accept such a deposit if the employer’s financial statements demonstrate that the employer has sufficient financial resources to make certain the prompt payment of all compensation that may be due.

**Section 1.** NAC 616B.433 is hereby amended to read as follows:

616B.433 1. To ***enable the Commissioner to*** determine the tangible net worth ~~+, as defined in NRS 616A.330,]~~ of a self-insured employer, ~~[he or she]~~ ***the employer*** shall submit to the Commissioner all financial statements and accompanying footnotes, including an independent auditor's opinion. Each statement must be audited.

2. The following factors must be used to review the audited financial statements:

(a) The auditor's opinion.

(b) The various financial ratios, including working capital and cash flow.

(c) Any footnotes related to:

(1) A contingency or commitment;

(2) A party;

(3) A bad debt; or

(4) The restructuring of an operation.

3. If any of the factors in subsection 2 are deemed material, the Commissioner may deny certification.

4. ***In determining the tangible net worth of a self-insured employer, the Commissioner will disallow as assets of the employer:***

***(a) Goodwill; and***

***(b) Any other item listed as an asset that is deemed unacceptable by the Commissioner because it cannot be justified or does not directly support the ability of the employer to pay a claim.***

5. If, after ~~[the adjustments are made pursuant to subsection 1, the employer's statement demonstrates a strong financial position and meets the tests in subsection 2,]~~ ***accounting for the***



*factors in subsection 2, the Commissioner determines that the employer's financial statements do not demonstrate the tangible net worth otherwise required by subsection 1 of NAC 616B.424 but demonstrate that the employer has sufficient financial resources to make certain the prompt payment of all compensation that may be due under chapters 616A to 616D, inclusive, or chapter 617 of NRS,* the Commissioner may accept as an additional deposit any instrument described in NAC 616B.436 in the amount of \$2,500,000 in lieu of the requirement set forth in subsection 1 of NAC 616B.424. The deposit described in this subsection must be separate from the deposit required pursuant to NRS 616B.300.

STATE OF NEVADA  
DEPARTMENT OF BUSINESS & INDUSTRY  
DIVISION OF INSURANCE

Determination of Necessity - Small Business Impact Statement

LCB File No. R072-16

A regulation relating to insurance that revises provisions pertaining to the tangible net worth of a self-insured employer and the circumstances under which the Commissioner may accept an additional deposit.

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

1. BACKGROUND

NAC 616B.433 was last amended in 2007 (R119-07). At that time, the regulation was adopted citing an unrelated statute (NRS 616A.330) and eliminating critical provisions that were included in the original draft. The proposed regulation seeks to correct the mistakes made in the adoption of R119-07 and to further clarify the circumstances under which the Commissioner may accept an additional deposit from an employer who does not meet the requirement of a tangible net worth of \$2,500,000.

2. DESCRIPTION OF SOLICITATION

No comment was solicited from 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)

NO (answer #4)

YES (skip to #5)

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

The proposed regulation will have no effect on employers of any size. The proposed language only corrects and clarifies an existing regulation. No substantive changes are made.

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)

6/30/14  
(DATE)

  
BARBARA D. RICHARDSON  
Commissioner of Insurance


Small Business Impact Statement

LCB File No. R072-16

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, 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.0609.2)

6/30/16  
(DATE)

  
BARBARA D. RICHARDSON  
Commissioner of Insurance