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November 2, 2016

Sue Bell
Legal Secretary
State of Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706



Re: LCB File No. R079-16

Dear Ms. Bell:

Regulation R079-16 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,

A handwritten signature in black ink, appearing to read "AAK".

Asher A. Killian
Senior Deputy Legislative Counsel

Brenda J. Erdoes
Legislative Counsel

AAK/slj
Enclosure



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**Form For Filing
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Agency
Dept. of Business and Industry
Division of Insurance

R079-16

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: PROPOSED ADOPTED BY AGENCY EMERGENCY

Brief description of action Regulation concerning Certified Reinsurers

Authority citation other than 233B NRS 679B.130, 681A.130

Notice date 8/22/16

Date of Adoption by Agency 10/20/16

Hearing date 10/11/16

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R079-16

Effective November 2, 2016

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

AUTHORITY: §§1-7, 11 and 15-18, NRS 679B.130 and 681A.130; §8, NRS 679B.130, 681A.130 and 681A.1555; §§9 and 12, NRS 679B.130, 681A.130, 681A.1551, 681A.1552, 681A.1554 and 681A.1555; §10, NRS 679B.130, 681A.130 and 681A.1554; §13, NRS 679B.130, 681A.130 and 681A.1553; §14, NRS 679B.130, 681A.130, 681A.1554 and 681A.1556.

A REGULATION relating to insurance; establishing provisions relating to the security of obligations assumed by certain assuming insurers; providing for the certification of an assuming insurer as a reinsurer; providing for the rating of certified reinsurers by the Commissioner of Insurance; establishing criteria for the recognition of a jurisdiction as a qualified jurisdiction by the Commissioner; authorizing the Commissioner to recognize the certification and rating of a reinsurer issued in certain jurisdictions; establishing certain provisions relating to reinsurance contracts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt regulations to carry out the provisions of existing law relating to reinsurance. (NRS 681A.130) Existing law also requires a credit for reinsurance ceded to an assuming insurer to be allowed if the assuming insurer is certified as a reinsurer by the Commissioner. (NRS 681A.155) **Section 8** of this regulation establishes requirements for the security which must be held by or on behalf of a ceding insurer to secure the obligation assumed by a certified reinsurer. **Section 9** of this regulation establishes the process and requirements for the certification of an assuming insurer as a certified reinsurer. **Section 10** of this regulation provides for the rating of a certified insurer by the Commissioner and authorizes the Commissioner to adjust the security requirement established by **section 8** for a certified reinsurer in certain circumstances. **Section 11** of this regulation requires the Commissioner to keep confidential information submitted by a certified reinsurer which is not otherwise public information. **Section 12** of this regulation provides for the modification, suspension or revocation of the certification of a certified reinsurer.

Existing law allows for an assuming insurer which is licensed and domiciled in a “qualified jurisdiction” to be considered for certification by the Commissioner as a certified reinsurer. (NRS 681A.1553) **Section 13** of this regulation establishes the process and criteria that the Commissioner must use in determining whether to recognize a domiciliary jurisdiction of an assuming insurer as a qualified jurisdiction. **Section 14** of this regulation authorizes the Commissioner to recognize the certification and rating of an assuming insurer as a reinsurer issued by certain jurisdictions and deem the assuming insurer to hold the equivalent certification and rating in this State.

Existing regulations provide, in certain circumstances, that a reinsurance agreement must include certain provisions for credit to be granted, or an asset or reduction from liability to be allowed, to a ceding insurer. (NAC 681A.375) **Section 15** of this regulation requires a reinsurance agreement to include a funding clause relating to the security that must be provided and maintained by a certified reinsurer. **Section 18** of this regulation requires a reinsurance agreement to include a reinsurance intermediary clause, if applicable, stipulating that the credit risk for the intermediary is carried by the assuming insurer.

Section 1. Chapter 681A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this regulation.

Sec. 2. *“Assuming insurer” means an insurer that accepts all or part of a ceding insurer’s insurance or reinsurance obligation on a risk or exposure basis.*

Sec. 3. *“Ceding insurer” means an insurer that transfers an insurance or reinsurance obligation to an assuming insurer on a risk or exposure basis.*

Sec. 4. *As used in sections 4 to 16, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 5 and 6 of this regulation have the meanings ascribed to them in those sections.*

Sec. 5. *“Certified reinsurer” means an assuming insurer that is certified as a reinsurer by the Commissioner pursuant to section 9 of this regulation.*

Sec. 6. *“Qualified jurisdiction” means a jurisdiction which is recognized by the Commissioner as qualified pursuant to section 13 of this regulation.*

Sec. 7. *As used in NRS 681A.1553, the Commissioner interprets the term “reinsurance supervisory system” to mean a system for regulatory oversight performed by the domiciliary jurisdiction of an assuming insurer domiciled outside of the United States.*

Sec. 8. 1. *The Commissioner will allow a ceding insurer to claim a financial statement credit for an insurance or reinsurance obligation ceded by the ceding insurer to an assuming insurer that has been a certified reinsurer in this State at all times for which the credit is claimed.*

2. *Except as otherwise provided in subsections 4 and 5 and subsection 4 of section 10 of this regulation, to qualify for a credit, the security held by or on behalf of the ceding insurer must:*

(a) *Be in a form consistent with the provisions of NRS 681A.155 to 681A.1557, inclusive, 681A.180 and 681A.240 and NAC 681A.250 to 681A.380, inclusive; and*

(b) *Be in not less than an amount based on the rating assigned to the certified reinsurer by the Commissioner pursuant to NRS 681A.1554 and section 10 of this regulation as follows:*

(1) *For a certified reinsurer rated Secure — 1, 0 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.*

(2) *For a certified reinsurer rated Secure — 2, 10 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.*

(3) *For a certified reinsurer rated Secure — 3, 20 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.*

(4) *For a certified reinsurer rated Secure — 4, 50 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.*

(5) For a certified reinsurer rated Secure — 5, 75 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.

(6) For a certified reinsurer rated Vulnerable — 6, 100 percent of the insurance or reinsurance obligation accepted by the certified reinsurer.

3. An insurance or reinsurance obligation transferred from a ceding insurer to a certified reinsurer that is affiliated with the ceding insurer is subject to the requirements relating to security described in subsection 2.

4. Upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer, a certified reinsurer shall post security for 100 percent of the insurance or reinsurance obligation accepted by the certified reinsurer for the benefit of the ceding insurer or its estate.

5. A certified reinsurer may defer posting security for an amount recoverable due to catastrophe for a period of 1 year after the date of the first instance of a liability reserve entry by the ceding insurer as a result of a loss from a catastrophic occurrence as recognized by the Commissioner. A certified reinsurer may defer posting security pursuant to this subsection only:

(a) If the certified reinsurer continues to pay claims in a timely manner during the deferral period; and

(b) For the following lines of business, as reported on the annual financial statement filed by the ceding insurer with the Commissioner and related specifically to the catastrophic occurrence:

(1) Line 1: Fire.

- (2) *Line 2: Allied lines.*
- (3) *Line 3: Farm owners multiple peril.*
- (4) *Line 4: Homeowners multiple peril.*
- (5) *Line 5: Commercial multiple peril.*
- (6) *Line 9: Inland marine.*
- (7) *Line 12: Earthquake.*
- (8) *Line 21: Auto physical damage.*

6. *The Commissioner will allow a ceding insurer to claim a financial statement credit for reinsurance ceded by the ceding insurer to a certified reinsurer only for a reinsurance contract entered into:*

- (a) *On or after the effective date of the certification of the certified reinsurer; or*
- (b) *Before the effective date of the certification of the certified reinsurer which is subsequently amended after the effective date of the certification of the certified reinsurer, or for which a new reinsurance contract is entered into covering any risk for which collateral was provided previously, only for losses incurred and reserves reported on or after the effective date of the amendment or new contract.*

7. *Nothing in this section shall be construed to prohibit the parties to a reinsurance contract from agreeing to provisions that establish security requirements which exceed the requirements established in paragraph (b) of subsection 2.*

Sec. 9. 1. *The Commissioner will post notice on the Internet website maintained by the Division promptly upon receipt of an application for certification as a certified reinsurer, which must include, without limitation, instructions for responding to the application by*

members of the public. The Commissioner will not take final action on an application until at least 30 days after posting the notice required by this subsection.

2. Except as otherwise provided in section 14 of this regulation, to be eligible for certification as a certified reinsurer, an assuming insurer must:

(a) Maintain capital and surplus, or its equivalent, in an amount of not less than \$250,000,000 calculated based on the documents described in paragraphs (f) and (g) of subsection 3 of section 10 of this regulation. An association that includes incorporated and individual unincorporated underwriters which has minimum capital and surplus equivalents, net of liabilities, of not less than \$250,000,000 and a central fund that contains a balance of not less than \$250,000,000 shall be deemed to satisfy the requirements of this paragraph.

(b) Maintain financial strength ratings from two or more rating agencies determined to be acceptable by the Commissioner. To satisfy the requirements of this paragraph, a financial strength rating must be based on interactive communication between the rating agency and the assuming insurer and must not be based solely on publicly available information. Rating agencies deemed acceptable by the Commissioner include, without limitation:

(1) S & P Global Ratings;

(2) Moody's Investors Service, Inc.;

(3) Fitch Ratings;

(4) A.M. Best Company, Inc.; and

(5) Any other nationally recognized statistical rating organization.

(c) File with the Division a properly executed Form CR-1 as evidence that the assuming insurer has complied with the provisions of subsection 4 of NRS 681A.1551. The

Commissioner will not accept a Form CR-1 from an assuming insurer that is domiciled in a jurisdiction that the Commissioner has determined does not adequately and promptly enforce final judgments rendered by a court of competent jurisdiction in the United States or arbitration awards. A copy of Form CR-1 may be obtained free of charge from the Division at the Internet address <http://doi.nv.gov/Insurers/Company-Admissions/Annual-Renewals-of-Company-License/>.

(d) Satisfy the requirements of NRS 681A.1551.

(e) Satisfy any other requirement reasonably imposed by the Commissioner.

3. If the Commissioner determines that an assuming insurer that has submitted an application for certification as a reinsurer has satisfied the requirements of this section and NRS 681A.1551, the Commissioner will issue a written notice to the assuming insurer that it has been approved as a certified reinsurer. Such a notice must include, without limitation, the rating assigned to the certified reinsurer by the Commissioner pursuant to section 10 of this regulation.

Sec. 10. 1. Except as otherwise provided in section 14 of this regulation, the Commissioner will assign a rating to each certified reinsurer pursuant to NRS 681A.1554. When determining the rating for a certified reinsurer, the Commissioner will evaluate the certified reinsurer as a separate entity from any group in which it may be a member, but the Commissioner may give consideration to the group in which a certified reinsurer is a member if the Commissioner determines such consideration would be appropriate. The Commissioner may evaluate an association that includes incorporated and individual unincorporated

underwriters that has been approved to do business as a certified reinsurer on the basis of its group rating.

2. The Commissioner will determine the maximum rating that he or she may assign to a certified reinsurer on the basis of the financial strength ratings assigned to the certified reinsurer by two or more rating agencies determined to be acceptable by the Commissioner. The Commissioner will use the lowest financial strength rating received by the certified reinsurer to establish a maximum rating for the certified reinsurer in accordance with the following table:

<i>Maximum rating</i>	<i>A.M. Best Company, Inc.</i>	<i>S & P Global Ratings</i>	<i>Moody's Investors Service, Inc.</i>	<i>Fitch Ratings</i>
<i>Secure — 1</i>	<i>A++</i>	<i>AAA</i>	<i>Aaa</i>	<i>AAA</i>
<i>Secure — 2</i>	<i>A+</i>	<i>AA+, AA, AA-</i>	<i>Aa1, Aa2, Aa3</i>	<i>AA+, AA, AA-</i>
<i>Secure — 3</i>	<i>A</i>	<i>A+, A</i>	<i>A1, A2</i>	<i>A+, A</i>
<i>Secure — 4</i>	<i>A-</i>	<i>A-</i>	<i>A3</i>	<i>A-</i>
<i>Secure — 5</i>	<i>B++, B+</i>	<i>BBB+, BBB, BBB-</i>	<i>Baa1, Baa2, Baa3</i>	<i>BBB+, BBB, BBB-</i>
<i>Vulnerable — 6</i>	<i>B, B-, C++, C+, C, C-, D, E, F</i>	<i>BB+, BB, BB-, B+, B, B-, CCC, CC, D, R, SD</i>	<i>Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C</i>	<i>BB+, BB, BB-, B+, B, B-, CCC, CC, C</i>

3. When determining whether to assign the maximum rating pursuant to subsection 2 or a lower rating to a certified reinsurer, the Commissioner may consider factors which include, without limitation:

(a) The business practices of the certified reinsurer in dealing with its ceding insurers, including, without limitation, its record of compliance with the terms and obligations of reinsurance contracts.

(b) For a certified reinsurer domiciled in the United States, a review of the most recent annual financial statement, Schedule F for property or casualty insurers or Schedule S for life and health insurers, as appropriate, filed by the insurer.

(c) For a certified reinsurer not domiciled in the United States, an annual review of Form CR-F for property or casualty insurers or Form CR-S for life and health insurers, as appropriate, filed by the insurer.

(d) The reputation of the certified reinsurer for prompt payment of claims under reinsurance contracts based on an analysis of the reporting of overdue reinsurance recoverables by ceding insurers on Schedule F, including, without limitation, the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership.

(e) Any regulatory action against the certified reinsurer.

(f) For a certified reinsurer domiciled in the United States, financial statements audited on the basis of generally accepted accounting principles, regulatory filings and actuarial opinions.

(g) For a certified insurer domiciled outside of the United States, the immediately preceding 3 years' financial statements audited on the basis of generally accepted accounting principles in the United States or basis statements audited on the basis of international financial reporting standards which include an audited footnote reconciling equity and net income on the basis of generally accepted accounting principles in the United States or, with the permission of the Commissioner, which are certified by an officer of the certified reinsurer to be reconciled with generally accepted accounting principles in the United States, regulatory filings and actuarial opinions as filed with the appropriate supervisor in the jurisdiction.

(h) The report of an independent auditor on the financial statements described in paragraph (f) or (g), as applicable, of the certified reinsurer.

(i) The liquidation priority of obligations to a ceding insurer in the domiciliary jurisdiction of the certified reinsurer during an insolvency proceeding.

(j) The participation of the certified reinsurer in any solvent scheme of arrangement or similar procedure which involved ceding insurers domiciled in the United States. A certified reinsurer shall provide notice to the Commissioner before the certified reinsurer proposes to participate in a solvent scheme of arrangement or similar procedure.

(k) Any other information that the Commissioner determines is relevant.

4. The Commissioner may adjust the security that a certified reinsurer is required to post pursuant to paragraph (b) of subsection 2 of section 8 of this regulation to protect the liabilities of the certified reinsurer to its ceding insurers on the basis of the reputation of the certified reinsurer for prompt payment of claims as described in paragraph (d) of subsection 3.

The Commissioner will, at a minimum, deem a certified insurer to be one rating lower for the purpose of posting security if the Commissioner finds that:

(a) More than 15 percent of the ceding insurers of the certified reinsurer have reinsurance recoverables on paid losses which are overdue by 90 days or more that are not in dispute and exceed \$100,000 for each ceding insurer; or

(b) The aggregate amount of reinsurance recoverables on paid losses which are overdue by 90 days or more that are not in dispute exceeds \$50,000,000.

5. Each certified insurer shall submit to the Commissioner with its initial application and on an ongoing basis thereafter:

(a) Notification within 10 days after any regulatory action taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency which includes a statement describing the action or change and the reasons therefor;

(b) Form CR-1, CR-F or CR-S, as applicable, updated annually;

(c) The information described in paragraph (f) or (g) of subsection 3, as applicable, updated annually;

(d) The report of an independent auditor on the financial statement submitted pursuant to paragraph (c), updated annually;

(e) A list of all disputed and overdue reinsurance claims regarding reinsurance assumed from ceding insurers domiciled in the United States, updated not less than annually;

(f) Certification from the domestic regulator of the certified reinsurer that the certified reinsurer is in good standing and maintains capital in excess of the highest regulatory action level of the jurisdiction; and

(g) Any other information that the Commissioner may reasonably require.

6. Upon receipt of information indicating that a rating agency has upgraded or downgraded a certified reinsurer or that some other relevant circumstance has occurred, the Commissioner will reevaluate the rating assigned to a certified reinsurer and, if the Commissioner determines that a different rating is appropriate, provide written notice to the certified reinsurer that a different rating has been assigned. If the Commissioner upgrades the rating of a certified reinsurer, the upgraded rating applies to any reinsurance contract entered into by the certified reinsurer after the date of the written notice and the previous rating applies to any reinsurance contract entered into by the certified reinsurer on or before the date of the written notice. If the Commissioner downgrades the rating of a certified reinsurer, the downgraded rating applies to all reinsurance contracts of the certified reinsurer.

7. A copy of Form CR-1, Form CR-F and Form CR-S may be obtained free of charge from the Division at the Internet address <http://doi.nv.gov/Insurers/Company-Admissions/Annual-Renewals-of-Company-License/>.

Sec. 11. Except as otherwise provided in NRS 239.0115, all information submitted by a certified reinsurer pursuant to sections 4 to 16, inclusive, of this regulation, which is not otherwise public information, must be kept confidential by the Commissioner.

Sec. 12. 1. The Commissioner may modify, suspend or revoke the certification of a certified reinsurer if:

(a) The certified insurer violates any provision of sections 4 to 16, inclusive, of this regulation; or

(b) The Commissioner determines that financial or operating results of the certified reinsurer or documented significant delays in payment by the certified reinsurer indicate that the certified reinsurer is unable or unwilling to meet its contractual obligations.

2. Except as otherwise provided in this subsection, if the Commissioner revokes the certification as a reinsurer issued to an assuming insurer, a ceding insurer may not claim a financial statement credit for an insurance or reinsurance obligation ceded to the assuming insurer unless the assuming insurer posts security in accordance with NRS 681A.240. If the assuming insurer maintains a trust fund in accordance with NRS 681A.180, the Commissioner may allow a ceding insurer to claim an additional credit equal to the ceding insurer's pro rata share in such a fund, reduced by an amount appropriate to reflect the risk of uncollectibility and anticipated expenses of administering the trust. The Commissioner will allow a financial statement credit for a ceding insurer that has ceded an insurance or reinsurance obligation to an assuming insurer which had its certification as a certified reinsurer revoked for a period of 3 months after the revocation for all reinsurance ceded to that certified reinsurer unless the reinsurance is found by the Commissioner to be at a high risk of uncollectibility.

Sec. 13. 1. To determine whether the domiciliary jurisdiction of an assuming insurer domiciled outside of the United States is eligible to be recognized as a qualified jurisdiction pursuant to subsection 2 of NRS 681A.1553, the Commissioner will evaluate the following factors:

- (a) The framework under which an assuming insurer in the jurisdiction is regulated;*
- (b) The structure and authority of the regulator of an assuming insurer in the jurisdiction with regard to requirements for the regulation of solvency and financial surveillance;*
- (c) The substance of financial and operating standards for an assuming insurer in the jurisdiction;*
- (d) The form and substance of financial reports required to be filed or made publicly available by a reinsurer in the jurisdiction and the accounting principles used in the jurisdiction;*
- (e) The willingness of the regulator of an assuming insurer in the jurisdiction to cooperate with the Commissioner and with regulators in the United States in general;*
- (f) The history of performance by assuming insurers in the jurisdiction;*
- (g) Any documented evidence of substantial problems with enforcement in the jurisdiction of final judgments by courts of competent jurisdiction in the United States or of arbitration awards;*
- (h) Any relevant international standards or guidance regarding mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or its successor organization; and*
- (i) Any other information determined to be relevant by the Commissioner.*

2. The Commissioner will not recognize as a qualified jurisdiction a jurisdiction which does not:

- (a) Agree to share information and cooperate with the Commissioner regarding all certified reinsurers domiciled within the jurisdiction; or*

(b) As determined by the Commissioner, adequately and promptly enforce final judgments by courts of competent jurisdiction in the United States or arbitration awards.

3. The Commissioner will recognize as a qualified jurisdiction a jurisdiction that meets the requirements for accreditation under the National Association of Insurance Commissioners' financial standards and accreditation program as a qualified jurisdiction and include each such jurisdiction on the list published pursuant to NRS 681A.1553.

4. The Commissioner will consider the list of qualified jurisdictions published by the National Association of Insurance Commissioners in determining whether a jurisdiction is a qualified jurisdiction. If the Commissioner determines that a jurisdiction which does not appear on such a list is a qualified jurisdiction, the Commissioner will document and make available the rationale for his or her decision, which must include, without limitation, a discussion of the factors described in subsection 1 as applied to the jurisdiction.

5. The Commissioner will regularly update the list of qualified jurisdictions published pursuant to NRS 681A.1553.

Sec. 14. 1. *If an assuming insurer has been certified as a reinsurer by a jurisdiction which is accredited by the National Association of Insurance Commissioners and submits to the Division a properly executed Form CR-1 and any additional information required by the Commissioner, the Commissioner may, if he or she agrees with the action of that jurisdiction after reviewing all information submitted to the Commissioner, deem the assuming insurer to be a certified reinsurer in this State and hold in this State the rating assigned to the assuming insurer in that jurisdiction.*

2. An assuming insurer deemed to be a certified reinsurer pursuant to subsection 1 shall notify the Commissioner of any change in its status or rating in the certifying jurisdiction within 10 days after it receives notice of the change. Unless the Commissioner withdraws recognition of the certifying jurisdiction's certification or rating pursuant to subsection 3, such a change shall be deemed to apply in this State.

3. The Commissioner may, upon written notice to the assuming insurer, withdraw recognition of the certifying jurisdiction's certification or rating at any time. If the Commissioner withdraws recognition of the certifying jurisdiction's rating, the Commissioner will evaluate the assuming insurer and issue a rating to the assuming insurer pursuant to section 10 of this regulation. If the Commissioner withdraws recognition of the certifying jurisdiction's certification, the assuming insurer shall, unless the Commissioner suspends or revokes its certification pursuant to subsection 1 of section 12 of this regulation, continue to be deemed a certified reinsurer for 3 months after the date on which the Commissioner withdraws recognition, which the Commissioner may extend if he or she determines additional time is necessary to consider an application of the assuming insurer for certification as a reinsurer in this State.

Sec. 15. In addition to the requirements in NAC 681A.375, a reinsurance agreement entered into pursuant to sections 4 to 16, inclusive, of this regulation must include a funding clause which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer for an insurance or reinsurance obligation ceded to the certified reinsurer.

Sec. 16. *The Commissioner will comply with all requirements for reporting and notification relating to certified reinsurers and qualified jurisdictions that may be established by the National Association of Insurance Commissioners.*

Sec. 17. NAC 681A.340 is hereby amended to read as follows:

681A.340 1. A letter of credit issued for the purposes of NRS 681A.240 must stipulate that:

(a) To obtain money the beneficiary need only draw and present a sight draft under the letter of credit;

(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; and

(c) The obligation of the qualified financial institution in the United States under the letter of credit is not contingent upon reimbursement with respect thereto.

2. A letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified financial institution in the United States, as described in NRS 681A.240, which is authorized to issue letters of credit. If a letter of credit is issued by a financial institution other than a qualified financial institution in the United States:

(a) The financial institution shall formally designate a qualified financial institution in the United States to confirm the letter of credit and to act as an agent for the receipt and payment of drafts; and

(b) The letter of credit must comply with the provisions of this section.

3. A letter of credit must contain a date of issuance and a date of expiration. The term of a letter of credit must be for at least 1 year. A letter of credit must contain a clause which prevents the expiration of the letter of credit without due notice from the issuer. The clause must require at least 30 days' notice before the expiration or nonrenewal of the letter of credit.

4. A letter of credit must state whether it is subject to and governed by the laws of this State or ~~[Publication 500 of]~~ the *Uniform Customs and Practice for Documentary Credits* or *International Standby Practices* of the International Chamber of Commerce, and all drafts drawn thereunder must be presentable at an office in the United States of a qualified financial institution in the United States. ~~[A copy of Publication 500 may be obtained from the International Chamber of Commerce Publishing, Inc., 156 Fifth Avenue, Suite 417, New York, New York 10010, for the price of \$14.95.]~~

5. If a letter of credit is made subject to ~~[Publication 500 of]~~ the *Uniform Customs and Practice for Documentary Credits* or *International Standby Practices* of the International Chamber of Commerce, the letter of credit must provide for an extension of time to draw against the letter of credit if one or more of the events specified in Article ~~[19]~~ 36 of ~~[Publication 500]~~ *the Uniform Customs and Practice for Documentary Credits* occurs.

6. A letter of credit may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the Division, if an acceptable letter of credit with the ceding insurer as beneficiary has been issued on or before the date the financial statement of the ceding insurer is filed. The allowable reduction for the letter of credit is the amount available under the letter of credit, except that the reduction may not exceed

the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

7. A letter of credit must not contain a reference to any other agreements, documents or entities except as otherwise provided in NAC 681A.350. The heading of a letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. Such a boxed section must be clearly marked to indicate that the information contained within the boxed section is for internal identification purposes only.

8. *The Commissioner hereby adopts by reference:*

(a) The most recent version of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, unless the Commissioner gives notice pursuant to subsection 9 that the most recent version is not suitable for this State. The publication may be obtained from the United States Council for International Business Bookstore by telephone at (212) 703-5066 or at the Internet address <http://store.internationaltradebooks.org>, for the price of \$25.

(b) The most recent version of the International Standby Practices of the International Chamber of Commerce, unless the Commissioner gives notice pursuant to subsection 9 that the most recent version is not suitable for this State. The publication may be obtained from the United States Council for International Business Bookstore by telephone at (212) 703-5066 or at the Internet address <http://store.internationaltradebooks.org>, for the price of \$15.

9. *The Commissioner will review each successive edition of the publications adopted by reference pursuant to subsection 8 to ensure their suitability for this State. If the*

Commissioner determines that an edition is not suitable for this State, the Commissioner will hold a public hearing within 6 months after the date the publication was revised to review his or her determination. If the Commissioner does not revise his or her determination, the Commissioner will give notice within 30 days after the hearing that the revised edition of the publication is not suitable for this State.

10. The Commissioner will post on the Internet website of the Division a notice of the currently effective editions of the publications adopted by the Commissioner pursuant to subsection 8 and the date of adoption.

Sec. 18. NAC 681A.375 is hereby amended to read as follows:

681A.375 Credit will not be granted, or an asset or reduction from liability allowed, to a ceding insurer for reinsurance transacted with assuming insurers that meet the requirements of NRS 681A.140 to 681A.240, inclusive, and NAC 681A.250 to 681A.380, inclusive, unless the reinsurance agreement includes:

1. A proper insolvency clause pursuant to NRS 681A.230; ~~and~~
2. If the assuming insurer is an unauthorized assuming insurer, a provision in accordance with NRS 681A.210 whereby the assuming insurer has:
 - (a) Agreed to submit to the jurisdiction of an alternative dispute panel or court of competent jurisdiction within the United States;
 - (b) Agreed to comply with all requirements necessary to give the court or panel jurisdiction;
 - (c) Designated an agent upon whom all legal process may be served; and
 - (d) Agreed to abide by the final decision of the court or panel ~~and~~; *and*

3. A reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

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

LCB FILE NO. R079-16

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(s) 681A.

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

The regulation is necessary in order to allow certification alternatives for an alien reinsurer to be certified in this state, by providing for the rating of certified reinsurers by the Commissioner, and by establishing criteria for the recognition of a jurisdiction as a qualified jurisdiction. This regulation is necessary in order to meet National Association of Insurance Commissioners (“NAIC”) accreditation standards.

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) Public comment was solicited by e-mailing the proposed regulation, notice(s) of workshop, notice(s) 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:

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
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(s) held on Wednesday, September 21, 2016, and at the hearing(s) held on Tuesday, October 11, 2016. The public meetings took place at the offices of the Division, 1818 East College Parkway, Carson City, Nevada 89706, with simultaneous videoconferencing to the Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada 89104.

(b) There was no public response at either the workshop or hearing.

(c) The summary in part 2(b) above reflects the comments and testimony that transpired with regard to regulation R079-16. A copy of said summary may be obtained by contacting Omar D. Akel, Chief Insurance Examiner, at (775) 687-0743 or oakel@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 each hearing: Five
- (b) Testified at each hearing: One
- (c) Submitted to the agency written statements: Zero

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:

Name	Entity/Organization Represented	Business Address	Telephone No./ Business Telephone No.	E-Mail Address
Gennady Stolyarov II	Nevada Division of Insurance	1818 E. College Pkwy., Carson City, NV 89706		gstolyarov@doi.nv.gov
Rhonda Kelly	Nevada Division of Insurance	2501 E Sahara Ave. Las Vegas, NV 89104		rkelly@doi.nv.gov
Earl McDowell	Nevada Division of Insurance	2501 E Sahara Ave. Las Vegas, NV 89104		emcdowell@doi.nv.gov
Sue Bell	Nevada Division of Insurance	1818 E. College Pkwy., Carson City, NV 89706		suebell@doi.nv.gov
Omar Akel	Nevada Division of Insurance	1818 E. College Pkwy., Carson City, NV 89706		oakel@doi.nv.gov

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public. Please see the description, summary and explanation provided above in response to question #2.

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.

No comments were received and no changes were necessary.

7. (a) The estimated economic effect of the adopted regulation on the business which it is to regulate:

(1) Both adverse and beneficial effects: Adverse: More competition. Beneficial: Allows non-U.S. reinsurers entry into the market.

(2) Both immediate and long-term effects: Immediate: More competition and allows non-U.S. reinsurers entry into the market. Long-term: More competition and allows non-U.S. reinsurers entry into the market.

(b) The estimated economic effect of the adopted regulation on the public:

(1) Both adverse and beneficial effects: Adverse: No adverse impact is noted. Beneficial: Allows more reinsurers in the market to lower rates.

(2) Both immediate and long-term effects: Immediate: More competition and allows non-U.S. reinsurers entry into the market. Long-term: More competition and allows non-U.S. reinsurers entry into the market.

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

The Division does not anticipate additional costs for enforcement, as it already allows other types of reinsurers to be licensed.

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.

No other regulation overlaps with this regulation.

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

None.

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.

None.