

**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 **9:30 a.m. on September 29, 2017**, in the 1st Floor Hearing Room, 1818 East College Parkway, Suite 103, Carson City, Nevada 89706. Interested persons may also participate through a simultaneous videoconference conducted in the 4th Floor Nevada Room at the Nevada State Business Center/Division of Insurance, 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations pertaining to chapter 679B of the Nevada Administrative Code (“NAC”).

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

LCB File No. R026-17. Electronic Transactions For Insurance-Related Notices.

A regulation relating to insurance; setting forth requirements for the verification or acknowledgement of receipt for certain notices that are delivered by electronic means; and providing other matters properly relating thereto.

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

The purpose of this regulation is to clarify the verification process for the electronic delivery of a notice or document pertaining to an insurance transaction. The notices addressed by this regulation include any notice required pursuant to NRS 687B.310 to 687B.420, inclusive, which encompass notices of cancellation, non-renewal, anniversary cancellation, and renewal with altered terms. The proposed regulation further clarifies that, if an insurer is unable to obtain verification of electronic receipt by the policyholder, the insurer must deliver or mail the notice to the insured in accordance with subsection 6 of NRS 687B.310.

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

The proposed regulation amends NAC 679B.0409(5) to clarify the verification process for the electronic delivery of a notice or document pertaining to an insurance transaction for notices required pursuant to NRS 687B.310 to 687B.420, and for the insurer to deliver or mail the notice in accordance with subsection 6 of NRS 687B.310 if an insurer is unable to obtain verification of receipt of the electronic delivery by the policyholder.

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

The proposed regulation provides guidelines to the insurers on the steps they must take to first verify the electronic delivery of notices/documents, including notices of cancellation and non-renewal of

insurance. It further clarifies the insurers' duty if electronic verification is not achieved. The anticipated effect of the regulation is that insureds (public) will not have an insurance policy terminated without receiving proper notice.

(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?

This is a consumer-friendly regulation which ensures that members of the public do not unknowingly have their insurance policies cancelled or non-renewed, or remain unaware of any other notification by their insurer, simply because of a failure of electronic delivery of insurance-related notices.

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

a. Public

1. Immediate: *Will benefit from the requirement of important insurance-related notices being mailed as a safeguard against non-delivery of such notices electronically.*

2. Long Term: *Will benefit from the requirement of important insurance-related notices being mailed as a safeguard against non-delivery of such notices electronically.*

b. Insurance Business

1. Immediate: *Benefits from being able to deliver important insurance-related notices to its policyholders.*

2. Long Term: *Benefits from being able to deliver important insurance-related notices to its policyholders.*

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*

(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?

There are no new fees or increases to existing fees.

(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.

See attached.

(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.

None.

(13) If the regulation is required pursuant to federal law, provide a citation and description of the federal law.

Not applicable.

(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.

Not applicable.

Persons wishing to comment upon the proposed actions 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, 2017.** 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 to be adopted, amended or repealed 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 3300 West Sahara Avenue, Suite 275, Las Vegas, Nevada 89102, 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:

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

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

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 5th 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 Erin Summers, Actuarial Analyst for the Property and Casualty Section, at (775) 687-0765, or via e-mail to esummers@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 hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 25th day of August, 2017.



BARBARA D. RICHARDSON
Commissioner of Insurance

HEARING AGENDA

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

September 29, 2017 • 9:30 a.m.

Location of Hearing:

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

Available via Videoconference at:

Nevada Division of Insurance
3300 W. Sahara Ave., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Hearing: R026-17.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. R026-17. Electronic Transactions For Insurance-Related Notices.

A regulation relating to insurance; setting forth requirements for the verification or acknowledgement of receipt for certain notices that are delivered by electronic means; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: R026-17.
5. Adjournment.

Supporting public material for this hearing 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.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued 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 secretary, in writing, no later than five (5) working days before the hearing: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS HEARING 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 State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102

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)

The Nevada State Legislature Website (www.leg.state.nv.us)

The Nevada Division of Insurance Website (www.doi.nv.gov)

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R026-17

August 7, 2017

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

AUTHORITY: §1, NRS 679B.130 and 679B.136 and section 7 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 612.

A REGULATION relating to insurance; setting forth requirements for the verification or acknowledgement of receipt for certain notices that are delivered by electronic means; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code and as required to ensure compliance with federal law relating to insurance. (NRS 679B.130) Existing law further requires the Commissioner to adopt regulations governing the: (1) use of electronic signatures, and the acceptance and transmission of electronic records and payments, including transactions relating to insurance; and (2) electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division of Insurance of the Department of Business and Industry. (NRS 679B.136)

During the 2017 Legislative Session, the Legislature enacted Assembly Bill No. 455, which authorizes a notice to a party or any other document that is required to be provided as part of an insurance transaction to be delivered by electronic means in certain circumstances. That bill further authorizes certain notices that require verification or acknowledgement of receipt of such a notice to be delivered by electronic means only if the electronic form used for delivery provides for verification or acknowledgement of receipt. (Sections 2-12 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611)

This regulation requires an insurer to obtain from an insured a verification or acknowledgement of receipt for certain notices if such a notice is delivered by electronic means. Such verification or acknowledgement of receipt must be obtained by: (1) the insured using an electronic signature to verify or acknowledge receipt of the notice; (2) the notice being posted on the Internet website of the insurer with there being evidence that the insured downloaded, printed or otherwise verified or acknowledged receipt of the notice; or (3) the notice is transmitted to the insured through an application on a personal electronic device with there being evidence that the insured logged into the application and viewed or otherwise verified or acknowledged receipt of the notice. If such a verification or acknowledgement of receipt is not obtained within 3 days

after a notice to an insured is delivered by electronic means, the notice must be personally delivered to the insured or mailed first class or certified to the insured.

Section 1. NAC 679B.0409 is hereby amended to read as follows:

679B.0409 1. Except as otherwise provided in NRS 691D.330 and NAC 691D.300, an insurer shall not conduct a transaction by electronic means, including, without limitation, transactions involving claims, electronic signatures, electronic payments or other insurance-related records in electronic form, unless each person who is a party to the transaction agrees to conduct the transaction by electronic means.

2. If a person who is a party to a transaction agrees to conduct the transaction by electronic means, the insurer shall document the agreement, including, without limitation:

- (a) The name of the person agreeing to conduct the transaction by electronic means;
- (b) The type of transaction that the person has agreed to conduct by electronic means; and
- (c) The date and time of the agreement.

3. A person who agrees to conduct a transaction by electronic means may limit the types of transactions which he or she agrees to conduct by electronic means.

4. If an insurer is required to retain a record, the insurer may retain the record electronically if the insurer is able accurately to reproduce the record upon the request of a person who is entitled to a copy of the record, including, without limitation, an insured, a claimant and the Commissioner.

5. ~~Except as otherwise provided in NRS 691D.330 and NAC 691D.300, an insurer shall not provide a notice which terminates a policy of insurance, including, without limitation, a notice of cancellation or nonrenewal, solely by electronic means.~~ *If a notice to an insured required pursuant to NRS 687B.310 to 687B.420, inclusive, is delivered by electronic means pursuant to sections 2 to 12, inclusive, of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017,*

at page 611, the insurer shall obtain from the insured a verification or acknowledgement of receipt of the notice in one of the following ways:

(a) The insured uses an electronic signature to verify or acknowledge receipt of the notice;

(b) The notice is posted on the Internet website of the insurer in such a manner that it is secured by a password, biometric identifier or other technology and there is evidence demonstrating that the insured:

(1) Used the password, biometric identifier or other technology to access the notice posted on the Internet website of the insurer; and

(2) Downloaded, printed or otherwise verified or acknowledged receipt of the notice; or

(c) The notice is transmitted to the insured through an application on a personal electronic device that is secured by a password, biometric identifier or other technology and there is evidence demonstrating that the insured:

(1) Used the password, biometric identifier or other technology to access the notice transmitted to the insured through the application; and

(2) Viewed or otherwise verified or acknowledged receipt of the notice.

6. If the insurer does not receive verification or acknowledgement of receipt of the notice pursuant to subsection 5 within 3 days after a notice to an insured required pursuant to NRS 687B.310 to 687B.420, inclusive, is delivered by electronic means pursuant to sections 2 to 12, inclusive, of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611, the notice must be personally delivered to the insured or mailed first class or certified to the insured at the address of the insured last known by the insurer pursuant to subsection 6 of NRS 687B.310.

7. As used in this section:

(a) “Deliver by electronic means” has the meaning ascribed to it in section 3 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611.

(b) “Electronic signature” has the meaning ascribed to it in NRS 679B.136.

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

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

ELECTRONIC TRANSACTIONS FOR INSURANCE-RELATED NOTICES:

This proposed regulation amends NAC 679B.0409, which allows an insurer to conduct insurance transactions with a policyholder electronically, to clarify the verification process for the delivery of a notice of policy termination, such as a notice of cancellation or non-renewal, electronically.

EFFECTIVE DATE OF REGULATION:

Upon filing with the Nevada Secretary of State

1. BACKGROUND.

Assembly Bill 455 (2017) amends Chapter 680A of the NRS to allow insurers to provide a notice or other document required by law as part of an insurance transaction by electronic means and deems a delivery by electronic means to satisfy a requirement for delivery in physical form. Section 7 of AB 455 (2017) further requires the delivery by electronic means of a notice or other document which requires verification or acknowledgment of receipt to be in an electronic form that allows for verification or acknowledgment of receipt and requires such a notice or other document to be delivered by any other delivery method authorized by law if a verification or acknowledgment of receipt is not received within 3 days after electronic delivery.

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

A solicitation of this regulation was not made with small businesses in Nevada, as none of the proposed changes in this regulation impact small business. The changes proposed in this regulation would only impact insurance companies, governing their use of electronic notices, and would pose a very small change from existing practices.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

NO YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

The proposed regulation relaxes requirements on insurers while protecting insureds from having their policy canceled without their knowledge. The existing regulation prohibited an insurer from sending a notice terminating a policy of insurance solely by electronic means. The proposed regulation allows sending such notices electronically provided that there is a means for verification of receipt by the insured.

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))

7/7/17
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

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

ELECTRONIC TRANSACTIONS FOR INSURANCE-RELATED NOTICES

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

A solicitation of this regulation was not made with small businesses in Nevada, as none of the proposed changes in this regulation impact small business. The changes proposed in this regulation would only impact insurance companies, governing their use of electronic notices, and would pose a very small change from existing practices.

Other interested parties may receive a copy of this summary by contacting Susan Bell, Legal Secretary, Nevada Division of Insurance, at (775) 687-0704 or suebell@doi.nv.gov.

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

This regulation was reviewed and discussed by the Property and Casualty Section of the Nevada Division of Insurance. The experience and expertise of the section members were used to analyze the proposed language of the regulation, and they determined that no impact on small business would be made by these changes.

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

The regulations proposed in this bill will not provide any economic impact on the small businesses in the State of Nevada.

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

Not applicable.

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

None.

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

No new fees are being added.

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

This regulation does not duplicate any existing federal, state or local standards. It is not more stringent than any existing federal, state or local standards.

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

The proposed regulation relaxes requirements on insurers while protecting insureds from having their policy canceled without their knowledge. The existing regulation prohibited an insurer from sending a notice terminating a policy of insurance solely by electronic means. The proposed regulation allows sending such notices electronically provided that there is a means for verification of receipt by the insured.

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))

7/7/17

(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance