

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
AND
WORKSHOP AGENDA**

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) is proposing the adoption, amendment or repeal of regulations pertaining to chapter(s) 686A of the Nevada Administrative Code (“NAC”). A workshop has been set for **1:30 p.m.** on **October 25, 2017**, at the following location:

**1st Floor Hearing Room
Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, Nevada 89706**

Interested persons may also participate through a simultaneous videoconference conducted at:

**4th Floor Nevada Room
Nevada State Business Center
Nevada Division of Insurance
3300 W. Sahara Avenue, Suite 275
Las Vegas, Nevada 89102**

The purpose of the workshop is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulation(s); and to assist in determining whether the proposed regulation(s) is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation or expansion of a small business. Please submit any written comments no later than **October 18, 2017**.

LCB File No. R031-17. Automobile Total Loss Settlements. A regulation relating to insurance; revising provisions establishing minimum standards for claims settlement practices for the settlement of claims for automobile total loss; eliminating certain obsolete language; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the workshop or by visiting the Division’s Internet Web site at <http://doi.nv.gov/> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about the proposed regulation may contact Rajat Jain, Chief Insurance Examiner, at (775) 687-0774, or via e-mail to rjain@doi.nv.gov.

Notice of the workshop was provided via electronic means to all persons on the agency’s e-mail list for noticing of administrative regulations. This *Notice of Workshop to Solicit Comments on Proposed Regulations* was posted to the agency’s Internet Web site at <http://doi.nv.gov/>, the Nevada Legislature’s Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

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

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

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

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

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

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

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

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

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

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

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

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

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

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

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

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

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

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

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

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

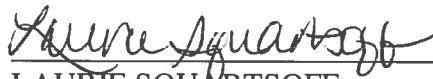
Washoe County/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who are disabled and require special accommodations or assistance at the workshop are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 29th day of September, 2017.

BARBARA D. RICHARDSON
Commissioner of Insurance

By: 
LAURIE SQUARTSOFF
Chief Deputy Commissioner
With Delegation of Authority

WORKSHOP AGENDA

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

October 25, 2017 • 1:30 p.m.

Location of Workshop:

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 Workshop: R031-17.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R031-17. Automobile Total Loss Settlements. A regulation relating to insurance; revising provisions establishing minimum standards for claims settlement practices for the settlement of claims for automobile total loss; eliminating certain obsolete language; and providing other matters properly relating thereto.

3. Public Comment.

4. Close Workshop: R031-17.

5. Adjournment.

Supporting public material for this workshop 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 workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS WORKSHOP 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)



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
E-mail: insinfo@doi.nv.gov

TO: LAURIE SQUARTSOFF
Chief Deputy Commissioner of Insurance

FROM: BARBARA RICHARDSON
Commissioner of Insurance

DATE: September 27, 2017

SUBJECT: Delegation of Authority in the Commissioner's Absence

I hereby issue a Delegation of Authority for you to act on my behalf when I am absent from the state September 28, 2017 through October 1, 2017. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated.



BARBARA RICHARDSON
Commissioner of Insurance

NRS 679B.110 Delegation of powers.

1. The Commissioner may delegate to his or her deputy, examiner or an employee of the Division the exercise or discharge in the Commissioner's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the Commissioner.
2. The official act of any such person acting in the Commissioner's name and by his or her authority shall be deemed an official act of the Commissioner.

(Added to NRS by 1971, 1563; A 1991, 1615; 1993, 1898)

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R031-17

August 11, 2017

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

AUTHORITY: §1, NRS 679B.130 and 686A.015.

A REGULATION relating to insurance; revising provisions establishing minimum standards for claims settlement practices for the settlement of claims for automobile total loss; eliminating certain obsolete language; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing regulations establish certain minimum standards in claims settlement practices that are applicable to most insurers. (NAC 686A.600-686A.680) In particular, existing regulations establish particular standards for insurers when settling claims for automobile total loss filed by the holder of the policy, known as “first-party claims.” These standards establish the valuation methods that an insurer is required to use when settling such a claim by means of a cash settlement based on the cost to purchase an automobile comparable to the total loss automobile, as adjusted by any deductible, applicable taxes, license fees and other fees. (NAC 686A.680) This regulation eliminates various references to first-party claims, which has the effect of making the standards also applicable to insurers when settling claims for automobile total loss filed by claimants other than the holders of the applicable policies, known as “third-party claims.” This regulation also authorizes the use of a price guide for used automobiles approved by the Commissioner of Insurance as an additional valuation method to determine the cost of an automobile for purposes of a cash settlement. This regulation further provides that the amount of a cash settlement must not be less than the lowest adjusted valuation obtained using an authorized valuation method. Finally, this regulation eliminates certain obsolete language concerning the designation by an insurer of a specific repair shop when the insurer elects to repair a damaged automobile.

Section 1. NAC 686A.680 is hereby amended to read as follows:

686A.680 1. ~~When an insurance policy provides for the adjustment and settlement of first-party~~ *An insurer that adjusts and settles a claim for an* automobile total ~~losses on the~~

~~basis of actual cash value or replacement with another of like kind and quality,]~~ *loss shall use*
one of the ~~[following]~~ methods ~~[must be applied:]~~ *set forth in paragraphs (a) and (b).*

(a) The insurer may elect to offer a replacement automobile which is a specific comparison automobile available to the ~~[insured,]~~ *claimant*, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the *applicable* policy. The insurer may prorate license fees and limit payment to the unused period of the fees. The offer and any rejection of the offer must be documented in the claim file.

(b) The insurer may elect to make a cash settlement based upon the ~~[actual]~~ cost, less any deductible provided in the *applicable* policy, to purchase a comparable automobile including all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of a comparable automobile. The cost must be determined ~~[by an evaluation of:]~~ *using one of the following valuation methods:*

(1) The *average of the* cost of two or more comparable automobiles ~~[in the local market area]~~ which are currently available or were available within the most previous 90 days ~~[to consumers]~~ in the local market area ~~;~~

~~—— (2) If the cost cannot be determined pursuant to subparagraph (1), the cost of two or more comparable automobiles that are currently available or were available in the most previous 90 days to consumers in areas, both within and without this State, which are]~~ *or, to the extent not available in the local market area, in an area that is* geographically proximate to the local market area; ~~for~~

~~—— (3) If the cost cannot be determined pursuant to subparagraph (1) or (2),]~~

(2) *The average of two or more price quotations for a comparable automobile obtained by the insurer from two or more licensed dealers located within the local market area* ~~;~~

~~—(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in paragraphs (a) and (b) of this subsection, the~~ ; or

(3) *The value of a comparable automobile as set forth in a price guide for used automobiles in the local market area or an area geographically proximate to the local market area that is approved by the Commissioner for the valuation of used automobiles.*

↳ *Except as otherwise provided in subsection 2, the amount of a cash settlement must not be less than the lowest valuation obtained using a valuation method set forth in subparagraph (1), (2) or (3), as adjusted by any deductible, taxes, license fees and other fees.*

2. *Any deviation in the amount of a cash settlement from a valuation obtained pursuant to paragraph (b) of subsection 1 must be supported by documents giving particulars of the condition of the automobile. Any deductions from the cost, including a deduction for salvage, must be measurable, discernible, itemized and specified as to the amount and must be appropriate in amount. When determining the deduction for salvage, the insurer shall take into account any decrease in value caused by an inspection of the vehicle if the vehicle was in a drivable condition before the inspection and the person that performs the inspection is unable to restore the vehicle to the same drivable condition as before the inspection.* The basis for the settlement must be *documented in the claim file and fully* ~~explained~~ *disclosed* to the ~~first-~~ ~~party~~ claimant ~~;~~

~~2.~~ *in writing.*

3. Where liability and damages are reasonably clear, an insurer may not recommend that a third-party claimant make a claim under his or her own policies solely to avoid paying claims under the insurer's insurance contract or policy.

~~13.1~~ 4. An insurer may not require a claimant to travel unreasonably to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

~~14.1~~ 5. An insurer shall, upon the claimant's request, include the first-party claimant's deductible, if any, in subrogation demands. A subrogation recovery must be shared on a proportionate basis with the first-party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses may be made from the deductible recovery unless an outside attorney is retained to collect the recovery. The deduction may then be for no more than a pro rata share of the allocated loss adjustment expense.

~~15.1~~ 6. If an insurer prepares an estimate of the cost of automobile repairs, the estimate must be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located repair shops. Any such repair shop must be operated by a person having a license issued by the Department of Motor Vehicles, if such a license is required by NRS 487.610.

~~16.1~~ 7. When the amount claimed is reduced because of betterment or depreciation, all information supporting the reduction must be contained in the claim file ~~11~~ ***and fully disclosed to the claimant in writing.*** The deductions must be itemized and specified as to amount, and must be appropriate in amount.

~~{7.}~~ 8. When the insurer elects to repair ~~{and designates a specific repair shop for~~
automobile repairs:

~~—(a) The repair shop must be operated by a person having a license issued by the Department of Motor Vehicles, if such a license is required by NRS 487.610; and~~

~~—(b) The~~ *a damaged automobile, the* insurer shall cause the damaged automobile to be restored to its condition before the loss at no additional cost to the claimant, other than as stated in the *applicable* policy, within a reasonable time.

~~{8.}~~ 9. The insurer may not use, as a basis for cash settlement with a ~~{first-party}~~ claimant, an amount which is less than the amount which the insurer would pay if repairs were made, other than in total loss situations, unless the amount is agreed to by the ~~{insured.}~~ *claimant.*

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

Determination of Necessity - Small Business Impact Statement

A REGULATION relating to standards applicable to insurers under automobile policies. This proposed regulation amends Nevada Administrative Code ("NAC") 686A.680 which outlines standards applicable to automobile insurers when settling total loss claims.

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

1. BACKGROUND.

NAC 686A.680 was first enacted in 1980. It establishes standards applicable to automobile insurers when settling automobile total loss claims. The existing language is confusing, as there are portions of the language that appear to indicate that the regulation is applicable only to first-party total loss claims. There are other portions which appear to apply to the settlement of all total loss claims. The Division of Insurance ("Division") often fields inquiries from insurance companies regarding the applicability of the regulation to third-party total loss claims. Based on the Division's opinions, the practice in the insurance industry already applies this regulation to third-party total loss claims. The proposed change to NAC 686A.680 will formalize this position.

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, 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 (answer #4) YES

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

The proposed regulation does not impose any requirement on any business. The regulation formalizes the existing practice in the insurance industry and the Division's opinions.

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))

7/14/17
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

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

A REGULATION relating to standards applicable to insurers under automobile policies. This proposed regulation amends Nevada Administrative Code (“NAC”) 686A.680 which outlines standards applicable to automobile insurers when settling total loss claims.

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 by providing a framework that extend the total loss claims settlement practices to third-party claims, 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, as well as historical discussions with the insurance industry and consumer complaints, 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 proposed regulation 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).

The proposed 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 clarifies the applicability of auto total loss claims settlement requirements on insurers while protecting auto insurance claimants from experiencing low or insufficient claims settlements. The existing regulation applies only to first-party claims when the practice of determining a totaled vehicle's value should not vary by the type of claim (1st or 3rd-party).

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))

(DATE)

2/14/17



BARBARA D. RICHARDSON
Commissioner of Insurance