



May 22, 2018

Barbara D. Richardson
Commissioner, Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, NV 89706

RE: LCB File No R064-18 – Service Contract Transfer fees and Emergency Repairs

Dear Commissioner Richardson:

On behalf of the Service Contract Industry Council (“SCIC”) I am writing to you to provide the SCIC’s comments to the proposed amendments to Nevada’s Administrative Code provisions governing the offering of service contracts in the state. By way of background, the SCIC is a national trade association whose member companies include manufacturers, service contract providers, administrators, and retailers offering service contracts covering motor vehicles, homes and consumer goods throughout the country. Combined, our member companies offer over 80% of the service contracts available in the marketplace today.

The SCIC has played a significant role in the development of uniform regulatory standards appropriate for the industry and consumers, and actively pursues model legislation, lobbies for those standards, and provides industry advice for legislative and regulatory issues. The association was established in 1991 and has worked with lawmakers and regulators around the country as well as the National Association of Insurance Commissioners (“NAIC”) in the development of fair and comprehensive regulations governing the service contract industry. The SCIC

The SCIC is concerned with the language in the Division’s proposal which would require that a statement must be included in a service contract regarding a service contract holder’s ability to contact the Commissioner at the Division’s toll-free number if the contract holder is not satisfied with the manner in which the provider is handling a claim under the contract. While the SCIC does not view such a disclosure on its face as an issue, the possibility that previously approved forms would need to be revised to comply with the new language and refiled with the Division is a significant administrative burden both to the service contract industry and to the

Division. The proposed amendment, if the SCIC's suggested revision noted herein is not adopted, would result in every form that was previously approved by the Division having to be refiled.

To rectify this issue, the SCIC would suggest striking new paragraph 1.(d) in its entirety. Initially, the SCIC would note that there is a valid argument that adopting a new required disclosure through rule is outside the scope of the authority delegated to the Division by the Legislature. When the service contract laws were adopted by the Legislature the Legislature clearly set forth the disclosures required within a service contract. In doing so, the Legislature chose to do so through an exhaustive list of disclosures that does not delegate to the Division any authority to adopt additional disclosures through the rulemaking process. While the Legislature did delegate rulemaking authority to the division in NRS 679B.130 and 690C.300, nowhere in that statutory delegation of authority does it speak to the Division having the authority to create required disclosures by rule. ***As such, the SCIC respectfully requests that the Division strike this proposed paragraph in its entirety.***

Alternatively, if the Division insists upon keeping this language, the SCIC would respectfully request that the Division make clear that the new disclosure requirement applies only to contracts that were not previously reviewed and approved by the Division. Otherwise, as noted above, the new disclosure requirement that is being created by rule, not by statute, would result in all service contract forms having to be revised and refiled with the Division. This would create a substantial burden and expense to the service contract industry as well as the Division itself as the new disclosure will result in a significant number of forms having to be refiled with the Division. ***For these reasons the SCIC requests that if the Division does not strike paragraph 1.(d) in its entirety that the Division exempt from its applicability service contract forms that were reviewed and approved by the Division prior to the effective date of the rule.***

With respect to the proposed language that would require a service contract provider to provide the status report that is currently required by rule to the Commissioner; the SCIC would respectfully request that the language be amended to simply require that the status report be maintained and provided to the Commissioner upon request within a reasonable period of time. To require that the status report be proactively filed with the Division in all instances seems unnecessary and overly burdensome. ***As such, the SCIC requests that the Division amend the rule to require the maintenance and provision of the status report upon request for the same by the Division.***

We plan to attend the hearing scheduled for June 11 telephonically and appreciate the Division's willingness to listen and take into consideration public comment. We are very interested in continuing the dialogue with the Division on the proposed revisions to the rules. Based upon the foregoing, it is our hope that a consensus can be reached that both addresses the Division's concerns as well as avoids the establishment of a requirement that is overly burdensome to the Industry and the Division resulting in undue costs being incurred by service

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contract providers which costs will inevitably lead to an increase in cost of these valuable products.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen K. McDaniel", with a long horizontal flourish extending to the right.

Stephen K. McDaniel
Assistant Executive Director &
General Counsel
Service Contract Industry Council