

**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) 683A of the Nevada Administrative Code (“NAC”). A workshop has been set for **9:30 a.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. R087-17. Third Party Administrator Parental Guaranty and Notification Requirements. A regulation relating to insurance; requiring certain applicants for a certificate of registration as an administrator to submit certain financial statements; authorizing certain applicants for a certificate of registration as an administrator to submit the financial statement of the parent company of such an applicant; requiring the financial statements submitted by an applicant for a certificate of registration as an administrator to contain certain information; requiring an administrator to notify the Commissioner of Insurance of certain changes not later than 30 days after the change occurred; 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 Terri Chambers, Chief Insurance Examiner, at (775) 687-0777, or via e-mail to tchambers@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

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

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 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 • 9:30 a.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: R087-17.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R087-17. Third Party Administrator Parental Guaranty and Notification Requirements. A regulation relating to insurance; requiring certain applicants for a certificate of registration as an administrator to submit certain financial statements; authorizing certain applicants for a certificate of registration as

an administrator to submit the financial statement of the parent company of such an applicant; requiring the financial statements submitted by an applicant for a certificate of registration as an administrator to contain certain information; requiring an administrator to notify the Commissioner of Insurance of certain changes not later than 30 days after the change occurred; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Workshop: R087-17.
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. R087-17

September 21, 2017

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

AUTHORITY: §1, NRS 679B.130 and 683A.08522; §2, NRS 679B.130, 683A.08524 and 683A.0892; §3, NRS 679B.130.

A REGULATION relating to insurance; requiring certain applicants for a certificate of registration as an administrator to submit certain financial statements; authorizing certain applicants for a certificate of registration as an administrator to submit the financial statement of the parent company of such an applicant; requiring the financial statements submitted by an applicant for a certificate of registration as an administrator to contain certain information; requiring an administrator to notify the Commissioner of Insurance of certain changes not later than 30 days after the change occurred; 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 or as required to ensure compliance by the Commissioner with any federal law or regulation relating to insurance. (NRS 679B.130)

Existing law requires each application for a certificate of registration as an administrator to include a financial statement that is certified by an officer of the applicant. This financial statement must include: (1) the amount of money the applicant expects to collect from or disburse to residents of this State during the next calendar year; (2) financial information for the 90 days immediately preceding the date the application was filed with the Commissioner; and (3) an income statement and balance sheet for the 2 years immediately preceding the application that are prepared in accordance with generally accepted accounting principles. (NRS 683A.08522) Existing regulations require each application for a certificate of registration as an administrator, if the applicant is a newly formed business, to submit, in addition to the financial statement required by existing law, a pro forma balance sheet and a statement listing estimated income and expenses for the first year. (NAC 683A.105) **Section 1** of this regulation requires each applicant for a certificate of registration as an administrator to submit, if the applicant is not a newly formed business, a financial statement that has been reviewed by an independent certified public accountant.

Existing law authorizes an administrator who is a wholly owned subsidiary of a parent company to submit to the Commissioner, in lieu of providing certain other information to the

Commissioner for the annual report that the administrator is required to submit: (1) the financial statement of the parent company that has been audited by an independent certified public accountant; and (2) a parental guaranty which is signed by an officer of the parent company and which guarantees the financial solvency of the administrator. (NRS 683A.08528) **Section 1** authorizes an applicant for a certificate of registration as an administrator to satisfy the requirement to include a financial statement in an application for a certificate of registration as an administrator by submitting the financial statement of the parent company of such an applicant if the financial statement of the parent company: (1) is certified by an officer of the applicant; (2) satisfies the requirements set forth in existing law; and (3) has been audited by an independent certified public accountant. **Section 1** further requires an applicant who submits the financial statement of the parent company to: (1) be a wholly owned subsidiary of the parent company; and (2) provide a parental guaranty of performance for a period of not less than 1 year. **Section 2** of this regulation makes conforming changes.

Existing regulations require the financial statement of an administrator to include: (1) a balance sheet that reports the assets, liabilities and net worth of the applicant; (2) an income statement that reports the revenue and expenses of the applicant; (3) a statement of cash flow; and (4) notes to the financial statement. (NAC 683A.131) **Section 1** requires the financial statement of an applicant or parent company to include such information as it applies to the applicant.

Existing law requires each application for a certificate of registration as an administrator to include a notarized affidavit from each person who manages or controls the administrator, including members, directors or officers, that contains certain information. (NRS 683A.08522) Existing regulations require an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 90 days after the change. (NAC 683A.125) **Section 3** of this regulation requires an administrator to notify the Commissioner of any change in its members, owners, directors or officers within 30 days after the change. **Section 3** further requires the administrator to submit a notarized affidavit for each new member, owner, director, officer or any other person who manages or controls the administrator not later than 30 days after the change.

Existing law requires each application for a certificate of registration as an administrator to include the complete name and address of each office of the administrator, including offices located outside of this State. (NRS 683A.08522) **Section 3** requires an administrator to notify the Commissioner of any change in the physical location or the mailing address of an office of the administrator not later than 30 days after the change.

Existing regulations require an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 90 days after he or she enters into the agreement. (NAC 683A.125) **Section 3** requires an administrator to provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within 30 days after he or she enters into the agreement.

Section 1. NAC 683A.105 is hereby amended to read as follows:

683A.105 **1.** Each applicant for a certificate of registration as an administrator shall submit:

~~1.1~~ **(a)** If the applicant is a newly formed business, a pro forma balance sheet and a statement listing estimated income and expenses for the first year, compiled in a form which complies with generally accepted accounting principles.

~~1.2~~ **(b)** *If the applicant is not a newly formed business, a financial statement pursuant to subsection 2 of this section or subsection 1 of NRS 683A.08522, as applicable, that has been reviewed by an independent certified public accountant.*

(c) Evidence of the ability of the applicant to pay its obligations when they are due. The Division, in determining an applicant's ability to pay its obligations when due, will consider the capitalization and current financial condition of the applicant and may request credit reports of the applicant and the owners.

2. *Each applicant for a certificate of registration as an administrator may satisfy the requirements set forth in subsection 1 of NRS 683A.08522 by submitting a financial statement of the parent company of the applicant if:*

(a) The applicant:

(1) Is a wholly owned subsidiary of the parent company; and

(2) Provides a parental guaranty of performance for a period of not less than 1 year which is signed by an officer of the parent company and which guarantees the financial solvency of the applicant; and

(b) The financial statement of the parent company:

(1) Is certified by an officer of the applicant;

(2) Satisfies the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 of NRS 683A.08522; and

(3) Has been audited by an independent certified public accountant.

3. The financial statement of an applicant for a certificate of registration as an administrator submitted pursuant to subsection 2 of this section or subsection 1 of NRS 683A.08522, as applicable, must include:

(a) A balance sheet that reports the assets, liabilities and net worth of the applicant;

(b) An income statement that reports the revenues and expenses of the applicant;

(c) A statement of cash flow; and

(d) Notes to the financial statement.

Sec. 2. NAC 683A.119 is hereby amended to read as follows:

683A.119 The Commissioner will consider the following to determine whether an administrator or an applicant for a certificate of registration as an administrator is financially unsound pursuant to NRS 683A.08524 or 683A.0892:

1. The administrator or applicant:

(a) Submits a financial statement to the Commissioner, pursuant to NRS 683A.08522 or 683A.08528 ~~H~~ *or subsection 2 of NAC 683A.105*, reporting:

(1) The sum of its assets is less than the sum of its liabilities;

(2) A recurring operating loss;

(3) Negative cash flow from operations; or

(4) A significant decrease in assets within a fiscal year or over a period of years;

(b) Has defaulted on a loan or restructuring of debt;

(c) Has lost key personnel; or

(d) Has experienced an uninsured or underinsured catastrophe.

2. The administrator loses more than 50 percent of its contracts to act as an administrator within a fiscal year.

3. Adverse findings reported in examinations concerning the financial condition of the administrator or applicant that the Commissioner determines to be material.

4. Information and reports concerning the administrator or applicant from the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

5. Whether the portfolio of assets of the administrator or applicant, when considered in light of the current economic conditions, is of sufficient value, liquidity or diversity to ensure the ability of the administrator or applicant to meet its outstanding obligations as those obligations mature.

6. An opinion issued by an independent certified public accountant that the administrator or applicant is unable to operate as a going concern.

Sec. 3. NAC 683A.125 is hereby amended to read as follows:

683A.125 An administrator shall:

1. Notify the Commissioner of any change in its members, owners, directors or officers within ~~90~~ 30 days after the change. *The administrator shall submit a notarized affidavit as described in subsection 6 of NRS 683A.08522 for each new member, owner, director, officer or any other person who manages or controls the administrator within 30 days after the change.*

2. *Notify the Commissioner of any change in the physical location or the mailing address of an office of the administrator within 30 days after the change.*

3. Provide to the Commissioner a copy of each written agreement that the administrator enters into with an insurer or other entity within ~~90~~ 30 days after he or she enters into the agreement.

STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE

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

Third-Party Administrator Financial and Notification Requirements

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

1. BACKGROUND.

During the 2015 Legislative Session, a new provision was added to NRS 683A.08528 allowing Administrators to submit parent company financial statements and a parental guaranty in lieu of submitting their own financial statements. This proposed permanent regulation will incorporate this change into the current regulation. There are currently no existing regulations that require Administrators to notify the Division of a change of location or mailing address. Section 2 of the proposed permanent regulation strengthens the requirement for Administrators to notify the Commissioner of change in their operations, location or ownership. Current regulation does not specify the contents of a financial statement required of an Administrator. The proposed regulation adds reference to NRS 683A.08522, thereby extending the required content of financial statements to applicants for certificate of registration of Administrators.

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

Public comment will be solicited by e-mailing the proposed regulation, notice(s) of workshop, notice(s) of intent to act upon the regulation to persons on the Division's mailing list of persons or businesses who have requested notification of proposed regulations and to all Administrators currently holding a certificate of registration in Nevada. The documents will be made available on the website of the Division, <http://doi.nv.gov> and mailed to the main library for each county in Nevada. Both a workshop and hearing will be held after proper notice.

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).

Section 1 of the proposed regulation will amend the existing regulation to mirror changes made during the 2015 Legislative Session. Therefore, the economic burden on small business was not considered. The proposed regulation does, however, offer a means by which smaller businesses can qualify and remain qualified as an Administrator through the use of parent company financials and a parental guaranty. Section 2 of the proposed permanent regulation requires all Administrators,

regardless of size, to notify the Commissioner of any change in ownership, operations or location. The change is not anticipated to have an impact on small business and the benefits to the public at large would outweigh any affect the change may have on Administrators of any size. Section 3 is anticipated to have a beneficial effect to employers of all sizes as it provides greater clarity to potential applicants seeking a certificate of registration as an Administrator.

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))

8/14/17
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

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

Third-Party Administrator Financial and Notification Requirements

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

As of the date of this certification, no comment has been received from small business, as the proposed regulation has not yet been shared with Administrators. See explanation of analysis below.

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).

Section 1 of the proposed regulation amends an existing regulation to match changes made to statute during the 2015 Legislative Session. Therefore, no comments were solicited and no analysis was conducted regarding the impact to small businesses. Analysis of Section 2 of the proposed regulation was conducted by Terri Chambers, Chief Insurance Examiner for regulation of third-party administrators. Ms. Chambers has been the chief of the section for 9 years. She examined a list of existing and proposed regulations and determined that the changes proposed in Section 2 would have little or no impact on the way that Administrators conduct their business. All notifications to the Commissioner can be done by electronic mail, and it is anticipated that the requirement to timely notify the Commissioner of any change in an Administrator's ownership, operations or location would have little or no economic impact on Administrators, regardless of size. Section 3 would benefit businesses of all sizes as it provides greater clarification of the requirements of potential applicants seeking certification as an Administrator.

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

No adverse or beneficial effects are anticipated.

No direct or indirect effects are anticipated.

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

None were considered.

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

None anticipated.

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

The proposed regulation does not create a new fee or change an existing fee.

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

The proposed regulation does not duplicate any existing federal, state or local standards.

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

Section 1 of the proposed permanent regulation will amend the current regulation to mirror changes made during the 2015 Legislative Session. Therefore, the economic burden on small business was not considered. The proposed regulation does, however, offer a means by which smaller businesses can qualify and remain qualified as an Administrator through the use of parent company financials and a parental guaranty. Section 2 of the proposed permanent regulation requires all Administrators, regardless of size, to notify the Commissioner of any change in ownership, operations or location. The change is not anticipated to have an impact on small business and the benefits to the public at large would outweigh any affect the change may have on Administrators of any size. Section 3 would benefit businesses of all sizes as it provides greater clarification of the requirements of potential applicants seeking certification as an Administrator.

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))

8/14/17
(DATE)

BARBARA D. RICHARDSON
Commissioner of Insurance