

STEVE SISOLAK
Governor

STATE OF NEVADA

TERRY REYNOLDS
Director



BARBARA D. RICHARDSON
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

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**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
LCB File No. R087-20
AND WORKSHOP AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption, amendment, or repeal of regulations pertaining to chapter 686A of the Nevada Administrative Code (“NAC”). The workshop shall take place as follows:

Date: October 5, 2020
Time: 1:30 p.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL : <https://doinv.webex.com/doinv/j.php?MTID=m0c69996fd89dbcec500cf3e7b7d441c3>
Meeting Number: 132 201 2108
Password: 9jgRyDFPV42

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free
Access Code: 132 201 2108

If you need help using Webex, visit <http://help.webex.com>.

*Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006 (extended by Declaration of Emergency Directive 029), the requirement contained in NRS 241.023.1(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, any person planning to participate must participate using the Webex link for video access or calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <http://doi.nv.gov/News-Notices/Regulations/>.

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; and to assist in determining whether the proposed regulation 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 to regs@doi.nv.gov or pflasch@doi.nv.gov no later than **September 29, 2020**.

WORKSHOP AGENDA

1. Open Workshop: R087-20.
2. Presentation of Proposed Regulation.

LCB File No. R087-20. ADVERSE CREDIT-BASED RESCORING.

A regulation relating to insurance; prohibiting an insurer from using changes in consumer credit information to increase a policyholder's premium if the changes occurred between March 1, 2020, and the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; authorizing an insurer to use certain consumer credit reports or insurance scores under certain circumstances; requiring an insurer that increased a policyholder's premium under certain circumstances to revise the premium and refund the amount of overpayment that resulted from the increase; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Workshop: R087-20.

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 meeting host/presenter, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Supporting public material for this workshop may be requested from Patti Flasch, Administrative Assistant III, Nevada Division of Insurance, by phone, (775) 687-0773, or email, pflasch@doi.nv.gov.

Members of the public are encouraged to submit written comments for the record.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website 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 a proposed regulation may contact the Division by email at regs@doi.nv.gov.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Division in writing, no later than five (5) working days before the workshop via email to pflasch@doi.nv.gov.

Notice of the workshop was provided via electronic means as follows:

To all persons on the Division's e-mail list for noticing of administrative regulations.
To main public libraries in all Nevada counties and the Nevada State Library, Archives and Public Records Administrator.
Division of Insurance website: <http://doi.nv.gov>
Nevada Legislature website: <http://www.leg.state.nv.us>
State of Nevada Public Notice website: <http://www.notice.nv.gov>.

DATED this 18th day of September 2020.

BARBARA D. RICHARDSON
Commissioner of Insurance

Stephanie B McGee

By:

STEPHANIE B. MCGEE
Chief Deputy Commissioner
With Delegation of Authority

STEVE SISOLAK
Governor

STATE OF NEVADA

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TO: STEPHANIE B. MCGEE
Chief Deputy Commissioner

FROM: BARBARA RICHARDSON
Commissioner of Insurance

DATE: September 15, 2020

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 18, 2020, through September 30, 2020. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated.

BARBARA D. 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](#))

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

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

A REGULATION relating to insurance; prohibiting insurers that use information from a consumer credit report from increasing a policyholder's or insured's premium, or engaging in an adverse underwriting decision, due to deterioration in consumer credit information occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; determining such adverse consideration of such deterioration in consumer credit information to be unfairly discriminatory; specifying the circumstances under which updated consumer credit information may be used in rating; and requiring insurers that use information from a consumer credit report to provide refunds to all renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020.

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

1. BACKGROUND.

This regulation is aimed at protecting Nevada consumers from premium increases in personal lines of property and casualty insurance arising out of deteriorations in consumer credit information resulting from the COVID-19 pandemic.

In Nevada, property and casualty insurers in personal lines of insurance are currently permitted to engage in credit-based insurance scoring, subject to the statutory requirements of NRS 686A.600 through 686A.730 and the provisions of NAC 686A.700 through 686A.710. At least 40 unique credit-based insurance scoring models are in use in Nevada today, largely in personal automobile and home insurance. Some insurers currently adjust their customers' credit-based insurance scores at renewal, based on changes to credit-report information that had occurred since the most recent prior score calculations. This practice, to the extent that it can cause some consumers' premiums to increase at renewal, is not reasonable at this time in light of the severe systemic economic disruptions that have arisen out of the COVID-19 pandemic.

Accordingly, to fully implement the mandate to protect consumers from the adverse impacts of COVID-19 on their credit histories, it is also necessary to prevent all missed payments or other derogatory credit-report items during the emergency from indirectly harming consumers through premium increases that are inherently unrelated to the prospective risk of insurance loss. This protection should apply both during the state of emergency which is presently in effect, as well as for two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020. An expiration of two years after the cessation of the

Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, was selected by considering several factors related to the financial and economic ramifications of the pandemic and the time that many individuals will need to recover fully. Since 1900, the historical average duration of a recession in the United States has been 15 months.¹ However, even in the aftermath of a recession, a recovery takes time, and involuntarily unemployed workers may take many months to find a job after a layoff, even as the general economy begins to rebound. In the United States, it is estimated that a worker will typically require three to six months after a layoff to find a job.² In Nevada, the unemployment rate has historically remained high even years after a recession officially concluded. For example, although the Great Recession officially concluded in June 2009, Nevada's unemployment rate remained at 14.5 percent in December 2010, at the same level as during the most adverse period of the Great Recession.³ Allowing two years of recovery to occur in the aftermath of the Declaration of Emergency being lifted would be reasonable to accommodate affected workers and give them time to regain employment and financial stability.

The Division of Insurance concludes that adverse consideration of any deterioration in a policyholder's or insured's consumer credit information or credit-based insurance score due to changes occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, is not a reasonable way, as that term is utilized in NRS 686B.060(2), to classify risks due to the lack of relationship of such deterioration of consumer credit information or credit-based insurance score to individual behavior and due to the systemic causes of such deterioration arising out of the COVID-19 pandemic.

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

No comment was solicited, however, the proposed regulation and any potential impact on Nevada's small business was discussed by the Nevada Division of Insurance's Property and Casualty section staff. It was determined that this regulation does not have the ability to create a negative impact on any of the state's small businesses, as it pertains solely to a rating practice utilized by large insurers for personal-lines policies.

¹ Tom Huddleston Jr. April 9, 2020. "How many recessions you've actually lived through and what happened in every one". CNBC. Available at <https://www.cnbc.com/2020/04/09/what-happened-in-every-us-recession-since-the-great-depression.html>. Nancy Mann Jackson. March 10, 2020. "How Long Do Downturns Last?" Acorns Advisers, LLC. Available at <https://www.acorns.com/money-basics/the-economy/how-long-do-downturns-last/>.

² "How Long Does It Take to Find a Job? (After Layoffs and More)". Career Sidekick. Available at <https://careersidekick.com/average-job-search-time/>.

³ Daniel Indiviglio. January 25, 2011. "Nevada's 14.5% Unemployment Rate Matches Recession High". The Atlantic. Available at <https://www.theatlantic.com/business/archive/2011/01/nevadas-145-unemployment-rate-matches-recession-high/70158/>.

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).

None of the insurers utilizing credit-based insurance scoring in Nevada could be considered small businesses. The practice of credit-based insurance scoring today affects personal lines of insurance rather than coverage for businesses. No adverse effects for Nevada small businesses are possible as a result of this regulation, however, there could be indirect favorable effects on small businesses.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, 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 the information contained in this statement is accurate. (NRS 233B.0608(3))

August 5, 2020
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

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

A REGULATION relating to insurance; prohibiting insurers that use information from a consumer credit report from increasing any policyholder's or insured's premium, or engaging in any adverse underwriting decision, due to deterioration in consumer credit information occurring on or after March 1, 2020, and until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; determining such adverse consideration of such deterioration in consumer credit information to be unfairly discriminatory; specifying the circumstances under which updated consumer credit information may be used in rating; and requiring insurers that use information from a consumer credit report to provide refunds to any renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020.

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

N/A – No comments were solicited because this regulation does not impose any requirements on small businesses. The Division will consider written comments received during the comment period once this regulation is scheduled for a workshop and hearing, in addition to comments that may be received at those public meetings.

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

The proposed regulation and any potential impact on Nevada's small business was discussed by the Nevada Division of Insurance's Property and Casualty section staff. The Nevada Division of Insurance has expertise in reviewing credit-based insurance scoring models in rate filings for personal lines of insurance and has extensive familiarity with the applicable provisions of law in NRS 686A.600 through 686A.730. These provisions pertain solely to use of consumer credit information personal lines of insurance and not to any insurance policies covering small businesses. Credit-based insurance scoring is not used for commercial insurance rating in Nevada, and commercial-lines rates for businessowners' policies are deregulated pursuant to NRS 686B.030(1)(g) and do not need to be filed. Accordingly, it was possible for the Nevada Division of Insurance to conclude that this regulation could not impose any adverse impact on any Nevada small business.

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

No adverse or direct effects of this regulation on Nevada small businesses are possible, as this regulation does not affect the practices of small businesses, but rather addresses a rating approach used solely by large insurers writing personal-lines products.

There could be indirect beneficial effects on small businesses as a result of this regulation. This regulation will prevent consumers from experiencing unjustified increases to their insurance

premiums and, therefore, will increase the probability that those consumers will remain financially secure. Consumers who are more financially secure will be more likely to patronize Nevada businesses and to start or support small businesses during the economic recovery phase. The consumer protections in this regulation are expected to promote Nevada's business recovery in the long term.

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

No methods were considered to reduce the impact upon small businesses, as there is no direct or significant impact to be considered.

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

No additional cost will be needed to enforce this regulation. All enforcement can be absorbed within existing rate-review processes.

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

This regulation does not establish a new fee or increase an existing fee.

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

There is no overlap or duplication of any existing law. There are not more stringent provisions in any existing law.

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

The conclusions presented in items 2 through 4 arise from Nevada insurance law on credit-based insurance scoring – NRS 686A.600 through 686A.730 – which only applies to use of consumer credit information in personal lines of insurance, not to commercial insurance for small businesses, for which the rates are deregulated pursuant to NRS 686B.030(1)(g).

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, 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))

August 5, 2020
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R087-20

September 2, 2020

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

AUTHORITY: §§1-4, NRS 679B.130, 679B.150, 686A.015, 686A.100, 686A.130 and 686A.680; §5, NRS 679B.130 and 686A.015.

A REGULATION relating to insurance; prohibiting an insurer from using changes in consumer credit information to increase a policyholder's premium if the changes occurred between March 1, 2020, and the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; authorizing an insurer to use certain consumer credit reports or insurance scores under certain circumstances; requiring an insurer that increased a policyholder's premium under certain circumstances to revise the premium and refund the amount of overpayment that resulted from the increase; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

On March 12, 2020, Governor Sisolak issued a Declaration of Emergency for COVID-19, within which he recognized, among other things, that: (1) the respiratory disease named coronavirus disease 2019, abbreviated as COVID-19, had been declared a pandemic by the World Health Organization; (2) multiple confirmed and presumptive cases of COVID-19 were in this State; and (3) the Chief Medical Officer reported that a public health emergency existed in this State. As a result of these findings, the Governor issued the Declaration of Emergency for COVID-19 so that the State could take certain measures to minimize the impacts of the disease and prevent further transmission to persons in this State. This Declaration of Emergency will remain in effect until the Chief Medical Officer notifies the Governor that the health event has been abated and the Governor issues an order terminating the emergency.

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code and sets forth how insurers may use consumer credit information. (NRS 679B.130, 686A.600-686A.730) **Section 2** of this regulation prohibits certain insurers from increasing a policyholder's premium or making an adverse underwriting decision as a result of any change in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

Section 3 of this regulation authorizes an insurer to use a consumer credit report or insurance score in rating a policy if any changes to the report or score occurred before March 1, 2020, or after the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020. Existing law requires an insurer to reunderwrite and re-rate a policy based on a current consumer credit report or insurance score at the request of the policyholder or the policyholder's agent. (NRS 686A.680) **Section 3** further authorizes an insurer, upon such a request or on its own initiative, to reunderwrite and re-rate a policy based on an updated consumer credit report or recalculated insurance score during the time period beginning on March 1, 2020, if the updated report or recalculated score results in the policyholder paying a lower premium.

Section 4 of this regulation requires an insurer to: (1) identify any policyholder whose premium was increased as a result of changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; and (2) revise the premium by using the information as it existed before March 1, 2020, or by reunderwriting and rerating the policy as set forth in **section 3**. **Section 4** further requires an insurer, after revising the premium, to refund the policyholder the amount of overpayment that resulted from the increase and authorizes the insurer to offer: (1) a greater refund; and (2) other refunds or measures for consumer relief. **Section 4** further requires the insurer to notify the policyholder of such a revision to the premium and provide an explanation for the revision.

Section 1. Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *An insurer that uses information from a consumer credit report shall not increase a policyholder's premium or make an adverse underwriting decision as a result of any change in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.*

2. Every such change in the policyholder's consumer credit report or insurance score which occurred during the period of time described in subsection 1 shall be deemed by the Commissioner to be:

(a) Caused by the COVID-19 emergency, which is the subject of the Declaration of Emergency mentioned in subsection 1;

(b) Independent of the choice or the financial management decisions of any applicable individual; and

(c) Unrelated to expected losses and expenses for all lines of insurance.

3. Any increase in a premium or adverse underwriting decision which violates the prohibition in subsection 1 shall be deemed by the Commissioner to be unfairly discriminatory.

4. As used in this section, “adverse underwriting decision” has the meaning ascribed to it in NAC 679B.565.

Sec. 3. 1. An insurer may use a consumer credit report or insurance score in rating a policy if the information used for such a report or score was gathered, calculated, updated or recalculated, as appropriate, and any changes to the report or score occurred, before March 1, 2020, or after the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

2. Except as otherwise provided in subsection 3, an insurer is not required to update such information, reports or scores for changes that occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

3. If, pursuant to subsection 2 of NRS 686A.680, a policyholder or a policyholder’s agent requests an insurer to reunderwrite and rerate the policyholder’s policy based on a current consumer credit report or insurance score, the insurer may use a consumer credit report of the policyholder that is updated during the period described in subsection 2, or may recalculate the insurance score of the policyholder during the period described in subsection 2, if the updated consumer credit report or recalculation results in the policyholder paying a lower

premium than the policyholder would have paid absent the updated consumer credit report or recalculation.

4. If an insurer obtains an updated consumer credit report or recalculates the insurance score of the policyholder without a request from the policyholder or from the policyholder's agent pursuant to subsection 2 of NRS 686A.680, the insurer may use the consumer credit report of the policyholder that was updated during the period described in subsection 2, or may use the insurance score of the policyholder that was recalculated during the period described in subsection 2, if the updated consumer credit report or recalculation results in the policyholder paying a lower premium than the policyholder would have paid absent the updated consumer credit report or recalculation.

Sec. 4. 1. An insurer that uses information from a consumer credit report shall identify any policyholder whose premium was increased as a result of changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

2. After identifying any increase pursuant to subsection 1, the insurer shall revise the premium by:

(a) Using a consumer credit report or insurance score that is based on information which was gathered, calculated, updated or recalculated, as appropriate, before March 1, 2020, in rating the policy; or

(b) Reunderwriting and rerating the policyholder's policy pursuant to subsection 3 or 4 of section 3 of this regulation, as applicable,

↪ whichever results in the lower premium paid by the policyholder.

3. After revising the premium pursuant to subsection 2, the insurer shall refund to the policyholder the amount of overpayment that resulted from the increase. The minimum refund must be equal to the amount of the premium increase attributable to the changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

4. Nothing in this section prohibits insurers from offering:

(a) Greater refunds than the minimum amounts specified in subsection 3; and

(b) Other refunds or measures for consumer relief based on considerations independent of consumer credit information.

5. An insurer that revises a premium pursuant to this section shall:

(a) Provide notice to the policyholder that the revision has been made; and

(b) Provide notice to the policyholder explaining the reasons for the revision.

Sec. 5. NAC 686A.700 is hereby amended to read as follows:

686A.700 As used in this section and NAC 686A.710 ~~H~~ *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.