

**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 **9:00 a.m.**, on **September 14, 2018**, 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(s) 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. R125-18. Safeguarding Customer Information.

A regulation relating to insurance; requiring licensees to implement programs of security for customer information; exempting licensees from providing annual notices of privacy policies and practices to customers under certain circumstances; and providing other matters properly relating thereto.

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

The proposed regulation is necessary to protect consumer privacy with respect to security and confidentiality of nonpublic personal information maintained by licensees (as defined by NAC 679B.824), in furtherance of the obligation to respect the privacy of their customers.

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

This regulation, for which language was incorporated from NAIC Model Regulation #673 (Standards for Safeguarding Customer Information Model Regulation), establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b) and 6807.

Section 1 requires licensees to implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. This section also details what the information security program shall be designed to do, and steps the licensee must take to assess, manage and control risk. Section 2 modifies NAC 679B.844 by providing some exceptions to the annual disclosure requirements contained in this proposed regulation.

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

This regulation provides the State with the appropriate tools to comply with the federal regulation. The regulation will help to protect consumer information.

(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 regulation provides significant value to the public as it requires certain licensees of the Division of Insurance to maintain an information security program to protect the data received by them.

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

a. Public

1. Immediate: *Personal information will be protected when transacting insurance.*
2. Long Term: *Personal information will be protected when transacting insurance.*

b. Insurance Business

1. Immediate: *Consumers and businesses will transact insurance with available information, knowing the data is required to be protected.*
2. Long Term: *Consumers and businesses will transact insurance with available information, knowing the data is required to be protected.*

c. Small Businesses

1. Immediate: *Small businesses transacting insurance will be required to maintain appropriate security measures.*
2. Long Term: *Small businesses transacting insurance will be required to maintain appropriate security measures.*

d. Small Communities

1. Immediate: *Consumers and businesses in small communities will transact insurance with available information, knowing the data is required to be protected.*
2. Long Term: *Consumers and businesses in small communities will transact insurance with available information, knowing the data is required to be protected.*

- e. Government Entities
 - 1. Immediate: *Appropriate action(s) could be taken against a licensee that does not protect consumer information.*
 - 2. Long Term: *Appropriate action(s) could be taken against a licensee that does not protect consumer information.*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate: *No adverse impact is noted.*
 - 2. Long Term: *No adverse impact is noted.*
- b. Insurance Business
 - 1. Immediate: *Additional time and resources may be needed to protect consumer data.*
 - 2. Long Term: *Additional time and resources may be needed to protect consumer data.*
- c. Small Businesses
 - 1. Immediate: *Any small businesses transacting insurance will need to develop a program, which could take some time and resources.*
 - 2. Long Term: *Any small businesses transacting insurance will need to develop a program, which could take some time and resources.*
- d. Small Communities
 - 1. Immediate: *No adverse impact is noted.*
 - 2. Long Term: *No adverse impact is noted.*
- e. Government Entities
 - 1. Immediate: *No adverse impact is noted.*
 - 2. Long Term: *No adverse impact is noted.*

(9) What is the anticipated cost of the regulation, both direct and indirect?

- a. Enactment: *There is no cost to enact this regulation since insurance businesses nationwide have already been aware of the need to develop a security program.*
- b. Enforcement: *There is no additional cost to enforce this regulation, as existing staff would receive complaints and respond appropriately.*
- c. Compliance: *There is no additional cost to ensure compliance of this regulation, as existing staff would check for the licensee's security program as the risk arises during a risk identification examination.*

(10) Does the regulation establish a new fee or increase an existing fee?

There is no new fee or existing fee proposed with this regulation.

(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.

The staff of the Division's Corporate and Financial Affairs Section had discussions about the proposed requirements contained in this regulation with many Division licensees. Further, the staff analyzed and discussed the requirements imposed upon Division licensees. Most licensees are expected to have already complied with federal requirements from the Gramm-Leach-Bliley Act. For licensees that have not already fully complied with the requirements of this regulation, the Division determined that implementing the requirements will not impose a direct and significant economic burden upon a small business in the business of insurance in the state of Nevada.

(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.

There is no overlapping or duplication of other state regulations, and federal law does require state agencies to implement these standards.

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

Section 501(a) of the Gramm-Leach-Bliley Act provides that it is the policy of Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information. Section 501(b) requires the state insurance regulatory authorities to establish appropriate standards relating to administrative, technical and physical safeguards: (1) to ensure the security and confidentiality of customer records and information; (2) to protect against any anticipated threats or hazards to the security or integrity of such records; and (3) to protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

Section 505(b)(2) of the Gramm-Leach-Bliley Act calls on state insurance regulatory authorities to implement the standards prescribed under Section 501(b), by regulation, with respect to persons engaged in providing insurance.

Section 507 of the Gramm-Leach-Bliley Act provides, among other things, that a state regulation may afford persons greater privacy protections than those provided by subtitle A of Title V of the Gramm-Leach-Bliley Act. This regulation requires that the safeguards established pursuant to this regulation shall apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information.

(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.

This regulation meets the standards identified in federal regulation.

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 August 29, 2018.** 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 Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

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

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

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

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

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

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 Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@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 7th day of August, 2018.

BARBARA D. RICHARDSON
Commissioner of Insurance



By: AMY L. PARKS
Chief Insurance Counsel
With Delegation of Authority

HEARING AGENDA

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

September 14, 2018 • 9:00 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: R125-18.
2. Presentation, Discussion and Adoption of Proposed Regulation. (For Possible Action)

LCB File No. R125-18. Safeguarding Customer Information.

A regulation relating to insurance; requiring licensees to implement programs of security for customer information; exempting licensees from providing annual notices of privacy policies and practices to customers under certain circumstances; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: R125-18.
5. Adjourn.

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 Division of Insurance, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102

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: AMY PARKS
Chief Deputy Commissioner of Insurance

FROM: BARBARA RICHARDSON
Commissioner of Insurance

DATE: July 30, 2018

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 August 2, 2018 through August 7, 2018. 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)

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

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

SAFEGUARDING CUSTOMER INFORMATION

EFFECTIVE DATE OF REGULATION:

Upon filing with the Nevada Secretary of State

1. BACKGROUND.

The proposed regulation establishes standards for developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, pursuant to Sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act ("Federal Act"), codified at 15 U.S.C. 6801, 6805(b) and 6807.

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

Discussions were held over the course of several years between regulated entities and Division of Insurance staff. During these discussions, no instances have occurred where an entity was not aware of the federal standards regarding protection of consumer information and the expectation to comply with the provisions included in this regulation (since the proposed standards are already required by federal law and all applicable entities should already comply with the proposed standards). The amendments to NAC chapter 679B were analyzed by the Division of Insurance Corporate and Financial Affairs Section, and it was determined that this regulation should have a very limited impact on small businesses in the insurance industry which have not already fully complied with the federal requirements. This regulation does not impose any new standards or requirements that are not already required under the Federal Act, and only applies to businesses that are licensees of the Division of Insurance.

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).

During discussions over the course of several years between regulated entities and Division of Insurance staff, no instances have occurred where an entity was not aware of the federal standards regarding protection of consumer information and the expectation to comply with the provisions included in this regulation. Based upon these discussions with Division licensees, the Corporate and Financial Affairs Section concluded that this regulation will not implement any new requirement on Nevada businesses and, therefore, will not impose a direct and significant economic burden upon a small business.

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))

5/23/18
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

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

SAFEGUARDING CUSTOMER INFORMATION

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

Discussions have been held over a period of a few years with regulated entities of the Division of Insurance to discuss the safeguarding of customer data as it pertains to the requirements contained in the Gramm-Leach-Bliley Act. All licensees have been aware of their obligations under the Federal Act, so this regulation will not be adding any new burden for these companies.

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).

Discussions of the requirements under Gramm-Leach-Bliley were made with Division of Insurance licensees over the course of the past few years. The additions to NAC chapter 679B proposed in the Division's regulation are already required under federal law, and all applicable entities should already comply with the proposed standards. These changes were analyzed by the Division of Insurance Corporate and Financial Affairs section, and it was determined that this regulation should have no impact on any small business in the state of Nevada.

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

There should be no economic effect on small businesses from the enactment of this regulation. This regulation is simply adding federal law to the Nevada state regulations.

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

Upon enacting this regulation, there is expected to be no impact upon small businesses. Federal regulations require state agencies to implement the standards that are contained in Section 501(a) of the Gramm-Leach-Bliley Act, and licensees are already aware of their obligations under the Federal Act, so this regulation will not add any new burden. Therefore, no methods were considered to reduce the impact of the proposed regulation on small businesses, as there is no additional impact to be addressed.

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

There is no additional cost to enforce this regulation, as existing staff would receive complaints and respond appropriately.

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

No new fees will be generated by the adoption of this regulation.

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

Federal regulations do require state agencies to implement the standards that are contained in Section 501(a) of the Gramm-Leach-Bliley Act.

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

During discussions over the course of several years between regulated entities and Division staff, no instances have been stated where an entity was not aware of the Federal standards regarding the protection of consumer information, and it has been the understanding of the entities that they are expected to comply with the provisions included in this regulation. Based on these discussions with Division licensees, the Corporate and Financial Affairs Section concluded that this regulation does not implement any new requirement on Nevada businesses and, therefore, does not create a direct impact to 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 this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

5/23/18
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R125-18

July 5, 2018

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

AUTHORITY: §1, NRS 679B.130, 679B.137 and 686A.025; §2, NRS 679B.130 and 686A.025.

A REGULATION relating to insurance; requiring licensees to implement programs of security for customer information; exempting licensees from providing annual notices of privacy policies and practices to customers under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that disclosure of nonpublic personal information in a manner contrary to the provisions of 15 U.S.C. §§6801, et. seq., is an unfair act or practice in the business of insurance and authorizes the Commissioner of Insurance to adopt regulations pertaining thereto. (NRS 686A.025)

Section 1 of this regulation requires licensees, which are defined to include certain insurers, producers and other persons subject to licensure, authorization or registration pursuant to the insurance laws of this State, to implement a comprehensive program for the security of customer information. **Section 1** also establishes standards for the design of such a program and sets forth factors to be considered by the Commissioner in determining whether the program is satisfactory.

Existing regulations require a licensee to provide a notice to customers not less than annually, setting forth the privacy policies and practices of the licensee. (NAC 679B.844) **Section 2** of this regulation provides that a licensee is not required to provide such an annual notice if the licensee: (1) solely provides nonpublic personal financial information to nonaffiliated third parties under certain circumstances authorized by law; and (2) the licensee has not changed its policies and practices from those set forth in its most recent notice sent to customers. However, **section 2** requires such a licensee to provide its customers with a notice of its policies and practices upon a change to those policies and practices.

Section 1. Chapter 679B of NAC is hereby amended by adding thereto a new section to read as follows:

1. Each licensee shall implement a comprehensive program satisfactory to the Commissioner for the security of written information. The program must include administrative, technical and physical safeguards for the protection of customer information. Such administrative, technical and physical safeguards must be appropriate for the size and complexity of the licensee and the nature and scope of the licensee's activities.

2. A program implemented pursuant to subsection 1 for the security of written information must be designed to:

(a) Ensure the security and confidentiality of customer information;

(b) Protect against any anticipated threat or hazard to the security and integrity of the customer information; and

(c) Protect against unauthorized access to, or use of, the customer information that could result in substantial harm or inconvenience to a customer.

3. To determine whether a program implemented pursuant to subsection 1 is satisfactory, the Commissioner will consider:

(a) The manner in which, in order to assess risk, the licensee:

(1) Identifies reasonably foreseeable internal and external threats or hazards which could result in unauthorized disclosure, misuse, alteration or destruction of customer information or the systems which contain such information;

(2) Assesses the likelihood and potential damage of the threats or hazards, taking into consideration the sensitivity of the customer information; and

(3) Assesses the sufficiency of policies, procedures, safeguards and systems which contain customer information to manage and control risks.

(b) Whether, in order to manage and control risk, the licensee:

(1) Designs such a program to control the identified risks, commensurate with the sensitivity of the customer information and the complexity and scope of the licensee's activities;

(2) Trains staff, as appropriate, to implement the program; and

(3) Regularly tests or monitors the key controls, systems and procedures of the program.

The frequency and nature of such tests or monitoring practices must be determined by the risk assessment performed by the licensee.

(c) Whether, in order to oversee arrangements with service providers, the licensee:

(1) Exercises due diligence in selecting service providers;

(2) Requires service providers to implement appropriate measures designed to meet the objectives of this section; and

(3) Takes appropriate steps to confirm that service providers have satisfied the requirements imposed pursuant to subparagraph (2).

(d) Whether the licensee monitors, evaluates and adjusts, as appropriate, such a program considering:

(1) Relevant changes in technology;

(2) Changes in systems which contain customer information;

(3) The sensitivity of customer information;

(4) Internal and external threats or hazards to the customer information; and

(5) Changes in the business arrangements of the licensee, including, without limitation, mergers, acquisitions, alliances, joint ventures and outsourcing arrangements.

(e) Any other information which the Commissioner deems relevant to the determination.

Sec. 2. NAC 679B.844 is hereby amended to read as follows:

679B.844 1. ~~{A}~~ *Except as otherwise provided in subsection 3, a* licensee shall provide a clear and conspicuous notice to customers that accurately reflects privacy policies and practices of the licensee not less than annually during the continuation of the customer relationship. A licensee may define the beginning of the period of 12 consecutive months, but the licensee must apply the period to customers on a consistent basis.

2. A licensee provides a notice annually if the licensee:

(a) Defines the period of 12 consecutive months as a calendar year; and

(b) Provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice.

3. *A licensee is not required to provide a notice pursuant to subsection 1 if the licensee:*

(a) Solely provides nonpublic personal financial information to nonaffiliated third parties pursuant to NAC 679B.870, 679B.872 or 679B.874; and

(b) Has not changed its policies and practices relating to the disclosure of nonpublic personal financial information from those policies and practices that were set forth in the most recent notice sent to customers pursuant to the provisions of this section or NAC 679B.842.

↪ A licensee who changes its policies and practices relating to the disclosure of nonpublic personal financial information and has not provided a notice to its customers within the immediately preceding 12 consecutive months as allowed by this subsection shall provide its customers with a notice reflecting those policies and practices.

4. A licensee is not required to provide an annual notice to a former customer.

~~{4}~~ 5. A licensee no longer has a continuing relationship with a natural person if:

(a) The natural person no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(b) The policy of a natural person has lapsed, expired or is otherwise inactive or dormant pursuant to the business practices of the licensee, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.

(c) The last known address of a natural person according to the records of the licensee is invalid.

~~15.1~~ **6.** A licensee no longer has a “continuing relationship” with a customer in the case of providing real estate settlement services if, at the time the customer completes execution of all documents related to the real estate closing:

(a) Payment for those services has been received; or

(b) The licensee has completed all of his or her responsibilities with respect to the settlement, including, without limitation, filing documents on the public record,

↳ whichever occurs later.

~~16.1~~ **7.** A licensee shall deliver the annual privacy notice required pursuant to this section in the manner provided by NAC 679B.862.

~~17.1~~ **8.** For purposes of this section:

(a) “A former customer” is a natural person with whom a licensee no longer has a continuing relationship.

(b) “Annually” means at least once in any period of 12 consecutive months during which the customer relationship exists.

(c) An address of record shall be deemed “invalid” if:

- (1) Mail sent to that address by the licensee has been returned as undeliverable; and
- (2) Subsequent attempts by the licensee to obtain a current valid address for the natural person have been unsuccessful.