

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 INTENT TO ACT UPON REGULATION
LCB File No. R124-20
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption, amendment, or repeal of regulations pertaining to chapters 616B and 683A of the Nevada Administrative Code (“NAC”). The hearing shall take place as follows:

Date: February 10, 2021
Time: 10:00 a.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=m51c1a53932a65dfd157029c9fc854c66>

Meeting Number: 132 724 2158

Password: 8ZWiw3bEm2

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: 132 724 2158

If you need help using Webex, visit: <https://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: <https://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing 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.

HEARING AGENDA

1. Open Hearing: R124-20.
2. Presentation of Proposed Regulation.

LCB File No. R124-20. SELF INSURED WORKERS COMPENSATION COMPLIANCE WITH SENATE BILL 86 (2019 Nevada Legislature).

A regulation relating to insurance; removing the requirement that a self-insured employer return the original certificate of qualification as a self-insured employer in certain circumstances; removing the requirement that a policy of excess insurance and certain other documents be countersigned by certain producers of insurance; repealing regulatory language that requires certain administrators to pay certain fees; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Hearing: R124-20.

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 hearing may be requested by sending an email to the Division at regs@doi.nv.gov.

Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex and/or may address their comments, data, views or arguments, in written form, to the Division via email (regs@doi.nv.gov) or mail (1818 East College Parkway, Suite 103, Carson City, Nevada 89706). **Written submissions must be received by the Division on or before February 5, 2021.** 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 <https://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 hearing via email to regs@doi.nv.gov.

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

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

The proposed changes to the regulations are necessary for the Nevada Administrative Code to be consistent with the changes in Statutes that were made in Senate Bill 86, which was passed on June 1, 2019. The purpose of the changes is to eliminate the fees submitted with annual reports for third-party administrators (Section 14), to repeal the requirement for self-insured employers to return the original certificate of authority in certain circumstances (Sections 4 & 13), and to eliminate the requirement for a countersignature for excess insurance for self-insured associations (Section 7).

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

Senate Bill 86 from the 2019 Nevada Legislature included the elimination of the fee for third-party administrator annual reports, the repeal of the requirement to return the original certificate of authority if a self-insured employers requests that a new business or new location be added to the certificate, and the removal of the requirement that an association’s excess insurance and any proof of that excess insurance must be countersigned by a producer of insurance appointed by the insurer which issued the policy. These changes in the regulations are necessary to make the Nevada Administrative Code uniform with the Statutes and were designed to reduce costs and any unneeded regulatory burden on certain regulated entities.

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

The language in this regulation will lessen the regulatory requirements on third-party administrators, self-insured employers and associations by eliminating: 1) a cost to file a report; 2) required filings; and, 3) the requirement to get a second signature (countersignature) by a licensed agent to enact excess insurance.

(4) Do other regulations address the same problem(s)?

No other regulations address these issues.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

No.

(6) What value does the regulation have to the public?

Whenever reduced costs or added efficiencies reduce the regulatory burden on regulated entities,

the potential exists that the costs for services may be reduced for Nevada's consumers.

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

- a. Public
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*
- b. Insurance Business
 - 1. Immediate: *Eliminate the fee paid by third-party administrators with the filing of their annual report and eliminate the need of self-insured employers to return the original certificate of authority when there are changes in business plan or business locations.*
 - 2. Long-Term: *Eliminate the fee paid by third-party administrators with the filing of their annual report and eliminate the need of self-insured employers to return the original certificate of authority when there are changes in business plan or business locations.*
- c. Small Businesses
 - 1. Immediate: *None*
 - 2. Long-Term: *None*
- d. Small Communities
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*
- e. Government Entities
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*

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

- a. Public
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*
- b. Insurance Business
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*
- c. Small Businesses
 - 1. Immediate: *None.*
 - 2. Long-Term: *None.*
- d. Small Communities
 - 1. Immediate: *None.*

2. Long-Term: *None*.
- e. Government Entities
1. Immediate: *None*.
 2. Long-Term: *None*.

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

- a. Enactment: *None directly or indirectly*.
- b. Enforcement: *None directly or indirectly*.
- c. Compliance: *None directly or indirectly*.

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

No.

(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.

There was no method used as the proposed changes do not affect all small businesses, just TPAs and SIEs. The proposed changes attempt to align the statutes with SB 86 which repealed the fee that was required by third-party administrators with the filing of their annual report. SB 86 also repealed the need for an SIE to return its certificate of authority when there are changes in business plan or business locations.

(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 are no other regulations that overlap or duplicate the regulations.

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

There are no federal laws that address or pertain to these requirements in the regulations.

(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.

There are no federal laws that address or pertain to these requirements in the regulations.

Notice of the hearing 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: <https://doi.nv.gov>.

Nevada Legislature website: <https://leg.state.nv.us>.

State of Nevada Public Notice website: <https://notice.nv.gov/>.

DATED this 6th day of January 2021.

Barbara D Richardson

BARBARA D. RICHARDSON

Commissioner of Insurance

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

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

SIWC Compliance with Senate Bill 86

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

1. BACKGROUND.

Senate Bill 86, which passed on June 1, 2019, included the elimination of the fee for third-party administrator annual reports, the repeal of the requirement to return the original certificate of authority if a self-insured employers requests that a new business or new location be added to the certificate, and removal of the requirement that an association's excess insurance and any proof of that excess insurance must be countersigned by a producer of insurance appointed by the insurer which issued the policy.

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

This matter was analyzed and discussed internally in the Self-Insured Workers' Compensation (SIWC) section. It was determined that the changes created by this proposed regulation do not create a possibility of any negative impact on Nevada's small businesses but are required to keep Nevada's Administrative Code in alignment with the recent changes in Title 57 from the 2019 Nevada Legislature in the Nevada Revised Statutes.

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).

The SIWC section determined the following impacts would occur with the adoption of this proposed regulation: The elimination of the part of the regulation imposing a fee for third-party administrator annual reports would save the company money and remove the fee as an obstacle to electronic filing of the annual report. The repeal of the regulation requiring the return of the original certificate of authority eliminates the obsolete process for paper documents in a digital age of issuing certificates and would save the company employee time (wages) and money for postage. The repeal of the regulation requiring the countersignature makes the regulation consistent with changes in 2019 Senate Bill 86, and it creates one less requirement to fill when obtaining excess insurance. These changes would also amend the regulations to be consistent with 2019 Senate Bill 86.

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))

January 6, 2021

(DATE)

Barbara D Richardson

BARBARA D. RICHARDSON

Commissioner of Insurance

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

SIWC Compliance with Senate Bill 86

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

Small business will have an opportunity to comment on the proposed regulation during the workshop and hearing, however in our analysis of the changes being proposed, the only potential impacts to small business would be positive outcomes, such as lower costs and reduced regulatory requirements.

Other interested parties may receive a copy of this summary by contacting the Nevada Division of Insurance at the following email address: regs@doi.nv.gov.

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

This matter was analyzed and discussed internally in the Self-Insured Workers' Compensation section. It was determined that the changes created by this proposed regulation do not create a possibility of any negative impact on Nevada's small businesses but are required to keep Nevada's Administrative Code in alignment with the recent changes in the Title 57 from the 2019 Nevada Legislature in the Nevada Revised Statutes.

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

(a) BOTH ADVERSE AND BENEFICIAL EFFECTS.

- (1) Adverse: None.
- (2) Beneficial: None.

(b) BOTH DIRECT AND INDIRECT EFFECTS.

- (1) Direct: None.
- (2) Indirect: None.

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 anticipated.

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

There is no cost of enforcement. The proposed changes would eliminate the need for analysts to collect the fee from third-party administrators that were submitted with annual reports. Due to the elimination of the fee, third-party administrators can now submit their filings electronically which will reduce the amount of paper received and the need to scan the documents into the company's file. The other proposed changes have no effect on the costs of enforcement.

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

The proposed changes eliminate the fee third-party administrators pay with the filing of their annual reports. This removal of the filing fee was included in 2019 SB86 in NRS 683A.08528, so this fee is no longer authorized by the statutes, and the elimination is just a clean-up to make the Statutes and Nevada Administrative Code uniform.

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

DOES THE REGULATION DUPLICATE ANY EXISTING FEDERAL, STATE OR LOCAL STANDARDS? No

IS IT MORE STRINGENT THAN ANY EXISTING FEDERAL, STATE OR LOCAL STANDARDS? No

WHY IS IT NECESSARY? To be consistent with 2019 Senate Bill 86.

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

The elimination of a fee for third-party administrator annual reports, the repeal of the regulation requiring the return of the original certificate of authority, and the repeal of the regulation requiring a countersignature were included in 2019 Senate Bill 86, and these provisions were deliberated and passed by the Nevada Legislature. The changes proposed in this regulation are intended make the Nevada Administrative Code consistent with the Nevada Revised Statutes, and they will benefit the licensees that are regulated under NRS Chapters 616B and 683A.

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))

January 6, 2021

(DATE)

Barbara D Richardson

BARBARA D. RICHARDSON
Commissioner of Insurance

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R124-20

September 21, 2020

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

AUTHORITY: §1, NRS 616B.312 and 679B.130; §2, NRS 616B.353, 616B.446 and 679B.130;
§3, NRS 679B.130, 680B.010 and 683A.08528.

A REGULATION relating to insurance; removing the requirement that a self-insured employer return the original certificate of qualification as a self-insured employer in certain circumstances; removing the requirement that a policy of excess insurance and certain other documents be countersigned by certain producers of insurance; repealing regulatory language that requires certain administrators to pay certain fees; 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 and the Nevada Industrial Insurance Act. (NRS 679B.130)

Existing law and regulations authorize an employer to qualify for and participate in a program of self-insurance. (NRS 616B.300, NAC 616B.424) Once the Commissioner determines that an employer is qualified as a self-insured employer, existing law requires the Commissioner to issue a certificate of qualification to the employer. The certificate remains in effect until withdrawn by the Commissioner or cancelled by the employer. (NRS 616B.312) Existing regulations authorize a self-insured employer to request that the Commissioner issue one certificate to cover the employer and any subsidiary or affiliated corporation. If the Commissioner approves the request, the certificate will list the names and locations of all the businesses covered by the certificate. If the self-insured employer later requests that a new business or a new location be added to the certificate, and the Commissioner approves the request, existing regulations: (1) provide that the Commissioner will issue a new certificate to the self-insured employer listing all covered businesses or locations; and (2) require the self-insured employer to return the original certificate to the Commissioner. (NAC 616B.451) **Section 1** of this regulation removes the requirement that the self-insured employer return the original certificate to the Commissioner.

Existing law authorizes a group of five or more employers to act as an association of self-insured public or private employers if the employers meet certain qualifications, are issued a certificate to act as such an association and comply with certain other requirements. (NRS

616B.350) Existing law requires an association of self-insured public or private employers to maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The policy must be written by an insurer approved by the Commissioner. (NRS 616B.353) Existing regulations require such a policy of excess insurance and any proof of that insurance to be countersigned by a producer of insurance appointed by the insurer which issued the policy. (NAC 616B.534) **Section 2** of this regulation removes the requirement that the policy of excess insurance and any proof of that insurance be countersigned by a producer of insurance.

Existing law requires an administrator to file an annual report with the Commissioner for the immediately preceding fiscal year. (NRS 683A.08528) Before the 2019 Legislative Session, existing law also required an administrator who filed the annual report to pay a filing fee in an amount determined by the Commissioner. However, during the 2019 Legislative Session, the Nevada Legislature removed from existing law the requirement that an administrator must pay this filing fee. (Senate Bill No. 86, chapter 295, Statutes of Nevada 2019, at page 1699) In accordance with this change to existing law enacted by the Nevada Legislature during the 2019 Legislative Session, **section 3** of this regulation removes from existing regulations the requirement that an administrator who files the annual report must pay a \$25 filing fee.

Section 1. NAC 616B.451 is hereby amended to read as follows:

616B.451 1. A self-insured employer may request that the Commissioner issue one certificate of authority to cover the employer and any subsidiary or affiliated corporation. In reviewing such a request, the Commissioner will apply the standards of NAC 616B.424 to all of the subsidiaries and corporations as if they were a single entity.

2. The businesses that wish to be covered by one certificate shall file a statement with the Commissioner that lists the owners of the businesses and the percentage of the businesses held by each owner and that verifies that the operations of each business are controlled by the same owners. The Commissioner may require each business, or the owner of each business, or both, to indemnify the other businesses or owners who will be covered by the certificate and hold them harmless from liability for any claim for compensation filed pursuant to chapters 616A to 617, inclusive, of NRS.

3. The Commissioner may issue one certificate to cover a business and one or more subsidiaries or affiliated corporations if:

(a) The operations of each business are controlled by the same natural persons or corporation;
and

(b) An independent auditor determines that there is sufficient similarity in the control of the businesses to present a combined financial statement for all of the businesses that will be covered by the certificate.

4. A certificate issued by the Commissioner pursuant to this section will list the names and locations of all the businesses covered by the certificate.

5. If the self-insured employer later requests that a new business or a new location be added to the certificate, the Commissioner will review that request in accordance with this section. If approved, a new certificate will be issued to the self-insured employer and list all covered businesses or locations. ~~The self-insured employer shall return the original certificate to the Commissioner.~~

6. As used in this section, “affiliated corporation” means a corporation that directly or indirectly, through one or more intermediaries, is controlled by, or is under common control with, the self-insured employer.

Sec. 2. NAC 616B.534 is hereby amended to read as follows:

616B.534 1. Each association shall maintain a policy of specific and aggregate excess insurance with a self-insured retention of no less than \$100,000.

2. ~~The policy of excess insurance and any proof of that insurance must be countersigned by a producer of insurance appointed by the insurer which issued the policy.~~

~~3.~~ The Commissioner will review the amount of insurance required for an association and may adjust the amount if he or she determines that changed conditions warrant an adjustment.

~~{4. As used in this section, “producer of insurance” has the meaning ascribed to it in NRS 679A.117.}~~

Sec. 3. NAC 683A.133 is hereby repealed.

TEXT OF REPEALED SECTION

683A.133 Annual report: Filing fee. An administrator who files an annual report with the Commissioner pursuant to NRS 683A.08528 must pay the filing fee required pursuant to subsection 3 of NRS 680B.010.