

STEPHEN F. 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
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 686A of the Nevada Administrative Code (“NAC”). The workshop shall take place as follows:

Date: August 26, 2020

Time: 1:30 p.m.

Location: This meeting will be held via Webex.*

URL:

<https://doinv.webex.com/webappng/sites/doinv/meeting/info/61dc3d1da10c49c6blad15392fb59ebe>

Meeting Number: 132 366 4193

Password: 3ZJmAnmAY99

Teleconference Number: 1-844-621-3956 United States Toll Free

Access Code: 132 366 4193

*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, anyone planning to participate must participate by using Webex. 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 **August 24, 2020**.

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

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.


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 Patti Flasch, (775) 687-0773, or 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.
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>.

Members of the public who are disabled and require special accommodations or assistance are requested to notify the Division in writing, no later than five (5) working days before the workshop, via email to pflasch@doi.nv.gov.

DATED this 5th day of August, 2020.



BARBARA D. RICHARDSON
Commissioner of Insurance

State of Nevada
Department of Business and Industry
Division of Insurance

AGENDA

**August 26, 2020
1:30 p.m.**

This public workshop shall take place by Webex only.

URL:

<https://doinv.webex.com/webappng/sites/doinv/meeting/info/61dc3d1da10c49c6blad15392fb59ebe>

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1. Open Workshop: R087-20.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

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

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.

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

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.

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 Division in writing, no later than five (5) working days before the workshop via email to pflasch@doi.nv.gov.

Notices for this workshop have been provided via electronic means as follows:

- To all persons on the Division's e-mail list for noticing of administrative regulations.
- 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)

**PROPOSED PERMANENT REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R087-20

July 30, 2020

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

AUTHORITY: NRS 679B.130; NRS 686A.680; NRS 686B.050; NRS 686B.060

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.

Section 1. Chapter 686A of NAC is hereby amended by adding thereto a new section to read as follows:

1. An insurer that uses information from a consumer credit report shall not increase a policyholder's or insured's premium or engage in an adverse underwriting decision, as that term is defined in NAC 679B.565, based on a change or multiple changes in consumer credit information or a credit-based insurance score 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. Every such change to consumer credit information, whether resulting in deterioration in a policyholder's credit-based insurance score or otherwise affecting a consumer's premium, shall be understood to arise from the COVID-19 pandemic, to be independent of individual choice or financial management decisions, and therefore to be unrelated to expected losses and expenses for all lines of insurance. The Commissioner shall deem the adverse consideration by an insurer of such deterioration in a policyholder's or insured's consumer credit information or credit-based insurance score to be unfairly discriminatory, as that term is defined in NRS 686B.050(4).

2. (a) An insurer that uses information from a consumer credit report may continue to use such information in rating if that information predated March 1, 2020, and is not required to

update that information for subsequent changes, unless requested to do so by the policyholder pursuant to NRS 686A.680(2).

(b) If the policyholder requests pursuant to NRS 686A.680(2) that an insurer re-underwrite and rerate the policy based upon a current consumer credit report or insurance score, then the insurer may only use the current consumer credit report or the results of the recalculation of the credit-based insurance score if such use leads to a lower premium amount than the policyholder would have paid in the absence of the recalculation.

(c) If the insurer obtains updated consumer credit information at the insurer's own initiative, then the insurer may only use the updated consumer credit information in rating if such use results in a lower premium amount than the policyholder would have paid in the absence of such use.

3. An insurer that uses information from a consumer credit report shall identify all renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020, and shall refund the amounts of such increases to those policyholders. The minimum refund amount for each affected renewal policyholder shall be equal to the amount of the premium increase attributable to the deterioration in consumer credit information for policies renewing on or after March 1, 2020, relative to the consumer credit information used in rating the immediate prior policy term. Nothing in this section prohibits insurers from offering greater refunds than the minimum amounts specified herein. Furthermore, nothing in this section prohibits insurers from offering other refunds or measures for consumer relief based on considerations independent of consumer credit information.

Section 2. NAC 686A.700 is hereby amended to read as follows:

As used in this section and NAC 686A.710 *and Section 1 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.

**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