

**ADOPTED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R130-03

Effective November 24, 2003

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

AUTHORITY: §§1-3, NRS 679B.130 and 688A.363.

Section 1. Chapter 688A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *Except as otherwise provided in subsection 2, for the purposes of NRS 688A.363, the rate of interest used to determine the minimum nonforfeiture amount must be an annual rate of interest determined as the lesser of:*

(a) The statutorily provided rate of 3 percent per annum; or

(b) A rate equal to 125 basis points less than the 5-Year Treasury Constant Maturity Rate as reported by the Federal Reserve rounded to the nearest 0.05 of a percent:

(1) If a date is specified in a contract for the determination of the interest rate, on the date specified in the contract; or

(2) If a period is specified in a contract for the determination of the interest rate, the average rate for the period specified in the contract.

2. A deferred annuity contract that provides for the substantive participation in an equity indexed benefit may provide that the rate calculated pursuant to paragraph (b) of subsection 1 may be reduced by up to an additional 100 basis points. The amount of an additional reduction to the interest rate must not exceed the value of the equity indexed benefit. The

Commissioner may require an insurer to substantiate that the additional reduction to the interest rate does not exceed the value of the equity indexed benefit. If the Commissioner finds that the additional reduction to the interest rate exceeds the value of the equity indexed benefit, the Commissioner may disallow or limit the amount of the additional reduction.

3. If the rate calculated pursuant to paragraph (b) of subsection 1 or subsection 2 is less than 1 percent per annum, the interest rate used to determine the minimum nonforfeiture amount must be 1 percent per annum.

4. For the purposes of subparagraphs (1) and (2) of paragraph (b) of subsection 1, the date or period specified in a contract for the determination of the 5-Year Treasury Constant Maturity Rate shall be a date or period between the effective date of the interest rate and 15 months prior to the effective date of the interest rate.

5. Except as otherwise provided in subsection 4, the interest rate calculated pursuant to NRS 688A.363 and this section must apply for the term of the deferred annuity contract.

6. A deferred annuity contract may provide for a redetermination of the interest rate used to determine the minimum nonforfeiture amount. Any redetermination of the interest rate must be made pursuant to subsections 1 and 2. If the deferred annuity contract provides that the interest rate used to determine the minimum nonforfeiture amount will be redetermined, the contract shall set forth:

- (a) The dates upon which a redetermination will be made;*
- (b) The periods for which a redetermined rate will apply; and*
- (c) The method that will be used for a redetermination.*

7. As used in this section, "basis point" means one-hundredth of 1 percent of yield.

Sec. 3. *In addition to any other requirement for the approval of a form pursuant to NRS 679B.120, an insurer filing forms for approval that incorporate the provisions of NRS 688A.363 must file an actuarial certification that the form complies with the provisions of section 2 of this regulation.*

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R130-03

The Commissioner of Insurance adopted regulations assigned LCB File No. R130-03 which pertain to chapter 688A of the Nevada Administrative Code on October 18, 2003.

Notice date: 9/2/2003
Hearing date: 10/2/2003

Date of adoption by agency: 10/18/2003
Filing date: 10/24/2003

INFORMATIONAL STATEMENT

A hearing was held on October 2, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, regarding the adoption of the regulation concerning minimum nonforfeiture amounts for annuity insurance insurers.

Public comment was solicited by posting notice of the hearing in the following public locations: 788 Fairview Drive, Legislative Counsel Bureau, Capitol Building Lobby, Blasdel Building, Carson City Courthouse, State Library, Clark County Library, Capitol Press Room and the Division's Las Vegas Office.

In addition, the Department of Business and Industry, Division of Insurance (Division), maintains a list of interested parties, comprised mainly of insurance companies, agencies and other persons regulated by the Division. These persons were notified of the hearing and that copies of the regulation could be obtained from or examined at the offices of the Division in Carson City.

The hearing was attended by 17 individuals in Carson City and approximately five individuals in Las Vegas. Written comments were received from Paul R. Boucher, on behalf of The Equitable Life Assurance Society of the United States, and Hillerby & Associates, representing the American Council of Life Insurers (ACLI).

Considering the comments by those attending the hearing, the Commissioner has issued an order adopting the regulation as a permanent regulation of the Division.

Based upon the testimony received at the hearing, the proposed regulation is revised as follows:

1. Section 3 is deleted.
2. Section 4 becomes section 3 and is amended to read as follows: "In addition to any other requirement for the approval of a form pursuant to NRS 679B.120, an insurer filing forms for approval that incorporate the provisions of NRS 688A.363 must file an **[affidavit] actuarial certification** that the form complies with the provisions of section 2 of this regulation.

The economic impact of the regulation is as follows:

- (a) On the business it is to regulate: None
- (b) On the public: None

The Division anticipates a nominal expense to enforce the proposed regulation. The Division is not aware of any overlap or duplication of the regulation with any state, local or federal regulation.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

IN THE MATTER OF

CAUSE NO. **03.691**
LCB File No. **R130-03**

**REGULATION CONCERNING MINIMUM
NONFORFEITURE AMOUNTS FOR
ANNUITY INSURANCE INSURERS.**

SUMMARY OF PROCEEDINGS

A public workshop, as required by NRS 233B.061, on the proposed regulation relating to minimum nonforfeiture amounts for annuity insurance insurers was held before Alice A. Molasky-Arman, Commissioner of Insurance, on October 2, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. A public hearing on the proposed regulation was also held before Commissioner Molasky-Arman on October 2, 2003, in Carson City, Nevada, and video-conferenced to the Bradley Building in Las Vegas, Nevada. The regulation is proposed under the authority of NRS 679B.130.

The Department of Business and Industry, Division of Insurance (Division) received two written comments. The hearing was attended by 17 individuals in Carson City and approximately five individuals in Las Vegas. The following persons provided testimony before the Hearing Officer: Lou Roggensack and Van Mouradian, representing the Division; and Fred Hillerby, representing the American Council of Life Insurers (ACLI).

Lou Roggensack testified that the intent of the regulation was to provide the method to determine minimum nonforfeiture amounts for individual deferred annuity policies and the requirement of annual certification reports. Fred Hillerby testified against sections 3 and 4 of the regulation. Lou Roggensack testified that he had no objection to deleting section 3 but felt that section 4 should reflect changing the word “affidavit” to “actuarial certification.”

....

....

Based upon the testimony received at the hearing, the proposed regulation is revised as follows:

1. Section 3 is deleted.
2. Section 4 becomes section 3 and is amended to read as follows: “In addition to any other requirement for the approval of a form pursuant to NRS 679B.120, an insurer filing forms for approval that incorporate the provisions of NRS 688A.363 must file an ~~affidavit~~ *actuarial certification* that the form complies with the provisions of section 2 of this regulation.

ORDER OF THE COMMISSIONER

Having reviewed the record in this matter, it is hereby ordered that the proposed regulation concerning minimum nonforfeiture amounts for annuity insurance insurers, LCB File No. R130-03, be adopted, as amended, as a permanent regulation of the Division.

SO ORDERED this _____ day of October, 2003.

ALICE A. MOLASKY-ARMAN
Commissioner of Insurance