

Audit Highlights



Highlights of Legislative Auditor report on the Division of Insurance issued on September 19, 2012. Report # LA12-20.

Background

The Division has the responsibility to ensure that insurance companies doing business in Nevada are financially solvent and that Nevada policyholders are treated fairly. To carry out this mission, DOI is responsible for financial and market regulation of the state's \$12 billion insurance industry. Financial regulation seeks to protect the policyholders from insurers who are unable to meet their financial obligations. Market regulation attempts to ensure that insurers are able to provide products to the consumer in a fair and reasonable marketplace and prevent abusive practices that could harm the consumer.

The Division consists of the Commissioner's Office and the following operating sections: Corporate & Financial Affairs, Legal & Enforcement, Life & Health, Property & Casualty, Producer Licensing, Self-Insured Workers' Compensation, and Consumer Services.

DOI has eight operating budget accounts and also administers four non-operating budget accounts. Seven of the operating accounts are funded by assessments and various user fees, and one account is funded by an appropriation. Actual expenditures for fiscal year 2011 were about \$16 million, which includes approximately \$2 million in intra-agency transfers. For fiscal year 2012, the Division had a total of 85 authorized positions.

Purpose of Audit

The purpose of this audit was to determine if the Division effectively monitors: (1) revenues and accounts receivable, and (2) required industry reports and examinations. Our audit focused on the Division's activities for the period from July 1, 2010 through March 31, 2012.

Audit Recommendations

This audit report contains 10 recommendations to improve the monitoring of accounts receivable, required industry reports, and examinations.

The Division accepted the 10 recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on December 18, 2012. In addition, the six-month report on the status of audit recommendations is due on June 18, 2013.

Division of Insurance

Department of Business and Industry

Summary

The Division of Insurance (DOI) needs to improve its oversight of accounts receivable. We found DOI did not adequately monitor its accounts receivable for certain fees and taxes. For example, collection efforts were often not timely for annual fees and examination fees. Further, accounts were not turned over to the State Controller's Office in a timely manner and some captive insurers did not pay past due premium tax. Improvements to these processes would help ensure prompt payment from active companies, and reduce the risk that delinquent accounts from inactive companies are not paid.

Better monitoring of required industry reports is needed to help ensure adequate financial and market regulation. We found DOI did not always take appropriate action to ensure required industry reports were submitted and reviewed timely. Timely submittal and review of financial and other important reports facilitates timely detection of problems, which helps protect consumers. Further, enforcement efforts were not consistent and timely when entities did not comply with reporting requirements.

Examinations of title companies and self-insured workers' compensation companies were not performed as required. Examinations can identify deficiencies that require corrective action. Timely detection and correction of financial concerns help ensure consumers are adequately protected.

Key Findings

Our review of past due annual fees found: (1) untimely collection efforts, (2) accounts for inactive companies were not sent to collections timely, (3) invoices improperly issued were not voided timely, and (4) payments were not entered in the accounting system timely. All 36 invoices tested had problems. For example, two active companies owe annual fees that were due March 2011. There was no evidence of collection efforts prior to our inquiries in May 2012. NRS 680A.180 requires each insurance company authorized to transact insurance in Nevada to pay an annual continuation fee. If the continuation fee is not paid timely, an insurer's certificate of authority expires at midnight on May 31. (page 6)

The Corporate & Financial Affairs Section did not always perform timely review of reports significant to monitoring financial solvency for domestic companies. For 12 of 20 companies, the audited financial statements and actuarial opinions were either not reviewed or not reviewed timely. As a result, there is an increased risk companies with financial concerns might not be identified prior to problems occurring. (page 12)

Controls need to be improved for required industry reports monitored by the Producer Licensing and Workers' Compensation Sections. We found follow-up was not timely when companies did not submit certain reports and reports were not always reviewed timely. For example, 15 of 20 Producer Licensing reports and 17 of 20 Workers' Compensation reports were not reviewed timely. (page 14)

DOI did not take timely enforcement action when certain reporting requirements were not met. For example, we tested 25 workers' compensation companies and found enforcement was not timely for all 25 companies. It took from 74 to 335 days after the report was due until a Consent to Fine (CTF) was issued. This included 16 instances of no action for 150 days or more. It is inequitable when some companies do not comply with laws and regulations, and enforcement is not timely. In addition, when action was taken to issue a CTF many were issued in error. A CTF involves a matter that has not gone to hearing. For instance, a CTF should be sent when a party has failed to file a required report. It is an offer made to the party to settle for a fine amount that is usually less than the maximum allowed in statute. (page 15)

DOI did not always ensure title companies and workers' compensation companies had timely examinations. According to DOI records, 33 of 53 title companies did not have an examination in 2011. We selected 20 of these companies and found no evidence of an examination. NRS 692A.100 requires annual examinations of title companies, title agents, and escrow companies. The purpose of these examinations is to determine the company's financial condition, fulfillment of contractual obligation, and compliance with law. We also found exceptions for 14 of 30 workers' compensation companies tested. The purpose of these examinations is to determine the adequacy of the company's security deposit; sufficiency of reserves; and the reporting, handling and processing of claims. (page 18)

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This report contains the findings, conclusions, and recommendations from our completed audit of the Division of Insurance. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 10 recommendations to assist the Division in monitoring accounts receivable, required industry reports, and examinations. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

September 4, 2012
Carson City, Nevada

Division of Insurance

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Introduction

Background

The Division of Insurance (DOI) has the responsibility to ensure that insurance companies doing business in Nevada are financially solvent and that Nevada policyholders are treated fairly. To carry out this mission, DOI is responsible for financial and market regulation of the state's \$12 billion insurance industry. Financial regulation seeks to protect the policyholders from insurers who are unable to meet their financial obligations. Market regulation attempts to ensure that insurers are able to provide products to the consumer in a fair and reasonable marketplace and prevent abusive practices that could harm the consumer.

There are currently over 2,000 insurance companies licensed to do business in Nevada. DOI also regulates and licenses insurance agents, brokers, and other professionals; sets ethical and financial standards for insurance companies; reviews programs operated by self-insured employers for workers' compensation; and provides a means for resolving issues between consumers and insurance entities.

Budget and Staffing

DOI has eight operating budget accounts and also administers four non-operating budget accounts. Seven of the operating accounts are funded by assessments and various user fees, and one account is funded by an appropriation from the workers' compensation and safety fund. Actual expenditures for fiscal year 2011 were about \$16 million, which includes approximately \$2 million in intra-agency transfers. Exhibit 1 shows fiscal year 2011 funding sources and expenditures for the eight operating budget accounts.

**Funding Sources and Expenditures
Operating Budget Accounts
Fiscal Year 2011**
Exhibit 1

	Insurance Regulation	Insurance Examiners	Captive Insurers	Insurance Recovery	Insurance Education and Research	NAIC Fees	Insurance Cost Stabilization	Self- Insured Workers Comp
Funding Sources								
Appropriations	\$ 100	\$ --	\$ --	\$ --	\$ --	\$ --	\$ --	\$514,870
Carry Forward	(2,402,701)	(832,308)	(294,577)	(40,000)	(634,534)	(75,480)	(284,528)	--
Reversions	(100)	--	--	--	--	--	--	(63,681)
Beginning Cash	2,195,528	852,352	418,869	40,000	374,680	53,800	238,933	--
Assessments	6,237,903	--	--	--	--	--	168,340	--
Fees	192,590	5,403,791	359,957	656,106	--	37,768	--	200
Fines	40,500	--	--	--	--	--	4,125	26,200
Other	199,816	--	247,422	--	204,708	--	--	--
Transfers In	1,674,717	--	--	--	656,106	--	--	--
Total Funding	\$8,138,353	\$5,423,835	\$731,671	\$656,106	\$ 600,960	\$16,088	\$126,870	\$477,589
Expenditures								
Personnel	\$5,183,939	\$ 132,697	\$158,713	\$ --	\$ 167,353	\$ --	\$ 59,997	\$329,218
Other	2,954,414	5,291,138	572,958	656,106	433,607	16,088	66,873	148,371
Total Expenditures	\$8,138,353	\$5,423,835	\$731,671	\$656,106	\$ 600,960	\$16,088	\$126,870	\$477,589

Source: State accounting records.

The Division consists of the Commissioner's Office and the following operating sections:

- Corporate & Financial Affairs – Oversees the solvency of the insurance companies through financial reporting and monitoring, desk audits, and examinations; ensures that the insurers are in compliance with financial statutes and regulations; and monitors transactions with policyholders.
- Legal & Enforcement – Assists the Commissioner in enforcing the provisions of the Insurance Code through the administrative investigation and adjudication process.
- Life & Health – Analyzes, reviews, and approves rates and forms for a variety of insurance products such as health benefit plans, life insurance, and investments in the form of annuities.
- Property & Casualty – Protects consumers through the review of rates, rules, and forms for all personal lines of insurance, including automobile, homeowners, and umbrella insurance. The section also reviews commercial

lines of medical malpractice and workers' compensation insurance.

- Producer Licensing – Reviews the statutory compliance of approximately 30 different license types such as producers, agents, and brokers. Activities include issuing licenses, performing background checks, and ensuring applicable fees have been paid.
- Self-Insured Workers' Compensation – Regulates employers and groups of employers who choose to “self-insure” the requirement to maintain workers' compensation coverage. These employers consist of two groups: self-insured employers and associations of self-insured employers.
- Consumer Services – Provides consumers with a conduit for resolving issues between consumers and insurance entities such as producers, companies, bail agents, title agents, and extended warranties.

The Division's main office is located in Carson City, with a field office in Las Vegas. For fiscal year 2012, the Division had a total of 85 authorized positions. From fiscal years 2008 to 2011, staffing levels ranged from 79 to 91 authorized positions.

NAIC Accreditation and Domestic Insurers

The National Association of Insurance Commissioners (NAIC) has adopted a formal accreditation program to certify that all states have uniform standards in place to ensure solvency regulation meets certain minimum requirements. This gives other states a degree of confidence in each other's oversight of their domestic companies. Duplicative analysis and examinations of companies that operate in more than one state is avoided because states can rely on each other. Efficiencies in the regulation of insurers are thus achieved. NRS 679A.090 defines a domestic company as one formed under the laws of Nevada.

Under the accreditation program, each state's insurance division is reviewed to assess compliance with financial regulation standards. The review process consists of two main components: a full accreditation review and interim annual reviews. The full accreditation review occurs once every 5 years and is conducted

by an independent team. DOI currently enjoys full accreditation status.

Scope and Objectives

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included a review of the Division's activities for the period from July 1, 2010 through March 31, 2012. Our objectives were to determine if the Division effectively monitors:

- revenues and accounts receivable, and
- required industry reports and examinations.

Accounts Receivable Processes Need Improvement

The Division of Insurance (DOI) needs to improve its oversight of accounts receivable. We found DOI did not adequately monitor its accounts receivable for certain fees and taxes. For example, collection efforts were often not timely for annual fees and examination fees. Further, accounts were not turned over to the State Controller's Office in a timely manner and some insurers did not pay past due premium tax. Improvements to these processes would help ensure prompt payment from active companies, and reduce the risk that delinquent accounts from inactive companies are not paid.

DOI is responsible for monitoring payments from many sources which are recorded into various budget accounts. Therefore, it is important that DOI provide adequate oversight of its accounts receivable. During fiscal year 2011, DOI collected about \$41 million. Exhibit 2 shows the various fees, fines, assessments, and other revenues collected by DOI during fiscal year 2011.

**Collections
All Budget Accounts
Fiscal Year 2011**

Exhibit 2

Budget Account Name	Fees	Fines	Assessments	Other	Totals
Insurance Insolvency	\$ --	\$ --	\$ 349,821	\$ --	\$ 349,821
Self-Insured Insolvency	--	--	77,380	--	77,380
Insurance Regulation	192,590	40,500	6,237,903	199,816	6,670,809
Insurance Examiners	5,403,791	--	--	--	5,403,791
Captive Insurers	359,957	--	--	247,422	607,379
Insurance Recovery	656,106	--	--	--	656,106
Insurance Education & Research	--	--	--	204,708	204,708
NAIC Fees	37,768	--	--	--	37,768
Insurance Cost Stabilization	--	4,125	168,340	--	172,465
Self-Insured Workers' Comp	200	26,200	--	--	26,400
Insurance Division Bonds	--	--	--	993,810	993,810
Insurance Division	10,500	565,403	--	24,943,659 ⁽¹⁾	25,519,562
Totals	\$6,660,912	\$636,228	\$6,833,444	\$26,589,415	\$40,719,999

Source: State accounting records

⁽¹⁾ Includes approximately \$16.5 million in insurance licenses.

**Annual Fees
Were Not
Monitored**

Our review of past due annual fees found: (1) untimely collection efforts, (2) accounts for inactive companies were not sent to collections timely, (3) invoices improperly issued were not voided timely, and (4) payments were not entered in the accounting system timely. It is inequitable to allow some companies to operate without paying all fees due the State.

We obtained the accounts receivable report for past due annual fees. This report listed 135 invoices totaling about \$212,000. Exhibit 3 provides a breakdown of the 36 invoices we tested.

Issues Noted for Past Due Annual Fees**Exhibit 3**

<u>Two Invoices.</u> A total of \$4,351 was due March 2011. There was no evidence of collection efforts prior to our inquiries in May 2012. Both companies are still active.
<u>Two Invoices.</u> A total of \$1,600 is due. These invoices were due in 2006 and 2010 and there was no evidence of collection efforts. The companies are now inactive and the accounts are going to collections.
<u>Twelve Invoices.</u> The Division stated it could not determine whether payment had or had not been received and did not take action until after our inquiries. These invoices total about \$26,000, and go as far back as 2002.
<u>One Invoice.</u> Payment was received February 29, 2012, for an invoice due March 2009. There was no evidence of collection efforts until after our inquiry on February 23, 2012.
<u>Two Invoices.</u> The invoices for 2008 and 2009 were not issued until 2011, which was after the company became inactive.
<u>Nine Invoices.</u> These invoices were issued in error and need to be voided.
<u>Four Invoices.</u> Payment was made and accounting records had not been updated. One of these payments was received in 2002 and was still listed as a receivable. Prior to our inquiries, DOI did not know these invoices were inaccurately listed as accounts receivable.
<u>Four Invoices.</u> Accounts receivable records were inaccurate because the companies are inactive and the accounts should have been written off years ago. Also, had there been timely collection efforts, the Division may have collected fees prior to when the companies became inactive. For example, one company did not become inactive until 2.5 years after the invoice due date and there was no evidence of collection efforts during that period.

Source: Division accounts receivable records.

NRS 680A.180 requires each insurance company authorized to transact insurance in Nevada to pay an annual continuation fee. If the continuation fee is not paid timely, an insurer's certificate of authority expires at midnight on May 31. Thus, when certain entities do not pay their annual renewal fee timely, they are operating without a license. Best practices for accounts receivable, issued by the State Controller, states when accounts are over 90 days past due, the risk of not collecting the debt increases. The best practices guide also states agencies should write procedures for all accounts receivable and collection activities and maintain an accurate record of receivable transactions.

Examination Fees From Prior Years Are Still Unresolved

DOI did not take timely action to collect certain examination fees. These fees are for examinations performed prior to DOI revising its collection process. We found untimely efforts for collecting past due fees, scheduling hearings, and turning accounts over to the State Controller's Office.

NRS 679B.290 requires the expense of all examinations to be borne by the person examined. Examinations are performed by contract examiners who bill DOI at different times during the examination. DOI pays the examiner when invoices are received and bills the examinee for reimbursement plus an administrative fee. Therefore, when the examinee does not make timely payments, there is an increased risk the State will incur the expense.

The Division's accounts receivable report for examination fees listed 15 companies with a total due of about \$172,500. We found collection efforts were not adequate for all 15 companies. Further, there were 10 companies that disputed certain fees and requested a hearing. Pursuant to NRS 679B.310, hearings are to be conducted within 30 days of the request, unless postponed by mutual consent. Our review of these 15 past due accounts noted the following problems:

Active Companies With Disputes Have Not Had Timely Hearings

Eight active companies owe a total of \$88,148 for invoices due between July and December 2010. The companies have disputed some of the examination fees. DOI stated three meetings were held with the companies' management firm to resolve the matter. One meeting was in 2010 and two were in 2011. On December 27, 2011, a hearing was requested by all eight companies, which waived the 30-day requirement. As of June 2012, the hearing date had not been scheduled.

Another active company was issued an examination invoice for about \$9,000 with a February 2009 due date. We found untimely efforts before and after the company requested a hearing. The following timeline applies:

- April and May 2009 – Two past due letters were sent to the company.
- September 2009 – The Corporate & Financial Section turns the matter over to the Legal Section and requests they send a demand letter. Period of 7 months after the invoice due date. The Legal Section sent a demand letter in February 2010. Period of 4 months after receiving the request.

- June 2010 – The owner responds in writing if the issue cannot be resolved, he is requesting a hearing.
- April 6, 2012 – The Legal Section states in a memo the owner refuses to pay and the matter will go to a hearing. DOI could not provide evidence of efforts to resolve the dispute or schedule a hearing between June 2010 and April 2012.

Inactive Companies Not Sent Timely to State Controller

We found accounts were not sent timely to the State Controller's Office for six inactive companies. These companies owe a total of about \$75,000 for invoices with due dates ranging from September 2008 to June 2011. For example, one company had a period of about 3.5 years from when the first invoice was due until when DOI decided it would submit the account to the Controller's Office for outside collections.

Had timely collection efforts and hearings been performed: (1) active companies would be more likely to make payments; (2) inactive companies may have made payments prior to closing; and (3) accounts could have been sent to the State Controller's Office much sooner. DOI has a memorandum of understanding with the Controller's Office that requires it to turn accounts over for outside collections within 60 days after the appeals process is complete, and there is no pending legal action. Therefore, hearings and other legal action should be performed more timely to mitigate the number of accounts that become uncollectible.

The Corporate & Financial Affairs Section has revised its process for collecting examination fees. During our audit, the Division provided "draft" procedures for its revised process. However, the procedures do not include steps to ensure timely collection of examination fees, nor have they been properly approved. We also found there are no procedures that establish a timeframe for scheduling hearings, when the 30-day requirement has been waived.

Premium Tax for Captives Had Untimely Collection Efforts

Although most captive insurers paid their insurance premium tax, collection efforts were untimely when captives did not pay. This was caused, in part, by the Division's prolonged process for dissolving a company. Most of the companies with unpaid

premium tax are in the process of dissolution or have dissolved. A captive insurer is a form of self-insurance by which a company can insure all or part of its own or its affiliates' risks.

NRS 694C.450 requires each captive insurer to pay a premium tax by March 1 of each year. DOI is responsible for collecting insurance premium tax from captive insurers¹. As of March 2012, there were about 130 captive insurers. Our review of the Division's accounts receivable identified 11 companies that did not pay premium tax in 2011 and/or 2012. These companies owe the State about \$103,000, which consists of \$75,000 in unpaid premium tax and \$28,000 for past due examination fees. Our testing found the following:

- Six companies are in the process of being dissolved. We found no evidence of collection efforts either before or after the dissolution process began. Five of these companies still owe premium tax that was due March 2011. The number of days the dissolution process had been ongoing ranged from 181 to 752 days. This included two companies that returned their Certificate of Authority² in May 2010, and the dissolution has not been completed. A prolonged dissolution process increases the risk past due taxes and fees will not be collected.
- Four companies are active and there were no collection efforts until May 2012, for taxes due March 2012. Two of these companies also owe taxes that were due March 2011.
- One company was dissolved in April 2012, and had not paid taxes for 2011 or past due examination fees. The dissolution took 1 year from when the company returned its Certificate of Authority. After the dissolution was completed, a demand letter was sent and the Division subsequently received almost half of the \$9,961 owed. The Division indicated the company has no other funds and the remaining balance will be written off. Had the dissolution process been more timely, the Division may have received full payment before all funds were depleted.

According to management, it is possible for a company in the process of dissolution to owe premium tax. However, DOI does

¹ The Department of Taxation collects insurance premium tax from traditional insurers.

² The Certificate of Authority is issued by DOI and allows an insurer to write contracts of insurance.

not have written policies and procedures for past due insurance premium tax from active companies or from companies that are in the process of dissolution. Management stated collection efforts should be performed both before and after the Certificate of Authority is returned.

Recommendations

1. Implement a monitoring process to help ensure timely collection of all accounts receivable for annual fees. This should include timeframes for performing internal collection efforts.
2. Develop a monitoring process to help ensure timely collection of all examination fees. This should include timeframes for performing internal collection efforts; scheduling hearings; and performing necessary legal actions for inactive companies so accounts can be turned over to the State Controller's Office.
3. Develop policies and procedures for collection of past due insurance premium tax.
4. Develop policies and procedures for companies in the process of dissolution to help ensure all past due taxes and fees are collected.

Better Monitoring of Required Industry Reports Is Needed

Better monitoring of required industry reports is needed to help ensure adequate financial and market regulation. We found DOI did not always take appropriate action to ensure required industry reports were submitted and reviewed timely. Timely submittal and review of financial and other important reports facilitates timely detection of problems, which helps protect consumers. Further, enforcement efforts were not consistent and timely when entities did not comply with reporting requirements.

DOI is responsible for monitoring numerous required industry reports³. The type of report that is required will determine which section monitors submittal, performs review, and initiates enforcement action.

Key Financial Reports Were Not Reviewed Timely

The Corporate & Financial Affairs Section did not always perform a timely review of reports significant to monitoring financial solvency for domestic companies. As a result, there is an increased risk companies with financial concerns might not be identified prior to problems occurring.

We selected three key reports for monitoring financial solvency. Our testing of these reports for 20 domestic companies found:

Annual Statement – For nine companies, the statement was not reviewed timely. The untimely reviews ranged from 154 to 360 days after submittal. DOI procedures require the review to be within 90 days of submittal. The details provided in the report are of use in gaining an understanding of the company's financial position.

Actuarial Opinion – For 12 companies, the opinion was either not reviewed or it was not reviewed timely. For two of these companies, the opinion has not been reviewed. The 10 untimely reviews ranged from 57 to 349 days after submittal. DOI procedures require the review to be within 45 days of submittal.

³ See Appendix A for examples of required reports by section.

This report includes the opinion of a qualified actuary regarding reserves, proper computations, and compliance with applicable laws of the State.

Audited Financial Statements – For 12 companies, the statements were either not reviewed or not reviewed timely. For two of these companies, the statements have not been reviewed. The 10 untimely reviews ranged from 47 to 335 days after submittal. DOI procedures require the review to be within 20 days of submittal.

According to the National Association of Insurance Commissioners, a system of effective solvency regulation provides crucial safeguards for insurance customers. Insurance consumers benefit when the insurance industry is strong enough financially to be able to pay and settle claims in a timely manner, and to provide diverse and competitively priced products.

Required Reports From Pure Captives Not Monitored

The Corporate & Financial Affairs Section did not provide evidence it adequately monitored required reports for pure captives⁴. NAC 694C.210 requires each captive insurer to have an annual audit and submit its audited financial report on or before June 30. Also, the annual audit must include an actuarial opinion.

We tested 10 pure captives and found no evidence the audited financial statements were reviewed. In addition to monitoring financial solvency, review of these statements helps DOI determine if the company has paid the proper amount in premium tax. We also found 2 of 10 pure captives did not submit an actuarial opinion and there was no evidence DOI attempted to contact the company. For the remaining eight companies, we found no evidence the actuarial opinion was reviewed.

Management stated financial regulation of pure captives can be less stringent than for other types of captives. However, our review found DOI does not have procedures specific to pure captives.

⁴ NRS 694C.120 defines a pure captive insurer as one that only insures risks of its parent and affiliated companies. There are other types of captive insurers.

**Controls
Over Other
Required
Reports
Could Be
Strengthened**

Controls need to be improved for required reports monitored by other sections. We found follow-up was not timely when companies did not submit certain reports and reports were not always reviewed timely.

Producer Licensing Section Could Improve Its Process for Required Reports

The Producer Licensing Section could improve its process for monitoring required reports for Third Party Administrators (TPA). NAC 683A.155 requires each TPA to submit a report of money received and distributed within 90 days after the end of their fiscal year. The primary purpose of this report is to determine if the current bond amount is sufficient.

We tested 20 TPA receipts and distribution reports, and found controls could be strengthened in this area. For example, two reports that were due March 31, 2011 had not been submitted and DOI did not take action until May 2012. Two other reports were submitted about 3 months late and there were no efforts to obtain the reports sooner. Further, 15 reports were not reviewed timely. This included 10 instances when the review was about 1 year after the report had been received.

When this report is not received and reviewed timely, consumer protection is jeopardized because DOI does not know if the current bond amount is sufficient. For example, we could not verify bond requirements were met for 3 of 20 TPAs because 2 reports were not filed and 1 report did not include necessary information.

Workers' Compensation Section Needs Better Monitoring of Required Reports

The Workers' Compensation Section needs to develop a monitoring process that provides reasonable assurance audited financial statements are submitted and reviewed timely. Timely submittal and review of financial statements helps (1) ensure these companies have the ability to pay claims and (2) identify other deficiencies. We tested 20 self-insured workers' compensation companies and found:

Untimely Submittal – For one company, there was no evidence the financial statements had been submitted. For three companies, the reports were submitted late and staff did not follow up timely.

Untimely Review – For 17 companies, the review was not timely. The Division has a performance measure to review these statements within 45 days of receipt. The untimely reviews ranged from 82 to 171 days after submittal.

Per NRS 616B.336, each self-insured employer shall furnish audited financial statements annually within 120 days of their fiscal year end. DOI does not have procedures regarding the submittal and review of these statements.

**Enforcement
Not Timely
When
Requirements
Were Not Met**

DOI did not take timely enforcement action when certain requirements were not met. It is inequitable when some companies do not comply with laws and regulations, and enforcement is not timely. In addition, when action was taken to issue a Consent to Fine (CTF), many were issued in error.

A CTF involves a matter that has not gone to a hearing. For instance, a CTF should be sent when a party has failed to file a required report. It is an offer made to the party to settle for a fine amount that is usually less than the maximum allowed in statute. The CTF gives the party an opportunity to make payment and file the report within a prescribed timeframe. Otherwise, the matter is turned over to the Legal & Enforcement Section for investigation and administrative action.

Exhibit 4 provides a breakdown of our testing to determine if a Consent to Fine was issued timely when required reports were not filed or assessments were not paid. This testing was applicable to the Producer Licensing and Workers' Compensation Sections.

Enforcement Testing When Requirements Were Not Met

Exhibit 4

Section	Results
<p><u>Workers' Compensation</u></p> <p>Various laws and regulations require these companies to annually submit audited financial statements and a claims report, and pay an assessment. We reviewed the Section's spreadsheets used to monitor these reports and payments that were due in 2011. We selected 25 companies and documented enforcement efforts for each company.</p>	<p><u>For 25 companies tested:</u></p> <ol style="list-style-type: none"> 1) Enforcement was not timely for all 25 companies. It took from 74 to 335 days after the due date until a CTF was issued. This included 16 instances of no action for 150 days or more. 2) For five companies, the CTF was issued in error because the tracking spreadsheet was not updated or reviewed timely.
<p><u>Producer Licensing</u></p> <p>NRS 683A.08528 requires an annual TPA report by July 1 of each year. We reviewed the Section's report used to monitor this requirement. The report listed 43 TPAs that failed to file timely. We documented enforcement efforts for each TPA listed.</p>	<p><u>For 43 Third Party Administrators tested:</u></p> <ol style="list-style-type: none"> 1) Enforcement was not timely for all 43 entities. It took 7 months from the due date until a CTF was issued in February 2012 to all 43 entities. 2) For 15 companies, the CTF was issued in error because the management report was not updated or reviewed timely. For example, 13 TPAs were not required to submit the report and 2 had submitted the report timely.
<p><u>Producer Licensing</u></p> <p>NAC 683A.155 requires each TPA to submit a report of money received and distributed within 90 days after the end of its fiscal year. We reviewed the Section's report used to monitor this requirement, which listed 45 TPAs that did not submit a report due in 2011.</p>	<p><u>For 45 Third Party Administrators tested:</u></p> <ol style="list-style-type: none"> 1) Enforcement was not timely for all 45 entities. In most instances, the required report was due March 31, 2011. However, a CTF was not issued until June 2012.

Source: Auditor prepared.

Neither section had an accurate management report for monitoring compliance with these requirements and taking timely enforcement action. Further, Producer Licensing procedures do not require staff to verify whether a company is in compliance prior to issuing a Consent to Fine. In addition, the Workers' Compensation Section does not have policies and procedures for this area. When a Consent to Fine is issued in error, it is an inefficient use of resources and a negative reflection on the Division.

Recommendations

5. Revise policies and procedures to help ensure key required industry reports for domestic companies are reviewed timely.

6. Develop policies and procedures to help ensure key required industry reports for pure captives are submitted and reviewed timely.
7. Revise policies and procedures to help ensure reports for Third Party Administrators, and other key required reports monitored by the Producer Licensing Section, are submitted and reviewed timely.
8. Develop policies and procedures to help ensure key required reports for self-insured workers' compensation companies are submitted and reviewed timely.
9. Develop a monitoring process to help ensure appropriate, consistent, and timely enforcement action when companies do not comply with reporting requirements.

Certain Examinations Not Performed as Required

Untimely Examinations of Title Companies

Examinations of title companies and self-insured workers' compensation companies were not performed as required. Examinations can identify deficiencies that require corrective action. Timely detection and correction of financial concerns help ensure consumers are adequately protected.

DOI did not always ensure title companies had timely examinations. NRS 692A.100 requires annual examinations of title companies, title agents, and escrow companies. The purpose of these examinations is to determine the company's financial condition, fulfillment of contractual obligation, and compliance with law.

We reviewed agency records and identified 53 companies that were subject to an examination in 2011. According to DOI records, 33 of the companies did not have an examination in 2011. We tested 20 of these 33 companies and found:

- For all 20 companies, there was no examination in 2011.
- Seventeen of these companies were subject to a prior examination. For all 17 companies, the prior examination was not timely.
- Nine of these 17 companies have not had any examination. This includes one company that has been licensed since March 2002.

DOI does not have policies and procedures for examinations of title companies.

Examinations of Self-Insured Workers' Compensation Companies Need Better Monitoring

DOI did not adequately monitor examinations of self-insured workers' compensation companies. NRS 616B.336 requires an examination of self-insured workers' compensation companies every 3 years. The purpose of these examinations is to determine the adequacy of the company's security deposit; sufficiency of reserves; and the reporting, handling and processing of claims.

We found exceptions for 14 of 30 companies tested. This included:

Evidence companies are not in compliance – For six companies, evidence was available to verify they are not currently in compliance. This included four companies that have not had an examination since October 2007, and two companies that have not had an examination since March 2008.

Examination scheduled but no evidence it was performed – For eight companies, agency files contained a letter sent to each company informing them that DOI would be performing an examination in 2011. However, DOI could not provide evidence to verify the examination was performed.

DOI does not have policies and procedures or a tracking mechanism in place for these examinations. Management stated these examinations had been performed by staff, but it was recently decided to contract with outside examiners who specialize in this type of examination. Whether examinations are performed by staff or by outside contractors, DOI needs to implement a monitoring process that ensures all examinations are scheduled and performed as required.

Recommendation

10. Develop a monitoring process to help ensure examinations of title companies and self-insured workers' compensation companies are performed timely.

Appendix A

Examples of Required Industry Reports by Section

Workers' Compensation Section:

<u>NAC 616B.463</u> Report Name: Due Date: Special Instructions:	Industrial Insurance Claims Information Report September 30 All Self-insured Employers
<u>NAC 616B.471</u> Report Name: Due Date: Special Instructions:	Industrial Insurance List of Annuities September 30 Annuities purchased for payment of claims
<u>NAC 616B.567</u> Report Name: Due Date: Special Instructions:	Industrial Insurance Claims Information Report September 30 All Associations must report
<u>NAC 616B.588</u> Report Name: Due Date: Special Instructions:	Industrial Insurance Financial Report Semi-annual Report after first two years of operation

Property & Casualty Section:

<u>NAC 690B.320</u> Report Name: Due Date: Special Instructions:	Casualty Insurance Report contract of insurance for a motor vehicle liability policy 15 th day of each month Report to Department of Motor Vehicles
<u>NRS 690B.360</u> , <u>NAC 690B.510</u> Report Name: Due Date: Special Instructions:	Medical Malpractice Monitor compliance with applicable standards for rates September 1 of each year Report to Commissioner
<u>NRS 690B.370</u> , <u>NAC 690B.570</u> Report Name: Due Date: Special Instructions:	Medical Malpractice Loss prevention and control report September 1 of each year Report to Commissioner
<u>NRS 679B.400 - .460</u> , <u>NAC 686B.361</u> Report Name: Special Instructions:	Rates and Essential Insurance Statistical Report: Reporting to statistical agents Report to fast track – 45 days after year end. Also, see NAC 686B.365 to 686B.380

Examples of Required Industry Reports by Section (continued)

Life & Health Section:

NAC 689B.260

Report Name:

Due Date:

Special Instructions:

Group & Blanket Health Insurance

Annual Complaint Report

June 1

Applies to all carriers licensed to market health insurance

NAC 695C.200

Report Name:

Due Date:

Special Instructions:

Health Maintenance Organizations

Quarterly Provider Report

See Special Instructions

Fourteenth day after end of each quarter for all Health Maintenance Organizations

NAC 689A.615

Report Name:

Due Date:

Special Instructions:

Individual Health Insurance

Annual Complaint Report

June 1

Applies to all carriers licensed to market health insurance

NRS 695G.220

Report Name:

Due Date:

Special Instructions:

Managed Care

Annual Complaint Report

June 1

Applies to all carriers offering managed care health insurance

Producer Licensing Section:

NRS 683A.08528

Report Name:

Due Date:

Special Instructions:

Administrators, Agents, Brokers

TPA Annual Report

July 1

Annual Report certified by two officers of the Administrator includes an Audited Financial Statement from previous year, the names and addresses of Nevada clients and \$25.00 filing fee.

NRS 683A.378

Report Name:

Due Date:

Special Instructions:

Administrators, Agents, Producers of Insurance

Annual Utilization Review Renewal Application

March 1

Applies to all entities that provide UR. Must include appeals process and procedures.

NAC 683A.155(4)

Report Name:

Due Date:

Special Instructions:

Administrators, Agents, Producers of Insurance

TPA Distribution Report

Within 90 days after the end of the Administrators fiscal year

The report must be certified and must state the total amount of money received and distributed during the preceding fiscal year to determine if the bond amount is sufficient.

Source: DOI website.

Appendix B

Audit Methodology

To gain an understanding of the Division of Insurance (DOI), we interviewed staff and reviewed statutes, regulations, and policies and procedures significant to DOI's operations. We also reviewed financial information, budgets, legislative committee minutes, and other information describing activities of DOI. Further, we documented and assessed internal controls over revenues and accounts receivable, examinations, required industry reports, and performance measures.

To determine if DOI effectively monitors accounts receivable for annual fees, we judgmentally selected 36 past due invoices. Judgment was based on inclusion of all companies with more than one past due invoice, at least one invoice from each year listed in the accounts receivable schedule, and a minimum due of \$500. For each selection, we documented the company's status and verified the company was active during the period applicable to the invoice. In addition, we documented when collection efforts were performed.

To evaluate the monitoring of accounts receivable for examination fees, we judgmentally selected 15 domestic companies listed in the applicable report. Judgment was based on companies with invoices more than 180 days past due. For each selection, we verified the invoice due date and amount listed in the report were correct, and we documented when collection efforts were performed. When a hearing was requested, we reviewed correspondence from the company, and documented efforts by DOI to resolve the dispute or schedule a hearing.

To evaluate the accounts receivable process for insurance premium tax from captive insurers, we reviewed the applicable reports for taxes due in 2011 and 2012. From the reports, we identified all companies listed as delinquent and verified premium

taxes were past due. For each company determined to have past due taxes, we reviewed all documented collection efforts. In addition, we discussed the status of certain companies with management.

To determine if the Corporate & Financial Affairs Section effectively monitors required industry reports for domestic companies, we selected three financial reports deemed most significant to ensuring financial solvency and consumer protection. Selection of reports was based on discussions with management and review of laws and regulations. Next, we judgmentally selected 20 domestic companies required to submit these reports in 2011. Judgment was based on different company types, companies assigned to different analysts, and a minimum of five high-risk companies and five multi-state domestic companies. For each company, we documented when each of the three reports were submitted and reviewed.

To evaluate the monitoring of required reports for pure captives, we selected two reports based on discussions with management and review of laws and regulations. Next, we randomly selected 10 pure captives required to submit these reports in 2011. For each selection, we determined if reports were submitted and reviewed timely.

To evaluate the monitoring of required industry reports by other sections, we discussed with each section chief which reports are most important. Based on these discussions, and review of statutes and regulations, we selected two reports for the Producer Licensing Section and one report for the Workers' Compensation Section. For each report, we judgmentally selected 20 companies required to submit the applicable report in 2011. Judgment was based on a combination of factors, such as companies identified as making an incomplete submittal, or potential noncompliance with a statutory provision. For each company selected, we documented the dates reports were submitted and reviewed. We also documented enforcement actions taken for late or non-submittals.

To determine if DOI effectively monitors examinations of title companies, we first obtained a list of all title companies licensed during 2011. From the list, we judgmentally selected 20 companies listed as not having an examination in 2011. For each selection, we reviewed examination reports and other correspondence, and documented the dates of the two most recent examinations.

To determine if DOI effectively monitors examinations of self-insured workers' compensation companies, we randomly selected 30 companies. For each selection, we documented the date of the most recent examination and determined if the company was currently in compliance.

Our audit work was conducted from December 2011 to June 2012. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Commissioner of Insurance. On August 21, 2012, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 25.

Contributors to this report included:

Dennis Klenczar, CPA
Deputy Legislative Auditor

S. Douglas Peterson, CISA
Audit Supervisor

Tom Tittle, CPA, CIA, CFE
Deputy Legislative Auditor

Appendix C

Response From the Division of Insurance

BRIAN SANDOVAL
Governor

STATE OF NEVADA

TERRY JOHNSON
Director



SCOTT J. KIPPER
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
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August 30, 2012

Paul Townsend
Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV 89701

sent via: US Postal mail & electronic mail

Dear Mr. Townsend:

The Department of Business and Industry, Division of Insurance (NVDOI) is in receipt of the audit recommendations developed by the Legislative Counsel Bureau (LCB). The audit recommendations were provided to the NVDOI on August 21, 2012. The NVDOI is in agreement with all of the recommendations. The NVDOI has included responses to the recommendations below and an implementation plan will be developed and implemented in the near future.

The NVDOI appreciates the thoroughness of the LCB staff, as well as the professionalism and cooperation the staff exhibited during their work. The recommendations will assist the NVDOI in completing our mission as the primary consumer protection state agency for insurance issues as well as ensuring a vibrant and competitive insurance marketplace. Below are the NVDOI's responses to the specific recommendations.

Recommendation 1:

Implement a monitoring process to help ensure timely collection of all accounts receivable for annual fees. This should include timeframes for performing internal collection efforts.

The NVDOI is responsible for managing 25 different types of revenue equating into thousands of individual transactions. In fiscal year 2011, the Division collected over \$40.7 million dollars. Over the last year, the Division has completed efforts to move all accounts receivable functions to the SIRCON software system. SIRCON is a robust insurance industry focused relational database software system. (At this time, captive premium tax is not incorporated into the SIRCON system; please see response to recommendation 3). This system will allow the NVDOI to more effectively monitor revenue streams and track collection efforts. In addition, policies and procedures for these new processes will be updated to reflect the automated office procedure.

Recommendation 2:

Develop a monitoring process to help ensure timely collection of all examination fees. This should include timeframes for performing internal collection efforts; scheduling hearings; and performing necessary legal actions for inactive companies so accounts can be turned over to the State Controller's Office.

All NVDOI accounts receivable functions for examination fees are now fully automated within the SIRCON system. The policies and procedures for scheduling and billing of examinations have been updated providing increased and more efficient coordination between the Corporate & Finance Section and the Administration Section overseeing Accounts Receivable / Accounts Payable functions. Examination fees and examiner invoices are reviewed bi-weekly. Past due examination fees automatically generate a notification to Division staff and management. Furthermore, as of August 28, 2012, there are 15 accounts over 90 days past due, with an outstanding balance of \$159,575.97. The NVDOI is working on addressing these past due accounts. Of the fifteen accounts in question, ten have hearing requests regarding examination fees, one company in receivership, and the balance have been referred to the Legal section for collection. Concerning the ten hearing requests, scheduling of hearing dates have been mutually stayed pending discussions between the Division and company representatives.

Recommendation 3:

Develop policies and procedures for collection of past due premium tax.

The NVDOI only collects premium taxes from domestic captive insurance companies. Traditional insurance companies' premium taxes are collected by the Department of Taxation. Policies and procedures for following up on past due premium taxes of captive insurers have been updated. If a captive insurer's premium taxes or any other receivable are now past due, that company is referred to the NVDOI Legal Section for appropriate action against the captive insurer's license, as well as timely referral to the controller's office for collection.

Recommendation 4:

Develop policies and procedures for companies in the process of dissolution to help ensure all past due taxes and fees are collected.

Policies and procedures regarding dissolution of insurance companies have been updated to reflect the requirement of companies to pay past due premium taxes and fees prior to the granting of dissolution. If a company is unable to pay past due taxes or fees, that company is referred to the NVDOI Legal Section for action and any past due receivables are referred to the controller's office for collection.

Recommendation 5:

Revise policies and procedures to help ensure key required industry reports for domestic companies are reviewed timely.

Policies and procedures regarding the review of required industry reports have been updated. The review of such reports for all multi-state insurers are all currently within the required timeframes of NVDOI policies and procedures as well as in accordance to the National Association of Insurance Commissioner (NAIC) accreditation standards. In addition, a monitoring process has been created and is closely being monitored by supervisory personnel for compliance.

Recommendation 6:**Develop policies and procedures to help ensure key required industry reports for pure captives are submitted and reviewed timely.**

Policies and procedures regarding the review of required industry reports have been updated. The review of such reports are all currently within the required timeframes. In addition, a monitoring process has been created and is closely being monitored by supervisory personnel for compliance.

Recommendation 7:**Revise policies and procedures to help ensure reports for Third Party Administrators, and other key reports monitored by the Producer Licensing Section, are submitted and reviewed timely.**

Policies and procedures have been updated to ensure that the Third Party Administrator (TPA) reports and other Producer Licensing section reports are reviewed in a timely manner. If any reports are not submitted timely, a procedure is in place for the Producer Licensing section to issue consent to fines, then to refer entities that have not complied therewith to the Legal Section for appropriate action against the TPA's license. Additionally, there was a concerted effort from May through August 2012 to address the backlog of TPA reports and, as of August 28, 2012, the Producer Licensing section is current regarding the review of the TPA annual reports as well as the TPA receipts and distribution reports.

Recommendation 8:**Develop policies and procedures to help ensure key required reports for self-insured workers' compensation companies are submitted and reviewed timely.**

The NVDOI has developed a policy in respect to required reports for self-insured workers' compensation companies that are regulated by the Division. This policy is now being used for the review audited financial statements and other required reports.

Recommendation 9:**Develop a monitoring process to help ensure appropriate, consistent, and timely enforcement action when companies do not comply with reporting requirements.**

The majority of Nevada's domestic insurers are captives. The 2011 Legislative session granted authority to the NVDOI to fine captive insurers for non-filing of required reports. This has significantly improved timely filings from the insurers. Additionally, policies and procedures have been updated to ensure that all companies not complying with statutory requirements for filing financial and related reports are referred to NVDOI's Legal section for appropriate action against the company's license.

Recommendation 10:**Develop a monitoring process to help ensure examinations of title companies and self-insured workers' compensation companies are performed timely.**

NVDOI has addressed the lapse in timely, annual examinations for title agencies and insurers. As of August 28 2012, all 48 licensed title agencies and insurers are under independent examination for the calendar year ending 12/31/11. Additionally, a new examination procedure has been created with the help of independent examiners which has made this process much more cost effective and efficient. The NVDOI has amended an existing Division contract that will allow a contracted vendor to perform audits of self-insured worker's compensation claims and submit findings to the NVDOI for final action. Additionally,

NVDOI policies and procedures have been enacted to ensure these audits are completed timely. These audits are required by statute to be completed once every three years. The NVDOI is scheduled to complete the required 20 audits by the end of the current fiscal year.

Again, I would like to express my appreciation to you and your staff for their cooperation and professionalism during the field work of the audit. If there are any additional questions or concerns you may have, please let me know.

Yours very sincerely,



Scott J. Kipper
Nevada Insurance Commissioner

c: Terry Johnson, Director of Business & Industry

Division of Insurance's Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Implement a monitoring process to help ensure timely collection of all accounts receivable for annual fees. This should include timeframes for performing internal collection efforts	<u>X</u>	<u> </u>
2. Develop a monitoring process to help ensure timely collection of all examination fees. This should include timeframes for performing internal collection efforts; scheduling hearings; and performing necessary legal actions for inactive companies so accounts can be turned over to the State Controller's Office.....	<u>X</u>	<u> </u>
3. Develop policies and procedures for collection of past due insurance premium tax	<u>X</u>	<u> </u>
4. Develop policies and procedures for companies in the process of dissolution to help ensure all past due taxes and fees are collected	<u>X</u>	<u> </u>
5. Revise policies and procedures to help ensure key required industry reports for domestic companies are reviewed timely	<u>X</u>	<u> </u>
6. Develop policies and procedures to help ensure key required industry reports for pure captives are submitted and reviewed timely	<u>X</u>	<u> </u>
7. Revise policies and procedures to help ensure reports for Third Party Administrators, and other key required reports monitored by the Producer Licensing Section, are submitted and reviewed timely.....	<u>X</u>	<u> </u>
8. Develop policies and procedures to help ensure key required reports for self-insured workers' compensation companies are submitted and reviewed timely	<u>X</u>	<u> </u>
9. Develop a monitoring process to help ensure appropriate, consistent, and timely enforcement action when companies do not comply with reporting requirements	<u>X</u>	<u> </u>
10. Develop a monitoring process to help ensure examinations of title companies and self-insured workers' compensation companies are performed timely	<u>X</u>	<u> </u>
TOTALS	<u>10</u>	<u> </u>