

NATO of California/Nevada

# PREVIEWS

Information for the California and Nevada Motion Picture Theatre Industry

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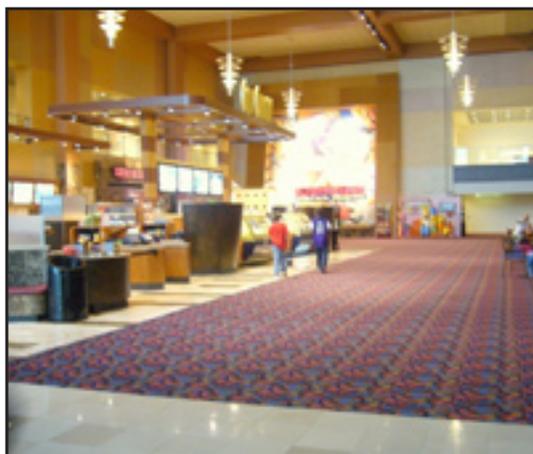
## Celebrate our Industry at the Spring/Summer Film Product Seminar

Join fellow theatre managers and studio marketing reps at the much-anticipated NATO of California/Nevada 2009 Spring/Summer Film Product Seminar. The seminar is set for April 21<sup>st</sup> in Southern California at National Amusement's The Bridge::Cinema De Lux and April 23<sup>rd</sup> at Cinemark's Century San Francisco Centre 9 Theatre.

January 2009 has been a busy time at our theatres due to the great films out there. Marketing representatives from the major studios will introduce over 100 product reels showcasing their exciting, romantic, funny and adventurous

films that are sure to fill our theatres throughout the Spring and Summer months. In addition to the presentation of product reels the day will include a continental breakfast, lunch and time to visit with the studio representatives. Sign-in will begin at 9:00AM with the first presentation set for 10:00AM. The seminars will end by 3:00PM.

Reservations are a must for this popular seminar, no walk-ins will be admitted. Visit <http://www.natocalnev.org/seminars.html> for a registration form. The reservation deadline is April 6<sup>th</sup> however guests are encouraged to get reservations in early to ensure a space at this very popular event.



*Cinemark's Century San Francisco Centre 9 Theatre is located in the Westfield Shopping Center on Market Street at the Cable Car Turnaround.*



*National Amusement's The Bridge::Cinema de Lux is located off the 405 Freeway at Howard Hughes Parkway, Approximately 2 miles north of LAX.*

## Sales Tax Increases April 1, 2009

The California Governor's Budget enacted a temporary sales tax increase of 1 cent effective April 1, 2009 until June 30, 2012. However, if Proposition 1A on the May 19, 2009 Special Election fails, the tax will expire a year earlier on June 30, 2011. The bad news about that is there will be another huge budget hole and pressure for more revenue increases.

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## New COBRA Rules Require Prompt Action

The Health Insurance Assistance for the Unemployed Act of 2009 (the “Act”) imposes significant new COBRA premium and notice requirements on employers, insurance companies and plan sponsors. The Act enables certain terminated employees to obtain COBRA coverage (for themselves and their beneficiaries) by paying only 35 percent of the otherwise applicable COBRA premium. The federal government subsidizes the other 65 percent, but employers, insurers and multiemployer plan sponsors must facilitate the subsidy. The premium reduction is effective on *March 1, 2009*, and employers must act quickly to implement the required changes.

In addition, employers must send revised COBRA election notices to all employees (and qualified beneficiaries) who have been terminated since Sept. 1, 2008, even if they are not eligible for premium assistance. Amended notices must be sent by *April 17, 2009*, except under certain conditions described in this

**Most employers and plans covered.** Generally, all group health plans subject to federal COBRA are subject to the Act’s new rules. This includes medical, dental, vision and health reimbursement arrangements. The new rules do not apply to coverage through a flexible spending account under a Tax Code Section 125 Cafeteria Plan. Group health plans of smaller employers, which are normally exempt from federal COBRA, must nevertheless comply with the new rules if they are subject to any state law that requires continuation coverage comparable to federal COBRA. This means that employers with less than 20 employees in Washington, D.C., and states such as New York, California and Oregon must also facilitate premium assistance and send revised notices to their terminated employees (and qualified beneficiaries). In addition, the new rules apply to governmental employers.

Premium assistance to eligible individuals. Effective March 1, 2009, eligible individuals need to pay only 35 percent of the COBRA premium amount. To be eligible for the premium reduction, an individual must be eligible for COBRA continuation coverage by virtue of an involuntary termination of employment for any reason (except gross misconduct), between Sept. 1, 2008, and Dec. 31, 2009. The remaining 65 percent of the premium is covered by the entity to which COBRA participants pay their premiums—either (1) the plan, in the case of health care coverage provided by multiemployer plans (i.e., union-based plans); (2) the employer, in the case of an insured or self-insured plan subject to COBRA (or its equivalent for governmental employers); (3) the insurer, in the case of all other group health plans. The federal government will reimburse the entity who subsidizes the 65 percent premium reduction through either a credit against its payroll taxes or, if necessary, a direct payment. The premium assistance is tax-free to the COBRA participants.

Employees who were involuntarily terminated between Sept. 1, 2008, and March 1, 2009, and who elected COBRA and previously paid the premiums, are not eligible for reimbursement for the previously paid COBRA premiums.

If an employer is already paying part of a COBRA premium on behalf of an eligible employee, perhaps as part of a severance or termination program, the 65 percent reduction is calculated based on the reduced amount paid by the employee, not the full cost of covering the individual. For example, if an employer has agreed to pay the full COBRA premium on behalf of an eligible employee, then there is no reduction in the applicable COBRA premium and no reimbursement available from the federal government.

**Notice requirements.** Employers must notify employees of the premium assistance program. This can be done by amending existing COBRA election notices or preparing a supplemental notice to accompany existing forms. Amended or supplemental notices must be given to all employees who experience a COBRA-qualifying event between Sept. 1, 2008, and Dec. 31, 2009, even if they are not eligible for premium assistance.

See “COBRA,” continued from page 3

*“COBRA,” continued from page 2*

There is no required time frame for providing an amended notice to individuals who are not eligible for the reduced premium. *In contrast, by April 17, 2009, employers must send amended election notices to all former employees (and their qualified beneficiaries) who have been involuntarily terminated since Sept. 1, 2008.* This applies to individuals who previously elected COBRA and currently have COBRA coverage, those who elected and then discontinued coverage, and those who did not elect COBRA.

The Act directs the Department of Labor to publish model notices within 30 days, but the model notices are not yet available. The Act also provides that failure to furnish the required new notice will be treated as a failure to meet notice requirements under COBRA. This includes a civil penalty of up to \$100 a day, and possible excise taxes.

**Special election period.** Former employees (and their qualified beneficiaries) who have been involuntarily terminated since Sept. 1, 2008, have 60 days from the date of the amended notice to elect continuation coverage and receive premium assistance. This includes individuals who previously refused COBRA coverage, as well as those who elected and then discontinued coverage. If the individual elects continuation coverage, the coverage becomes effective as of March 1, 2009, and continues for the remainder of the period that would have otherwise applied if the individual had elected COBRA when first eligible.

**Premium assistance coverage period.** If an eligible individual elects COBRA coverage, then the 65 percent premium reduction will apply until the earlier of: (1) Nine months after the date premium assistance began; (2) the date the individual is eligible for other health care coverage; (3) the date on which the continuation coverage period expires; or (4) the date on which the individual stops paying his or her portion of the COBRA premium. Individuals are required to notify their group health plan if they are no longer eligible for premium assistance, including if they become eligible for coverage under another group health plan or Medicare, or are otherwise no longer eligible for COBRA.

Under no circumstances will the premium assistance program extend the period of health care continuation coverage that would otherwise be available to an eligible individual under federal COBRA or state law.

**Employer tax credit and reimbursement.** Employers should implement payroll and administrative procedures to keep track of the new premium structure and the COBRA premium amount paid by each eligible individual.

The entity to which eligible individuals pay reduced COBRA premiums will receive a credit against its quarterly payroll taxes in an amount equal to 65 percent of the premium that would

have been otherwise payable by the eligible individual. If this amount exceeds the amount of its payroll taxes, the Secretary of the Treasury will provide direct reimbursements to the entity in the amount of the excess.

If the employer's plan is self-insured, whether in whole or in part, or subject to COBRA continuation coverage under ERISA, the Tax Code, the Public Health Service Act or Title 5 of the U.S. Code, then the employer is treated as the party to whom premiums are paid and the employer will be eligible for reimbursement. If the employer's plan is fully insured and not subject to COBRA continuation coverage under federal law, then the insurer is treated as the party to whom premiums are paid, and the insurer is eligible for reimbursement. This is true even if technically the eligible individual pays the COBRA premium to the employer and the employer passes it along to the insurance company. In the case of a multiemployer plan, the plan is eligible for reimbursement.

**Reporting requirements.** In order to obtain a tax credit or reimbursement, the applicable entity must file a claim with the Department of Treasury along with its Form 941. Although the exact method and form of claim have not yet been announced, the claim must include (1) an attestation by the entity of the involuntary termination of employment of each covered employee; (2) the amount of payroll taxes offset for the reporting period and the estimated offsets of such taxes for subsequent reporting periods; (3) the taxpayer identification numbers for all covered employees; (4) the amount of COBRA premium assistance provided to each covered employee and qualified beneficiary; and (5) a designation with respect to each covered employee as to whether the COBRA premium assistance provided is for individual or family coverage. Entities that fail to properly identify individuals eligible for premium assistance may not be eligible for the full credit amount, and thus potentially subject to underpayment penalties for payroll taxes.

This report raises problems for plans and insurance companies that may be providing premium assistance but may not have access to all the required information, including circumstances surrounding an employee's termination and taxpayer identification numbers. These entities will have to rely on employers to provide this information.

**Employee reimbursement requirements.** It is important to implement payroll and administrative procedures to determine whether any eligible individuals have overpaid COBRA premiums. If an individual who is eligible for premium assistance pays the full COBRA premium amount in either the first or second coverage periods beginning on or after March 1, 2009, then the individual is eligible for a credit to reduce any future premium payments scheduled to be paid within 180 days, or a direct re-

*See “COBRA,” continued from page 4*

“COBRA,” continued from page 3

reimbursement within 60 days.

**High-income individuals.** Individuals whose adjusted gross income exceeds \$145,000 (or \$290,000 for joint filers) during the year for which they seek premium assistance are not eligible. Premium assistance for individuals who earn between \$125,000 and \$145,000 (or \$250,000 and \$290,000 for joint filers) is reduced proportionately. Individuals who fall within this high-income category may make a permanent election to waive the right to premium assistance by notifying the entity to which premiums are paid. Individuals who fail to make this election and receive premium assistance during a year in which they exceed the income limits must repay the amount of premium assistance with their taxes.

As many employers, insurers and plans will not know whether an individual falls within the high-income exclusion, it is important that the revised COBRA election notice describe the income restrictions on COBRA premium assistance and the ability of individuals to permanently waive premium assistance with notice to the entity to which premiums are paid.

**Alternative health coverage.** At the option of the employer, employees may elect to enroll in coverage offered by the employer that is different than the coverage such individual was enrolled in at the time the COBRA-qualifying event occurred; provided that, the different coverage meets certain requirements, including that it is offered to active employees and doesn't have a higher premium. If the employer chooses to provide alternative coverage, the employer must give eligible individuals 90 days to elect alternative coverage.

**Action items for employers**

Employers should act quickly to implement the premium assistance program. In general, employers need to do the following:

- 1) **Amend notices:** Amend COBRA notices to describe premium assistance.
- 2) **Identify those eligible:** Identify former employees and qualified beneficiaries who are eligible.
- 3) **Distribute notices:** Distribute amended COBRA election notices describing the premium assistance by *April 17, 2009*.
- 4) **Facilitate the special enrollment period:** Allow eligible individuals to enroll in COBRA for 60 days after the date of the amended COBRA election notice.
- 5) **Adopt payroll procedures:** Effective *March 1, 2009*, implement payroll and administrative procedures to track the new premium structure. The new procedures should track the amount of premium assistance provided by the employer for each COBRA beneficiary.
- 6) **Implement transition procedures:** Implement procedures to identify premium overpayments by COBRA beneficiaries in the first and second coverage periods beginning after March 1, 2009.
- 7) **Identify high-income COBRA recipients:** Adopt procedures and notices to identify high-income individuals and facilitate their ability to opt out of premium assistance.
- 8) **Address potential alternative coverage:** Decide if alternative health care coverage will be provided.

*Please Note: Summary of new Cobra Rules provided through the courtesy of Davis Wright Tremaine LLP*



## Academy Award® Contest Winner Announced

Congratulations to Mary Nicholson, General Manager of Krikorian Theatres 15 @ Dos Lagos. Mary selected 14 winners out of the 16 categories in the PREVIEWS 2009 NATO of California/Academy Awards® contest.

### 2009 Year-To-Date Box Office Statistics

*As of March 8, 2009*

	<b>2009</b>	<b>2008</b>	<b>Change</b>
<b>Revenue</b>	\$1.96 Billion	\$1.73 Billion	UP 12.7%
<b>Attendance</b>	268 Million	242 Million	UP 11.1%

*~Source: Exhibitor Relations Co.*

## Do You Qualify For A NATO of CA/NV \$7,500 Scholarship?

The NATO of California/Nevada scholarship program began in 1996 by awarding 20 \$1,000.00 scholarships to deserving field level employees. The program is still going strong 14 years later with the program expanded to include home office employees and dependents and the individual scholarships now at \$7,500.00 each.

Eligible scholars are encouraged to download a 2009 application from the scholarship program section of our website at <http://www.natocalnev.org/scholarship.html>. Applications are due at the NATO of California/Nevada office by April 24, 2009.

### You qualify if:

- As a field level employee of a member theatre you worked 500 hours between April 16, 2008 and April 15, 2009
- You have been a California or Nevada based Home Office Employee of a member company for at least two continuous years, with the exception of Corporate Officers, with at least 50% of your job duties connected to theatre related matters.
- You are a dependent of a qualifying Home Office Employee
- You earned a minimum GPA of 3.0 between January, 2007 and December, 2008
- You are a high school senior who has been accepted to a post-secondary or vocational institution for Fall, 2009, or you are currently enrolled to a post-secondary or vocational institution and will continue your education in the Fall.

Complete qualifications and application process is included in the downloadable application. And remember – you can't win if you don't apply!



National Association  
of Theatre Owners  
of California/Nevada

## 2009 SCHOLARSHIP PROGRAM

UP TO TWENTY

# \$7,500 SCHOLARSHIPS

AVAILABLE FOR POST SECONDARY  
OR VOCATIONAL EDUCATION!

Applications must be postmarked or delivered to the  
NATO of CA/NV Office by April 24, 2009.

Scholarships will be announced in June, 2009.

Visit [www.NATOCalNev.org/scholarship.html](http://www.NATOCalNev.org/scholarship.html)  
for application and more information.

/Nevada

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### What is the APPLICATION PROCESS?

Applicant must supply original documents for all of the following:

1. Official high school or college transcript.
  - ❖ Spring, 2009 high school graduates' GPA will be calculated by committee based upon grades from the period of January, 2007 through December, 2008.
  - ❖ Current postsecondary or vocational institution students' GPA will be calculated by committee based upon official grade reports representing the most recent 36 semester units or 54 quarter units. Freshmen must include grades from high school to cover the period.
  - ❖ For returning students: High school graduates who graduated prior to Spring, 2009, and those students who have completed some post-graduate studies must supply transcripts representing the equivalent of two years of their most recent studies.
2. Written answer to essay question, not to exceed two pages.

Both Essay and Personal Statement to be presented in 12 Pt. type, double-spaced with one-inch margins on all sides. Application will be disqualified if guidelines are not followed.

3. A personal statement in which you tell us about yourself and your future goals, not to exceed one page.
4. Three letters of recommendation. Must be on letterhead containing address, phone number and title of person providing recommendation.
  - ❖ One letter from a teacher or administrator at your school addressing your academic achievements and involvement, achievements and extra-curricular activities.
  - ❖ For Field Level and Home Office: MANAGER RECOMMENDATION FORM found on page 5 of this application completed by general manager/managing director/senior manager of theatre where employed.
  - ❖ For Dependents and Spouses: A letter of recommendation from your employer or if unemployed a listing of your volunteer activities including the name of the organization, contact name and phone.
5. Verification letter on company letterhead from corporate human resources, personnel or payroll director containing the following information:
  - ❖ For Field Level Employees • Applicant's name • original date of hire • number of hours worked by applicant rehire • Name, address, phone number and name of senior manager of theatre where employed • Signature of corporate human resources, personnel or payroll director.
  - ❖ For Home Office Employees verification of full-time, continuous employment for at least the last two years • Date of hire • Position in company • Percentage of job duties connected to theatre related matters
  - ❖ For Spouses or Dependent Children • Verification of current employment of applicant's spouse/parent, which includes verification of full-time, continuous employment for at least the last two years • Position in company of spouse/parent • Spouses'/Parents' date of hire • Percentage of spouses'/parent's job duties connected to theatre related matters.
6. In addition For Spouses or Dependent Children • A copy of the appropriate, official document that verifies marital/dependent status of applicant. Depending upon the status of the applicant it will be one of the following: (a) Marriage certificate (b) applicant's birth certificate (c) applicant's birth certificate and marriage license of the applicant's parent and spouse proving dependency of unadopted step-children, or (d) a document from a placement agency that includes the applicant's name and the name, address, phone number of the authorized placement agency as proof of adoption or foster care.
7. Official Letter of Acceptance to a postsecondary or vocational institution for Fall, 2009 for all applicants who are not currently enrolled in a postsecondary or vocational institution. (Copy of Document is acceptable)
8. Registration document. Scholarship winners must submit an official enrollment document for the Fall 2009 semester/quarter in a postsecondary or vocational institution prior to awarding of any scholarship funds. The document must include name of student and school. (Copy of Document is acceptable.)

ALL DECISIONS BY THE SCHOLARSHIP COMMITTEE WILL BE FINAL.

# Much Learned at Food Managers Certification Training Seminar

About 200 NATO of California/Nevada theatre and concessions managers attended the all-day Southern and Northern California Food Manager Certification Training Seminars hosted by Mann Theatres at the Chinese 6 Theatre in Hollywood and at Cinemark's Century Bayfair 16 Theatre in San Leandro.

On behalf of the Association we wish to thank Mann Theatres and Cinemark USA for their hospitality. The management teams at both locations welcomed, and accommodated the needs of, the member guests for the entire seven hour class and the exam afterwards.



*Mann Chinese 6 General Manager Eric Galicinao, along with corporate office employees Veronica Moreno and Colin Vinnard who coordinated, and helped at, the event.*



*Shown in the lobby of Cinemark's Century Bayfair 16 Theatre are Asst. Manager Wendy Lo, General Manager Anthony Tan and Sr. Asst. Manager Jeniffer Pascual who were on hand throughout the day to ensure the success of the seminar.*

## One for the Books!

A couple in their early 50's were regulars at their local theatre until the "young, dark haired woman in the booth" automatically sold them two senior tickets. Beware; the wrath of god has struck!

"... Unless you are a Buddhist monk or something, you will feel yourself cringing over every little sign of encroaching age. The last thing you will need is some kid pointing out that you look even older than you actually are" so wrote the disgruntled patron. It did not end there. He further wrote, "as far as I'm concerned, someone owes me for the movies that your staff ruined for me, however, I don't even want a response to this letter. I got it off my chest. I'm done with the complaint and with your theater."

Lesson to be learned, never take anything for granted!

### CALENDAR of EVENTS & HOLIDAYS

**St. Patrick's Day**  
March 17

**ShoWest**  
March 30- April 2

**Passover**  
April 9-16

**Good Friday**  
April 10

**Easter**  
April 12

**California Film Product Seminar**  
April 21 - So. California  
April 23 - No. California

**NATO of CA/NV Scholarship Applications due**  
April 24

**Mother's Day**  
May 10

**Memorial Day observed**  
May 25