

ASSEMBLY BILL NO. 635—COMMITTEE ON COMMERCE AND LABOR

MARCH 22, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Provides for regulation of captive insurers. (BDR 57-1329)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to insurance; providing for the regulation of captive insurers; establishing requirements for licensure in this state as a captive insurer; establishing minimum required amounts of capital and surplus that must be maintained by a captive insurer; providing for a premium tax; exempting licensed captive insurers from certain taxes; authorizing the commissioner of insurance to adopt regulations; prohibiting a captive insurer from transacting insurance without a license; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Title 57 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 40,
3 inclusive, of this act.
4 **Sec. 2.** *As used in this chapter, unless the context otherwise requires,*
5 *the words and terms defined in sections 3 to 16, inclusive, of this act have*
6 *the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Affiliated company” means a company in the same*
8 *corporate system as its parent or a member organization by virtue of*
9 *common ownership, control, operation or management.*
10 **Sec. 4.** *“Agency captive insurer” means a captive insurer that is*
11 *owned by an insurance agency or brokerage and that only insures risks*
12 *of policies which are placed by or through the agency or brokerage.*
13 **Sec. 5.** *“Association” means a legal entity consisting of two or more*
14 *corporations, partnerships, associations or other forms of business*
15 *organizations.*

1 **Sec. 6.** *“Association captive insurer” means a captive insurer that*
2 *only insures risks of the member organizations of an association and the*
3 *affiliated companies of those members, including groups formed*
4 *pursuant to the Product Liability Risk Retention Act of 1981, as*
5 *amended, 15 U.S.C. §§ 3901 et seq.*

6 **Sec. 7.** *“Captive insurer” means any pure captive insurer,*
7 *association captive insurer, agency captive insurer and rental captive*
8 *insurer licensed pursuant to this chapter.*

9 **Sec. 8.** *“Commissioner” means the commissioner of insurance.*

10 **Sec. 9.** *“Division” means the division of insurance of the*
11 *department of business and industry.*

12 **Sec. 10.** *“Member organization” means any corporation,*
13 *partnership, association or other form of business organization that*
14 *belongs to an association.*

15 **Sec. 11.** *“Mutual insurer” has the meaning ascribed to it in NRS*
16 *680A.030.*

17 **Sec. 12.** *“Parent” means a corporation, partnership, association or*
18 *other form of business organization that directly or indirectly owns,*
19 *controls or holds with power to vote more than 50 percent of the*
20 *outstanding voting securities of a pure captive insurer.*

21 **Sec. 13.** *“Pure captive insurer” means a captive insurer that only*
22 *insures risks of its parent and affiliated companies.*

23 **Sec. 14.** *“Reciprocal insurer” has the meaning ascribed to it in NRS*
24 *680A.040.*

25 **Sec. 15.** *“Rental captive insurer” means a captive insurer formed to*
26 *enter into contractual agreements with policyholders or associations to*
27 *offer some or all of the benefits of a program of captive insurance and*
28 *that only insures risks of such policyholders or associations.*

29 **Sec. 16.** *“Stock insurer” has the meaning ascribed to it in NRS*
30 *680A.050.*

31 **Sec. 17.** 1. *A captive insurer, when authorized by its articles of*
32 *association, articles of incorporation or charter, may apply to the*
33 *commissioner for a license to transact insurance.*

34 2. *A captive insurer shall not transact insurance in this state unless*
35 *the captive insurer first obtains a license from the commissioner.*

36 3. *A person who violates this section is subject to the provisions of,*
37 *and shall be punished pursuant to, the Unauthorized Insurers Act set*
38 *forth in NRS 685B.020 to 685B.080, inclusive.*

39 **Sec. 18.** 1. *Except as otherwise provided in this section, a captive*
40 *insurer licensed pursuant to this chapter may transact any form of*
41 *insurance described in NRS 681A.020 to 681A.080, inclusive.*

1 2. A captive insurer licensed pursuant to this chapter:

2 (a) Shall not directly provide personal motor vehicle or homeowners'
3 insurance coverage, or any component thereof.

4 (b) Shall not accept or cede reinsurance, except as otherwise provided
5 in section 34 of this act.

6 (c) May provide excess workers' compensation insurance to its parent
7 and affiliated companies, unless otherwise prohibited by the laws of the
8 state in which the insurance is transacted.

9 (d) May reinsure workers' compensation insurance provided pursuant
10 to a program of self-funded insurance of its parent and affiliated
11 companies if:

12 (1) The parent or affiliated company which is providing the self-
13 funded insurance is certified as a self-insured employer by the
14 commissioner, if the insurance is being transacted in this state; or

15 (2) The program of self-funded insurance is otherwise qualified
16 pursuant to, or in compliance with, the laws of the state in which the
17 insurance is transacted.

18 3. A pure captive insurer shall not insure any risks other than those
19 of its parent and affiliated companies.

20 4. An association captive insurer shall not insure any risks other
21 than those of the member organizations of its association and the
22 affiliated companies of the member organizations.

23 5. An agency captive insurer shall not insure any risks other than
24 those of the policies that are placed by or through the insurance agency
25 or brokerage that owns the captive insurer.

26 6. A rental captive insurer shall not insure any risks other than those
27 of the policyholders or associations that have entered into agreements
28 with the rental captive insurer for the insurance of those risks. Such
29 agreements must be in a form which has been approved by the
30 commissioner.

31 7. As used in this section, "excess workers' compensation insurance"
32 means insurance in excess of the specified per-incident or aggregate
33 limit, if any, established by:

34 (a) The commissioner, if the insurance is being transacted in this
35 state; or

36 (b) The chief regulatory officer for insurance in the state in which the
37 insurance is being transacted.

38 **Sec. 19. 1.** The board of directors of a captive insurer shall meet at
39 least one time each year in this state. The captive insurer shall:

40 (a) Maintain its principal place of business in this state; and

41 (b) Appoint a resident of this state as a registered agent to accept
42 service of process and otherwise act on behalf of the captive insurer in
43 this state. If the registered agent cannot be located with reasonable

1 *diligence for the purpose of serving a notice or demand on the captive*
2 *insurer, the notice or demand may be served on the secretary of state who*
3 *shall be deemed to be the agent for the captive insurer.*

4 *2. A captive insurer shall not transact insurance in this state unless:*

5 *(a) The captive insurer has made adequate arrangements with a bank*
6 *located in this state that is authorized pursuant to state or federal law to*
7 *transfer money;*

8 *(b) If the captive insurer employs or has entered into a contract with a*
9 *natural person or business organization to manage the affairs of the*
10 *captive insurer, the natural person or business organization meets the*
11 *standards of competence and experience satisfactory to the*
12 *commissioner;*

13 *(c) The captive insurer employs or has entered into a contract with a*
14 *qualified and experienced certified public accountant or a firm of*
15 *certified public accountants that is nationally recognized;*

16 *(d) The captive insurer employs or has entered into a contract with*
17 *qualified, experienced actuaries to perform reviews and evaluations of*
18 *the operations of the captive insurer; and*

19 *(e) The captive insurer employs or has entered into a contract with an*
20 *attorney who is licensed to practice law in this state and who meets the*
21 *standards of competence and experience in matters concerning the*
22 *regulation of insurance in this state established by the commissioner by*
23 *regulation.*

24 **Sec. 20.** *A captive insurer must apply to the commissioner for a*
25 *license. The application must include:*

26 *1. A certified copy of the charter and bylaws of the captive insurer;*

27 *2. A pro forma financial statement for the captive insurer that has*
28 *been prepared by a certified public accountant;*

29 *3. Any other statements or documents that the commissioner requires*
30 *to be filed with the application;*

31 *4. Evidence of:*

32 *(a) The amount and liquidity of its assets relative to the risks to be*
33 *assumed by the captive insurer;*

34 *(b) The expertise, experience and character of the persons who will*
35 *manage the captive insurer;*

36 *(c) The overall soundness of the plan of operation of the captive*
37 *insurer; and*

38 *(d) The adequacy of the programs of the captive insurer providing for*
39 *loss prevention by its parent or member organizations, as applicable; and*

40 *5. Such other information deemed to be relevant by the*
41 *commissioner in ascertaining whether the proposed captive insurer will*
42 *be able to meet its policy obligations.*

1 **Sec. 21.** *An application by a captive insurer for licensure must*
2 *include a non-refundable application fee of \$500. The commissioner*
3 *may retain legal, financial and examination services from outside the*
4 *division to review and make recommendations regarding the qualifying*
5 *examination of the applicant. The cost of those services must be paid by*
6 *the applicant. The provisions of NRS 679B.230 to 679B.287, inclusive,*
7 *apply to examinations, investigations and processing conducted pursuant*
8 *to this section.*

9 **Sec. 22.** 1. *If the commissioner determines that the documents and*
10 *statements filed by the captive insurer satisfy the requirements for*
11 *licensure, the commissioner shall issue a license to the captive insurer.*
12 *The license is valid for 1 year after the date on which it is issued. The*
13 *license may be renewed upon the satisfaction of all requirements*
14 *imposed by the commissioner and payment of the renewal fee.*

15 2. *A captive insurer must pay a fee of \$300 for the issuance of a*
16 *license and an annual fee of \$300 for the renewal of a license.*

17 **Sec. 23.** *A captive insurer shall include its business plan with its*
18 *application for the issuance and renewal of a license. If the captive*
19 *insurer makes any changes to the business plan, the captive insurer shall,*
20 *as soon as practicable, file a copy of the updated business plan with the*
21 *commissioner.*

22 **Sec. 24.** *A captive insurer shall not use or adopt a name that is the*
23 *same, deceptively similar or likely to be confused with or mistaken for*
24 *any other existing business name registered in this state.*

25 **Sec. 25.** 1. *A captive insurer must not be issued a license, and shall*
26 *not hold a license, unless the captive insurer has and maintains, in*
27 *addition to any other capital required to be maintained pursuant to*
28 *subsection 3, unimpaired paid-in capital of:*

29 (a) *For a pure captive insurer, not less than \$100,000;*

30 (b) *For an association captive insurer incorporated as a stock insurer,*
31 *not less than \$200,000;*

32 (c) *For an agency captive insurer, not less than \$300,000; and*

33 (d) *For a rental captive insurer, not less than \$400,000.*

34 2. *Except as otherwise provided by the commissioner pursuant to*
35 *subsection 3, the capital required to be maintained pursuant to this*
36 *section must be in the form of cash or an irrevocable letter of credit.*

37 3. *The commissioner may prescribe additional requirements relating*
38 *to capital based on the type, volume and nature of the insurance business*
39 *that is transacted by the captive insurer and requirements regarding*
40 *which capital, if any, may be in the form of an irrevocable letter of credit.*

41 4. *A letter of credit used by a captive insurer as evidence of capital*
42 *required pursuant to this section must:*

1 (a) Be issued by a bank chartered by this state or a bank that is a
2 member of the United States Federal Reserve System and has been
3 approved by the commissioner; and

4 (b) Include a provision pursuant to which the letter of credit is
5 automatically renewable each year, unless the issuer gives written notice
6 to the commissioner and the captive insurer at least 90 days before the
7 expiration date.

8 **Sec. 26.** The commissioner may approve an ongoing plan for the
9 payment of dividends or other distributions by a captive insurer if, at the
10 time of each payment or distribution, the retention of capital by the
11 captive insurer is in excess of the amounts required by the commissioner.
12 The commissioner shall adopt by regulation:

13 1. A specific amount that a captive insurer must have in excess
14 capital for the approval of an ongoing plan for the payment of dividends
15 or other distributions; or

16 2. A formula pursuant to which the specific amount of required
17 excess capital may be calculated.

18 **Sec. 27. 1.** A captive insurer must not be issued a license, and shall
19 not hold a license, unless the captive insurer has and maintains, in
20 addition to any other surplus required to be maintained pursuant to
21 subsection 3, an unencumbered surplus of:

22 (a) For a pure captive insurer, not less than \$150,000;

23 (b) For an association captive insurer incorporated as a stock insurer,
24 not less than \$300,000;

25 (c) For an agency captive insurer, not less than \$300,000;

26 (d) For a rental captive insurer, not less than \$350,000; and

27 (e) For an association captive insurer incorporated as a mutual
28 insurer or reciprocal insurer, not less than \$500,000.

29 2. Except as otherwise provided in subsection 3, the surplus required
30 to be maintained pursuant to this section must be in the form of cash or
31 an irrevocable letter of credit.

32 3. The commissioner may prescribe additional requirements relating
33 to surplus based on the type, volume and nature of the insurance
34 business that is transacted by the captive insurer and requirements
35 regarding which surplus, if any, may be in the form of an irrevocable
36 letter of credit.

37 4. A letter of credit used by a captive insurer as evidence of required
38 surplus pursuant to this section must:

39 (a) Be issued by a bank chartered by this state or a bank that is a
40 member of the United States Federal Reserve System and has been
41 approved by the commissioner; and

42 (b) Include a provision pursuant to which the letter of credit is
43 automatically renewable each year, unless the issuer gives written notice

1 to the commissioner and the captive insurer at least 90 days before the
2 expiration date.

3 **Sec. 28.** Except as otherwise provided in this section, a captive
4 insurer shall pay dividends out of, or make any other distributions from,
5 its capital or surplus, or both, in accordance with the provisions set forth
6 in NRS 693A.140, 693A.150 and 693A.160. A captive insurer shall not
7 pay dividends out of, or make any other distribution with respect to, its
8 capital or surplus, or both, in violation of this section unless the captive
9 insurer has obtained the prior approval of the commissioner to make
10 such a payment or distribution.

11 **Sec. 29. 1.** A pure captive insurer, an agency captive insurer or a
12 rental captive insurer shall be incorporated as a stock insurer.

13 2. An association captive insurer shall be formed as a:

14 (a) Stock insurer;

15 (b) Mutual insurer; or

16 (c) Reciprocal insurer, except that its attorney-in-fact must be a
17 corporation incorporated in this state.

18 3. A captive insurer shall have not less than three incorporators, at
19 least two of whom must be residents of this state.

20 4. Before the articles of incorporation of a captive insurer may be
21 filed with the secretary of state, the commissioner must approve the
22 articles of incorporation. In determining whether to grant such approval,
23 the commissioner shall consider:

24 (a) The character, reputation, financial standing and purposes of the
25 incorporators;

26 (b) The character, reputation, financial responsibility, experience
27 relating to insurance and business qualifications of the officers and
28 directors of the captive insurer;

29 (c) The competence of any person who, pursuant to a contract with
30 the captive insurer, will manage the affairs of the captive insurer;

31 (d) The competence, reputation and experience of the legal counsel of
32 the captive insurer relating to the regulation of insurance;

33 (e) If the captive insurer is a rental captive insurer, the competence,
34 reputation and experience of the underwriter of the captive insurer;

35 (f) The business plan of the captive insurer; and

36 (g) Such other aspects of the captive insurer as the commissioner
37 deems advisable.

38 5. The capital stock of a captive insurer incorporated as a stock
39 insurer must be issued at not less than par value.

40 6. At least one of member of the board of directors of a captive
41 insurer or of its attorney-in-fact must be a resident of this state.

42 7. A captive insurer formed pursuant to the provisions of this chapter
43 has the privileges of, and is subject to, the provisions of general

1 corporation law set forth in chapter 78 of NRS as well as the applicable
2 provisions contained in this chapter. If the provisions of this chapter
3 conflict with the general provisions in chapter 78 of NRS governing
4 corporations, the provisions of this chapter control. The provisions of
5 chapter 693A of NRS relating to mergers, consolidations, conversions,
6 mutualizations and transfers of domicile to this state apply to determine
7 the procedures to be followed by captive insurers in carrying out any of
8 those transactions in accordance with this chapter.

9 8. The articles of association, articles of incorporation, charter or
10 bylaws of a captive insurer must require that a quorum of the board of
11 directors consists of not less than one-third of the number of directors
12 prescribed by the articles of association, articles of incorporation, charter
13 or bylaws.

14 **Sec. 30. 1.** On or before March 1 of each year, a captive insurer
15 shall submit to the commissioner a report of its financial condition, as
16 prepared by a certified public accountant. A captive insurer shall use
17 generally accepted accounting principles and include any useful or
18 necessary modifications or adaptations thereof that have been approved
19 or accepted by the commissioner for the type of insurance and kinds of
20 insurers to be reported upon, and as supplemented by additional
21 information required by the commissioner. Except as otherwise provided
22 in this section, each association captive insurer, agency captive insurer
23 or rental captive insurer shall file its report in the form required by NRS
24 680A.265. The commissioner shall adopt regulations designating the
25 form in which pure captive insurers must report.

26 2. A pure captive insurer may apply, in writing, for authorization to
27 file its annual report based on a fiscal year that is consistent with the
28 fiscal year of the parent company of the pure captive insurer. If an
29 alternative date is granted:

30 (a) The annual report is due not later than 60 days after the end of
31 each such fiscal year; and

32 (b) The pure captive insurer shall file on or before March 1 of each
33 year such forms as required by the commissioner by regulation to provide
34 sufficient detail to support its premium tax return filed pursuant to
35 section 37 of this act.

36 **Sec. 31. 1.** Except as otherwise provided in this section, at least
37 once every 3 years, and at such other times as the commissioner
38 determines necessary, the commissioner, or his designee, shall visit each
39 captive insurer and thoroughly inspect and examine the affairs of the
40 captive insurer to ascertain:

41 (a) The financial condition of the captive insurer;

42 (b) The ability of the captive insurer to fulfill its obligations; and

1 (c) Whether the captive insurer has complied with the provisions of
2 this chapter and the regulations adopted pursuant thereto.

3 2. Upon the application of a captive insurer, the commissioner may
4 conduct the visits required pursuant to subsection 1 every 5 years if the
5 captive insurer conducts comprehensive annual audits:

6 (a) The scope of which is satisfactory to the commissioner; and

7 (b) Which are conducted by an independent auditor appointed by the
8 commissioner.

9 3. The commissioner may contract to obtain legal, financial and
10 examination services from outside the division to conduct the
11 examination and make recommendations to the commissioner. The cost
12 of the examination must be paid to the commissioner by the captive
13 insurer.

14 4. The provisions of NRS 679B.230 to 679B.287, inclusive, apply to
15 examinations conducted pursuant to this section.

16 **Sec. 32. 1.** The commissioner may suspend or revoke the license of
17 a captive insurer if, after an examination and hearing, the commissioner
18 determines that:

19 (a) The captive insurer:

20 (1) Is insolvent or has impaired its required capital or surplus;

21 (2) Has failed to meet the requirement of sections 25 to 28,
22 inclusive, of this act;

23 (3) Has refused or failed to submit an annual report, as required by
24 section 30 of this act, or any other report or statement required by law or
25 by order of the commissioner;

26 (4) Has failed to comply with the provisions of its charter or bylaws;

27 (5) Has failed to submit to an examination required pursuant to
28 section 31 of this act;

29 (6) Has refused or failed to pay the cost of an examination required
30 pursuant to section 31 of this act;

31 (7) Has used any method in transacting insurance pursuant to this
32 chapter which is detrimental to the operation of the captive insurer or
33 would make its condition unsound with respect to its policyholders or the
34 general public; or

35 (8) Has failed otherwise to comply with the laws of this state; and

36 (b) The suspension or revocation of the license of the captive insurer
37 is in the best interest of its policyholders or the general public.

38 2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to
39 hearings conducted pursuant to this section.

40 **Sec. 33. 1.** Except as otherwise provided in this section, an
41 association captive insurer, an agency captive insurer or a rental captive
42 insurer shall comply with the requirements relating to investments set
43 forth in chapter 682A of NRS. Upon the request of the association

1 *captive insurer, agency captive insurer or rental captive insurer, the*
2 *commissioner may approve the use of reliable, alternative methods of*
3 *valuation and rating.*

4 *2. A pure captive insurer is not subject to any restrictions on*
5 *allowable investments, except that the commissioner may prohibit or*
6 *limit any investment that threatens the solvency or liquidity of the pure*
7 *captive insurer.*

8 *3. A pure captive insurer may make a loan to its parent or affiliated*
9 *company if the loan:*

10 *(a) Is first approved in writing by the commissioner;*

11 *(b) Is evidenced by a note that is in a form that is approved by the*
12 *commissioner; and*

13 *(c) Does not include any money that has been set aside as capital or*
14 *surplus as required by subsection 1 of section 25 of this act or subsection*
15 *1 of section 27 of this act.*

16 **Sec. 34. 1. A captive insurer may provide reinsurance on risks**
17 **ceded by any other insurer.**

18 *2. A captive insurer may take credit for reserves on risks or portions*
19 *of risks ceded to a reinsurer that is in compliance with NRS 681A.140 to*
20 *681A.240, inclusive. A captive insurer shall not take credit for reserves*
21 *on risks or portions of risks ceded to a reinsurer if the reinsurer is not in*
22 *compliance with NRS 681A.140 to 681A.240, inclusive.*

23 *3. The commissioner may authorize a captive insurer to take credit*
24 *for reserves on risks or portions of risks ceded to a pool, an exchange or*
25 *an association acting as a reinsurer. The commissioner may require such*
26 *documents, financial information or other evidence as he determines*
27 *necessary to show that the pool, exchange or association will be able to*
28 *provide adequate security for its financial obligations. The commissioner*
29 *may deny authorization or impose any limitations on the activities of a*
30 *reinsurance pool, exchange or association that, in his judgment, are*
31 *necessary and proper to provide adequate security for the ceding captive*
32 *insurer and for the protection and benefit of the general public.*

33 *4. For the purposes of this chapter, insurance provided by a captive*
34 *insurer of any plan for workers' compensation of its parent and affiliated*
35 *companies which is certified or otherwise qualified in the state in which*
36 *the insurance is provided as a self-insurance plan shall be deemed to be*
37 *reinsurance.*

38 **Sec. 34.5. Insurance provided by a captive insurer in accordance**
39 **with this chapter may not be used to satisfy the requirements set forth in**
40 **chapter 706 of NRS relating to the insurance required to be maintained**
41 **by vehicles subject to the jurisdiction of the transportation services**
42 **authority or taxicab authority, unless the transportation services**

1 *authority or taxicab authority, as appropriate, specifically approves the*
2 *use of insurance provided by a captive insurer for that purpose.*

3 **Sec. 35.** *A captive insurer is not required to join a rating*
4 *organization.*

5 **Sec. 36.** *A captive insurer shall not join or contribute financially to*
6 *any risk-sharing plan, risk pool or insurance insolvency guaranty fund in*
7 *this state. A captive insurer or its insured, its parent or an affiliated*
8 *company, or any member organization of its association shall not receive*
9 *any benefit from such a plan, pool or fund for claims arising out of the*
10 *operations of the captive insurer.*

11 **Sec. 37. 1.** *Except as otherwise provided in this section, a captive*
12 *insurer shall pay to the division, not later than March 1 of each year, a*
13 *tax at the rate of:*

14 *(a) Two-fifths of 1 percent on the first \$20,000,000 of its net direct*
15 *premiums;*

16 *(b) One-fifth of 1 percent on the next \$20,000,000 of its net direct*
17 *premiums; and*

18 *(c) Seventy-five thousandths of 1 percent on each additional dollar of*
19 *its net direct premiums.*

20 **2.** *Except as otherwise provided in this section, a captive insurer*
21 *shall pay to the division, not later than March 1 of each year, a tax at a*
22 *rate of:*

23 *(a) Two hundred twenty-five thousandths of 1 percent on the first*
24 *\$20,000,000 of revenue from assumed reinsurance premiums;*

25 *(b) One hundred fifty thousandths of 1 percent on the next*
26 *\$20,000,000 of revenue from assumed reinsurance premiums; and*

27 *(c) Twenty-five thousandths of 1 percent on each additional dollar of*
28 *revenue from assumed reinsurance premiums.*

29 *The tax on reinsurance premiums pursuant to this subsection must not*
30 *be levied on premiums for risks or portions of risks which are subject to*
31 *taxation on a direct basis pursuant to subsection 1. A captive insurer is*
32 *not required to pay any reinsurance premium tax pursuant to this*
33 *subsection on revenue related to the receipt of assets by the captive*
34 *insurer in exchange for the assumption of loss reserves and other*
35 *liabilities of another insurer that is under common ownership and*
36 *control with the captive insurer, if the transaction is part of a plan to*
37 *discontinue the operation of the other insurer and the intent of the*
38 *parties to the transaction is to renew or maintain such business with the*
39 *captive insurer.*

40 **3.** *If the sum of the taxes to be paid by a captive insurer calculated*
41 *pursuant to subsections 1 and 2 is less than \$5,000 in any given year, the*
42 *captive insurer shall pay a tax of \$5,000 for that year.*

1 **4. Two or more captive insurers under common ownership and**
2 **control must be taxed as if they were a single captive insurer.**

3 **5. Notwithstanding any specific statute to the contrary and except as**
4 **otherwise provided in this subsection, the tax provided for by this section**
5 **constitutes all the taxes collectible pursuant to the laws of this state from**
6 **a captive insurer, and no occupation tax or other taxes may be levied or**
7 **collected from a captive insurer by this state or by any county, city or**
8 **municipality within this state, except for ad valorem taxes on real or**
9 **personal property located in this state used in the production of income**
10 **by the captive insurer.**

11 **6. Ten percent of the revenues collected from the tax imposed**
12 **pursuant to this section must be deposited with the state treasurer for**
13 **credit to the account for the regulation and supervision of captive**
14 **insurers created pursuant to section 38 of this act. The remaining 90**
15 **percent of the revenues collected must be deposited with the state**
16 **treasurer for credit to the state general fund.**

17 **7. As used in this section, unless the context otherwise requires:**

18 **(a) "Common ownership and control" means:**

19 **(1) In the case of a stock insurer, the direct or indirect ownership of**
20 **80 percent or more of the outstanding voting stock of two or more**
21 **corporations by the same member or members.**

22 **(2) In the case of a mutual insurer, the direct or indirect ownership**
23 **of 80 percent or more of the surplus and the voting power of two or more**
24 **corporations by the same member or members.**

25 **(b) "Net direct premiums" means the direct premiums collected or**
26 **contracted for on policies or contracts of insurance written by a captive**
27 **insurer during the preceding calendar year, less the amounts paid to**
28 **policyholders as return premiums, including dividends on unabsorbed**
29 **premiums or premium deposits returned or credited to policyholders.**

30 **Sec. 38. 1. There is hereby created in the state general fund an**
31 **account for the regulation and supervision of captive insurers. Money in**
32 **the account must be used only to carry out the provisions of this chapter.**
33 **Except as otherwise provided in section 37 of this act, all fees and**
34 **assessments received by the commissioner or division pursuant to this**
35 **chapter must be credited to the account. Not more than 2 percent of the**
36 **tax collected and deposited in the account pursuant to section 37 of this**
37 **act, may, upon application by the division or an agency for economic**
38 **development to, and with the approval of, the interim finance committee,**
39 **be transferred to an agency for economic development to be used by that**
40 **agency to promote the industry of captive insurance in this state.**

41 **2. Except as otherwise provided in this section, all payments from the**
42 **account for the maintenance of staff and associated expenses, including**
43 **contractual services, as necessary, must be disbursed from the state**

1 *treasury only upon warrants issued by the state controller, after receipt of*
2 *proper documentation of the services rendered and expenses incurred.*

3 *3. At the end of each fiscal year, that portion of the balance in the*
4 *account which exceeds \$100,000 must be transferred to the state general*
5 *fund.*

6 *4. The state controller may anticipate receipts to the account and*
7 *issue warrants based thereon.*

8 **Sec. 39. 1.** *The terms and conditions set forth in chapter 696B of*
9 *NRS pertaining to insurance reorganization, receiverships and*
10 *injunctions apply to captive insurers incorporated pursuant to this*
11 *chapter.*

12 *2. An agency captive insurer, a rental captive insurer and an*
13 *association captive insurer are subject to those provisions of chapter*
14 *686A of NRS which are applicable to insurers.*

15 **Sec. 40.** *The commissioner may establish such regulations as are*
16 *necessary to carry out the provisions of the chapter.*

17 **Sec. 41.** NRS 679A.160 is hereby amended to read as follows:

18 679A.160 Except as otherwise provided by specific statute, no
19 provision of this code applies to:

20 1. Fraternal benefit societies, as identified in chapter 695A of NRS,
21 except as stated in chapter 695A of NRS.

22 2. Hospital, medical or dental service corporations, as identified in
23 chapter 695B of NRS, except as stated in chapter 695B of NRS.

24 3. Motor clubs, as identified in chapter 696A of NRS, except as stated
25 in chapter 696A of NRS.

26 4. Bail agents, as identified in chapter 697 of NRS, except as stated in
27 NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.

28 5. Risk retention groups, as identified in chapter 695E of NRS, except
29 as stated in chapter 695E of NRS.

30 6. *Captive insurers, as identified in sections 2 to 40, inclusive, of this*
31 *act, with respect to their activities as captive insurers, except as stated in*
32 *sections 2 to 40, inclusive, of this act.*

33 7. Health and welfare plans arising out of collective bargaining under
34 chapter 288 of NRS, except that the commissioner may review the plan to
35 ensure that the benefits are reasonable in relation to the premiums and that
36 the fund is financially sound.

37 **Sec. 42.** The amendatory provisions of this act do not apply to
38 offenses committed before October 1, 1999.

39 **Sec. 43.** This act becomes effective upon passage and approval for the
40 purpose of adopting regulations to carry out the provisions of this act, and
41 on October 1, 1999, for all other purposes.