
SENATE BILL NO. 43—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 27, 1999

(ON BEHALF OF LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION)

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning applicability of insurance code to state industrial insurance system and private carriers of industrial insurance. (BDR 53-396)

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

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

AN ACT relating to industrial insurance; authorizing the commissioner of insurance to suspend the authority of the state industrial insurance system to provide industrial insurance; making certain provisions of the insurance code applicable to the state industrial insurance system; prohibiting the commissioner from applying certain provisions of the insurance code to the state industrial insurance system; exempting certain private carriers of industrial insurance from making an additional deposit of cash or securities with the commissioner of insurance for purposes of transacting industrial insurance in this state; clarifying the regulatory authority of the commissioner of insurance and the administrator of the division of industrial relations of the department of business and industry concerning trade practices of insurers; 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.** Chapter 616B of NRS is hereby amended by adding thereto
2 a new section to read as follows:
3 ***1. The commissioner shall issue an order suspending the authority of***
4 ***the system to provide industrial insurance for 1 year if the commissioner***
5 ***finds that the system has intentionally or repeatedly failed to comply with***
6 ***the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS***
7 ***or the regulations of the division.***
8 ***2. Before the commissioner issues an order pursuant to subsection 1,***
9 ***he must:***

1 (a) *Arrange an informal meeting with the system to discuss and seek*
2 *correction of any conduct that would be grounds for suspension; and*

3 (b) *If the system fails to correct the conduct after the informal meeting,*
4 *give written notice to the system by certified mail or electronic*
5 *transmission that an order will be issued to suspend its authority to*
6 *provide industrial insurance within 10 days after it receives the notice*
7 *unless within that time, the system:*

8 (1) *Corrects the conduct set forth in the notice as the reason for the*
9 *suspension; or*

10 (2) *Submits a written request for a hearing to the commissioner.*

11 3. *If the system requests a hearing:*

12 (a) *The commissioner shall set a date for a hearing within 20 days*
13 *after receiving the system's written request and shall give the system at*
14 *least 10 business days' notice of the time and place of the hearing.*

15 (b) *A record of the hearing must be kept but it need not be transcribed*
16 *unless requested by the system. The cost of transcription must be charged*
17 *to the system.*

18 4. *Within 5 days after the hearing, the commissioner shall:*

19 (a) *Affirm or deny his decision to issue an order to suspend the*
20 *authority of the system to provide industrial insurance;*

21 (b) *Notify the system of his decision; and*

22 (c) *If the commissioner affirms his decision, issue an order to suspend*
23 *the authority of the system to provide industrial insurance.*

24 5. *If the system does not comply with the order of the commissioner*
25 *issued pursuant to subsection 4 during the period of suspension, the*
26 *commissioner shall issue another order prohibiting the system from*
27 *issuing new policies until the order has expired as specified in the order*
28 *itself. A copy of the order issued pursuant to this subsection must be sent*
29 *by certified mail or electronic transmission to the system.*

30 **Sec. 2.** NRS 616B.197 is hereby amended to read as follows:

31 616B.197 1. The system shall comply with ~~{;}~~ **and is subject to:**

32 (a) Those provisions of Title 57 of NRS designated by regulations
33 adopted by the commissioner ~~{;}~~ **and those provisions of Title 57 of NRS**
34 **made applicable to the system by a specific statute;**

35 (b) Any orders issued to the system by the commissioner ~~{;~~

36 ~~—2.—Such}~~ ;

37 (c) **Those provisions of NRS 683A.090 to 683A.360, inclusive, that**
38 **require an insurer or an authorized insurer to perform certain duties as a**
39 **result of its relationship with an agent, broker or solicitor, including,**
40 **without limitation, NRS 683A.280 and 683A.290; and**

41 (d) **Those provisions of NRS 686A.010 to 686A.280, inclusive, and**
42 **686A.310 that regulate the trade practices of persons or insurers.**

1 **2. The regulations and orders adopted or issued pursuant to subsection**
2 **1** must comply with the provisions of chapters 616A to 617, inclusive, of
3 NRS, including, but not limited to, those provisions governing the
4 investments and operations of the system.

5 3. The commissioner shall not require the system to :

6 **(a) Obtain a certificate of authority to transact industrial insurance;**

7 **(b) Appoint the commissioner and his successors in office as its**
8 **attorney to receive service of legal process issued against it in this state;**

9 **(c) Except as otherwise provided in subsection 1, make any deposits or**
10 **pay any licensing fees, continuation fees, assessments or taxes required to**
11 **be deposited through the commissioner or** paid to the division of insurance
12 of the department of business and industry by insurers licensed pursuant to
13 Title 57 of NRS ~~{ }~~ ; **or**

14 **(d) Register with the commissioner as a member of an insurance**
15 **holding company system.**

16 4. The system shall pay the costs of any examination of the system
17 conducted by the commissioner, as required by NRS 679B.290, upon
18 presentation by the commissioner of a reasonably detailed written statement
19 of the expenses of the examination.

20 **5. An agent of the system shall comply with NRS 683A.090 to**
21 **683A.360, inclusive. As used in this subsection, “agent of the system”**
22 **means any person who is associated, directly or indirectly, with the system**
23 **to solicit and enroll policyholders with the system and negotiate contracts**
24 **of industrial insurance issued by the system, and includes, without**
25 **limitation, a person who qualifies as an “agent,” “broker” or “solicitor”**
26 **as those terms are defined in chapter 683A of NRS.**

27 **Sec. 3.** NRS 679B.130 is hereby amended to read as follows:

28 679B.130 1. The commissioner may adopt reasonable regulations for
29 the administration of any provision of this code or chapters 616A to 617,
30 inclusive, of NRS.

31 2. A person who willfully violates any regulation of the commissioner is
32 subject to such suspension or revocation of a certificate of authority ~~{or~~
33 ~~license,}~~ , **license or other authority to transact insurance**, or
34 administrative fine in lieu of such suspension or revocation, as may be
35 applicable ~~{under}~~ **pursuant to** this code or chapter 616A, 616B, 616C,
36 616D or 617 of NRS for violation of the provision to which the regulation
37 relates. No penalty applies to any act done or omitted in good faith in
38 conformity with any ~~{such}~~ regulation, notwithstanding that the regulation
39 may, after the act or omission, be amended, rescinded or determined by a
40 judicial or other authority to be invalid for any reason.

41 **Sec. 4.** NRS 679B.157 is hereby amended to read as follows:

42 679B.157 An insurer, employee or representative of an insurer, **the**
43 **state industrial insurance system, an employee of the state industrial**

1 **insurance system, an** official of an investigative or law enforcement
2 agency, employee of the division or the commissioner is not subject to a
3 criminal penalty or subject to civil liability for libel, slander or any similar
4 cause of action in tort if he, without malice, discloses information on a
5 fraudulent claim or suspicious fire.

6 **Sec. 5.** NRS 679B.158 is hereby amended to read as follows:

7 679B.158 1. The special investigative account is hereby established in
8 the state general fund for use by the commissioner. The commissioner shall
9 deposit all money received pursuant to this section with the state treasurer
10 for credit to the account. Money remaining in the account at the end of any
11 year does not lapse and may be used by the commissioner in any subsequent
12 year.

13 2. The commissioner shall authorize expenditures from the special
14 investigative account to pay the expenses of the program established
15 pursuant to NRS 679B.153 and of any unit established in the office of the
16 attorney general which investigates and prosecutes insurance fraud.

17 3. All of the costs of the program established pursuant to NRS
18 679B.153 must be paid by the insurers authorized to transact insurance in
19 this state ~~{,}~~, **including the state industrial insurance system.** The
20 commissioner shall annually determine the total cost and equally divide that
21 amount among the insurers. The annual amount so assessed must not exceed
22 \$500 per authorized insurer. The commissioner may adopt regulations
23 regarding the calculation and collection of the assessment.

24 **Sec. 6.** NRS 680A.140 is hereby amended to read as follows:

25 680A.140 1. ~~{The}~~ **Except as otherwise provided in subsections 4**
26 **and 5, the** commissioner shall not authorize an insurer to transact insurance
27 in this state, other than an alien insurer or a title insurer, unless it makes and
28 thereafter continuously maintains on deposit in this state, through the
29 commissioner, cash or securities eligible for such deposit under the laws of
30 this state of a fair market value not less than its minimum required capital
31 stock, ~~{,}~~ if a stock insurer, ~~{,}~~ or minimum required basic surplus, ~~{,}~~ if a
32 mutual or reciprocal insurer, ~~{,}~~ for the protection of the insurer's
33 policyholders or of its policyholders and creditors in the United States of
34 America. The commissioner may adopt regulations which allow the use of
35 securities as a deposit without delivery of the securities to the
36 commissioner.

37 2. The commissioner shall not so authorize a title insurer unless it so
38 deposits and maintains such cash or securities of fair market value not less
39 than its minimum required capital stock as a guaranty fund for the security
40 and protection of the holders of, or beneficiaries under, the title insurance
41 contracts issued by the insurer.

42 3. The commissioner shall not so authorize an alien insurer unless it so
43 makes and thereafter continuously maintains such a deposit, representing

1 money in excess of all the insurer's liabilities under insurance contracts in
2 force in the United States of America, of a fair market value of not less than
3 that required under subsection 1, as to a like foreign insurer. The deposit
4 must be held in trust for the protection of all the insurer's policyholders, or
5 policyholders and creditors, in the United States of America.

6 4. In lieu of such a deposit made or maintained in this state, the
7 commissioner shall accept the certificate in proper form of the public officer
8 having general supervision of insurers in any other state to the effect that a
9 deposit of like quality and amount, or part thereof, by an insurer is being
10 maintained for like purposes in public custody or control pursuant to the
11 laws of that state, if the commissioner is satisfied as to the like quality and
12 amount of the deposit.

13 5. ***The commissioner shall not require an insurer that is not***
14 ***domiciled in this state to make or maintain a deposit of cash or securities***
15 ***in this state to qualify for authority to transact industrial insurance in this***
16 ***state unless the commissioner determines that the insurer is not***
17 ***maintaining in at least one state a deposit that is alike in quality and***
18 ***amount to the deposit otherwise required pursuant to subsection 1.***

19 6. All ~~such~~ deposits ***maintained*** in this state ***pursuant to this section***
20 are subject to the applicable provisions of chapter 682B of NRS.

21 **Sec. 7.** NRS 682B.015 is hereby amended to read as follows:

22 682B.015 1. ~~It is~~ ***Except as otherwise provided in subsection 5 of***
23 ***NRS 680A.140, in*** addition to the deposits authorized by NRS 682B.010,
24 the commissioner may by regulation require as a condition of transacting the
25 business of insurance in this state that a special deposit be maintained in this
26 state by an authorized insurer who is subject to the provisions of chapter
27 680A of NRS or by an eligible insurer who is subject to the provisions of
28 chapter 685A of NRS.

29 2. A deposit pursuant to this section:

30 (a) Must be held for the sole benefit and protection of policyholders
31 residing in this state and any risk that is resident, located or to be performed
32 in this state that is the subject of insurance; and

33 (b) Is subject to the provisions of NRS 682B.030 to 682B.120, inclusive.

34 **Sec. 8.** Chapter 683A of NRS is hereby amended by adding thereto a
35 new section to read as follows:

36 ***As used in NRS 683A.090 to 683A.360, inclusive, the terms "authorized***
37 ***insurer" and "insurer" include the state industrial insurance system.***

38 **Sec. 9.** Chapter 686A of NRS is hereby amended by adding thereto a
39 new section to read as follows:

40 ***As used in NRS 686A.010 to 686A.280, inclusive, and 686A.310, the***
41 ***terms "insurer" and "person" include the state industrial insurance***
42 ***system.***

1 **Sec. 10.** NRS 686A.010 is hereby amended to read as follows:
2 686A.010 The purpose of NRS 686A.010 to 686A.310, inclusive, **and**
3 **section 9 of this act** is to regulate trade practices in the business of
4 insurance in accordance with the intent of Congress as expressed in the Act
5 of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also
6 designated as 15 U.S.C. §§ 1011 to 1015, inclusive, by defining, or
7 providing for the determination of, all such practices in this state which
8 constitute unfair methods of competition or unfair or deceptive acts or
9 practices and by prohibiting the trade practices so defined or determined.

10 **Sec. 11.** NRS 686A.015 is hereby amended to read as follows:

11 686A.015 1. Notwithstanding any other provision of law ~~it~~ **and**
12 **except as otherwise provided in subsection 3**, the commissioner has
13 exclusive jurisdiction in regulating the subject of trade practices in the
14 business of insurance in this state.

15 2. The commissioner shall establish a program within the division to
16 investigate any act or practice which constitutes an unfair or deceptive trade
17 practice in violation of the provisions of NRS 686A.010 to 686A.310,
18 inclusive.

19 3. **The provisions of subsection 1 do not preempt the authority of the**
20 **administrator of the division of industrial relations of the department of**
21 **business and industry to exercise all authority granted to him pursuant to**
22 **the provisions of chapters 616A to 616D, inclusive, and chapter 617 of**
23 **NRS to regulate, audit, impose fines and conduct investigations of**
24 **insurers who provide industrial insurance to ensure the proper provision**
25 **of workers' compensation to claimants. As used in this subsection,**
26 **"insurers who provide industrial insurance" has the meaning ascribed to**
27 **the term "insurer" in NRS 616A.270.**

28 **Sec. 12.** NRS 686A.183 is hereby amended to read as follows:

29 686A.183 1. After the hearing provided for in NRS 686A.160, the
30 commissioner shall issue his order on hearing pursuant to NRS 679B.360. If
31 the commissioner determines that the person charged has engaged in an
32 unfair method of competition or an unfair or deceptive act or practice in
33 violation of NRS 686A.010 to 686A.310, inclusive, he shall order him to
34 cease and desist from engaging in that method of competition, act or
35 practice, and may order one or both of the following:

36 (a) If the person knew or reasonably should have known that he was in
37 violation of NRS 686A.010 to 686A.310, inclusive, payment of an
38 administrative fine of not more than \$5,000 for each act or violation, except
39 that as to licensed agents, brokers, solicitors and adjusters, the
40 administrative fine must not exceed \$500 for each act or violation.

41 (b) Suspension or revocation of the person's license **or the person's**
42 **authority to transact insurance** if he knew or reasonably should have
43 known that he was in violation of NRS 686A.010 to 686A.310, inclusive.

1 2. Until the expiration of the time allowed for taking an appeal,
2 pursuant to NRS 679B.370, if no petition for review has been filed within
3 that time, or, if a petition for review has been filed within that time, until the
4 official record in the proceeding has been filed with the court, the
5 commissioner may, at any time, upon such notice and in such manner as he
6 deems proper, modify or set aside, in whole or in part, any order issued by
7 him under this section.

8 3. After the expiration of the time allowed for taking an appeal, if no
9 petition for review has been filed, the commissioner may at any time, after
10 notice and opportunity for hearing, reopen and alter, modify or set aside, in
11 whole or in part, any order issued by him under this section whenever in his
12 opinion conditions of fact or of law have so changed as to require such
13 action or if the public interest so requires.

14 **Sec. 13.** NRS 686A.187 is hereby amended to read as follows:

15 686A.187 Any person who violates a cease and desist order of the
16 commissioner issued under NRS 686A.183, except one issued with respect
17 to NRS 686A.170, is subject, in the discretion of the commissioner, after
18 notice and hearing and upon order of the commissioner, to one or both of
19 the following:

20 1. Payment of an administrative fine of not more than \$5,000 for each
21 and every violation.

22 2. Suspension or revocation of ~~the license.~~ **his license or his authority**
23 **to transact insurance.**

24 **Sec. 14.** NRS 686A.260 is hereby amended to read as follows:

25 686A.260 The commissioner may revoke or suspend the license **or the**
26 **authority to transact insurance** of any person domiciled or resident in
27 Nevada and licensed, **certified or otherwise authorized** to transact
28 insurance in Nevada as insurer, agent, broker or otherwise, upon a hearing
29 and proof that such person, as the result of a hearing before the
30 commissioner, director or superintendent of insurance or insurance
31 department of another state, or in a judicial proceeding in another state, has
32 been found to have violated the insurance laws of that state relating to unfair
33 methods of competition or unfair or deceptive acts or practices in the
34 conduct of the business of insurance, and as a result thereof either has had
35 his license **or other authority to transact insurance** revoked or suspended
36 in that state or has been found guilty of failing to comply with any order,
37 decree or judgment issued pursuant to such hearing or judicial proceeding in
38 that state.

39 **Sec. 15.** 1. This section and sections 1, 2 and 4 to 14, inclusive, of
40 this act become effective on July 1, 1999.

41 2. Section 3 of this act becomes effective at 12:01 a.m. on July 1, 1999.