

SENATE BILL NO. 252—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 26, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes changes concerning Nevada Life and Health Insurance Guaranty Association Act. (BDR 57-683)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: 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; revising the Nevada Life and Health Insurance Guaranty Association Act to incorporate changes made in the model act; prohibiting certain acts; 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.** NRS 681A.230 is hereby amended to read as follows:  
2     681A.230 1. Credit must be allowed as an asset or as a deduction  
3     from liability to any ceding insurer for reinsurance lawfully ceded to an  
4     assuming insurer qualified therefor pursuant to NRS 681A.110, 681A.150,  
5     681A.160, 681A.170, 681A.180 or 681A.190, but no such credit may be  
6     allowed unless the contract for reinsurance provides in substance that, in  
7     the event of the insolvency of the ceding insurer, the reinsurance is payable  
8     pursuant to a contract reinsured by the assuming insurer on the basis of  
9     reported claims allowed in any liquidation proceedings, subject to court  
10    approval, without diminution because of the insolvency of the ceding  
11    insurer. ~~{Such}~~ *Except as otherwise provided in section 14 of this act,*  
12    *those* payments must be made directly to the ceding insurer or to its  
13    domiciliary liquidator unless:  
14    (a) The contract of reinsurance or other written contract specifically  
15    designates another payee of the payments in the event of the insolvency of  
16    the ceding insurer; or  
17    (b) The assuming insurer, with the consent of the persons directly  
18    insured, has assumed the obligations from the policies issued by the ceding  
19    insurer as direct obligations of the assuming insurer, and in substitution for  
20    the obligations of the ceding insurer, to the payees under those policies.  
21    2. The domiciliary liquidator of an insolvent ceding insurer shall give  
22    written notice to the assuming insurer of the pendency of any claim against  
23    the ceding insurer on any contract reinsured within a reasonable time after



1 such a claim is filed in the liquidation proceeding. During the pendency of  
2 the claim, the assuming insurer may investigate the claim and, at its own  
3 expense, interpose in the proceeding in which the claim is to be adjudicated  
4 any defense that the assuming insurer deems available to the ceding insurer  
5 or its liquidator.

6 **Sec. 2.** Chapter 686C of NRS is hereby amended by adding thereto  
7 the provisions set forth as sections 3 to 20, inclusive, of this act.

8 **Sec. 3.** *“Authorized assessment” or “authorized” as used in the*  
9 *context of assessments means or describes an assessment authorized by a*  
10 *resolution of the board of directors of the association to be imposed*  
11 *immediately or later on member insurers in a specified amount.*

12 **Sec. 4.** *“Benefit plan” means a benefit plan for a specific employee,*  
13 *union or association of natural persons.*

14 **Sec. 5.** *“Called assessment” or “called” as used in the context of*  
15 *assessments means or describes an authorized assessment required by a*  
16 *notice mailed by the association to member insurers to be paid within the*  
17 *time set forth in the notice.*

18 **Sec. 6.** *“Extra-contractual claim” includes a claim relating to bad*  
19 *faith in the payment of claims and a claim for punitive or exemplary*  
20 *damages or for costs and attorney’s fees.*

21 **Sec. 7.** *“Owner” of a policy or contract means the person who is*  
22 *identified as the legal owner under the terms of the policy or contract or*  
23 *who is otherwise vested with legal title to the policy or contract through a*  
24 *valid assignment completed in accordance with the terms of the policy or*  
25 *contract and properly recorded as the owner on the books of the issuer.*

26 **Sec. 8.** *“Person” includes a government, governmental agency or*  
27 *political subdivision of a government.*

28 **Sec. 9. 1.** *“Principal place of business” of an organization means*  
29 *the single state in which the natural persons who establish policy for the*  
30 *direction, control and coordination of the operations of the organization*  
31 *as a whole primarily perform that function, determined by the*  
32 *association in its reasonable judgment by considering:*

33 *(a) The state in which the primary executive and administrative*  
34 *headquarters of the organization is located;*

35 *(b) The state in which the principal office of the chief executive*  
36 *officer of the organization is located;*

37 *(c) The state in which the board of directors, or similar governing*  
38 *authority, of the organization conducts the majority of its meetings;*

39 *(d) The state in which the executive or managerial committee of the*  
40 *board of directors, or similar governing authority, of the organization*  
41 *conducts the majority of its meetings; and*

42 *(e) The state from which the management of the overall operations of*  
43 *the organization is directed.*

44 **2.** *“Principal place of business” of the sponsor of a benefit plan*  
45 *means the principal place of business of the association, committee, joint*  
46 *board of trustees or similar group of representatives of the parties who*  
47 *establish or maintain the plan or, if that cannot be ascertained, of the*  
48 *employer or the employee organization that has the largest investment in*  
49 *the plan, except that in either case if more than half of the participants of*



1 *the plan are employed in one state, it means that state. In the case of a*  
2 *benefit plan sponsored by affiliated companies comprising a consolidated*  
3 *corporation, it means the state in which the holding company or*  
4 *controlling affiliate has its principal place of business as determined by*  
5 *using the factors set forth in subsection 1.*

6 **Sec. 10.** *"State" means a state of the United States, the District of*  
7 *Columbia, Puerto Rico, the United States Virgin Islands or any territory*  
8 *or insular possession subject to the jurisdiction of the United States.*

9 **Sec. 11.** *"Structured settlement annuity" means an annuity*  
10 *purchased to fund periodic payments to a plaintiff or other claimant in*  
11 *payment for or with respect to personal injury suffered by him.*

12 **Sec. 12.** *Premiums due for coverage after entry of an order of*  
13 *liquidation of an insolvent insurer belong to and are payable at the*  
14 *direction of the association, and the association is liable for unearned*  
15 *premiums due to owners of policies or contracts arising after the entry of*  
16 *such an order.*

17 **Sec. 13.** *A deposit in this state, held pursuant to law or required by*  
18 *the commissioner for the benefit of creditors, including owners of*  
19 *policies, not turned over to the domiciliary receiver upon the entry of a*  
20 *final order of liquidation or order approving a plan of rehabilitation of*  
21 *an insurer domiciled in this state or a reciprocal state pursuant to NRS*  
22 *696B.290 or 696B.300 must be promptly paid to the association. The*  
23 *association is entitled to retain a portion of an amount so paid to it that is*  
24 *equal to the percentage determined by dividing the aggregate amount of*  
25 *policy owners' claims related to that insolvency for which the association*  
26 *has provided statutory benefits by the aggregate amount of all policy*  
27 *owners' claims in this state related to that insolvency, and shall remit the*  
28 *remainder to the domiciliary receiver. The amount so remitted is a*  
29 *distribution of the assets of the insurer for the purposes of chapter 696B*  
30 *of NRS.*

31 **Sec. 14.** *1. As used in this section, "coverage date" means the date*  
32 *on which the association becomes liable for the obligations of a member*  
33 *insurer.*

34 *2. At any time after the coverage date, the association may elect to*  
35 *succeed to the rights and obligations of the member insurer which accrue*  
36 *on or after the coverage date and relate to contracts covered, in whole or*  
37 *in part, by the association under any one or more agreements for*  
38 *indemnity reinsurance entered into by the member insurer as ceding*  
39 *insurer and selected by the association. However, the association may not*  
40 *exercise its right of election with respect to an agreement for reinsurance*  
41 *if the receiver, rehabilitator or liquidator of the member insurer has*  
42 *previously expressly disaffirmed the agreement. The election must be*  
43 *effected by a notice to the receiver, rehabilitator or liquidator and the*  
44 *affected reinsurers. If the association makes such an election:*

45 *(a) The association is responsible for all unpaid premiums due under*  
46 *each agreement for periods both before and after the coverage date, and*  
47 *for the performance of all other obligations to be performed after the*  
48 *coverage date, in each case which relates to a contract covered in whole*  
49 *or in part by the association. The association may charge a contract*



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- 1 covered in part by it, through reasonable methods of allocation, for the  
2 costs of reinsurance in excess of the obligations of the association.
- 3 (b) The association is entitled to any amount payable by the reinsurer  
4 under each agreement with respect to losses or events that occur in  
5 periods after the coverage date and relate to contracts covered in whole  
6 or in part by the association, but upon receipt of any such amount, the  
7 association is obligated to pay, to the beneficiary under the contract on  
8 account of which the amount was paid, that portion of the amount  
9 received by the association that exceeds the benefits paid by the  
10 association on account of the contract less the retention by the impaired  
11 or insolvent member insurer applicable to the loss or event.
- 12 (c) The association and each reinsurer shall, within 30 days after the  
13 election, calculate the net balance due to or from the association under  
14 each agreement as of the date of the election, giving full credit for all  
15 items paid by the member insurer or its receiver, rehabilitator or  
16 liquidator, or the reinsurer, between the coverage date and the date of the  
17 election. The association or the reinsurer shall pay the net balance  
18 within 5 days after the completion of the calculation. If a receiver,  
19 rehabilitator or liquidator has received any amount due the association  
20 pursuant to paragraph (b), the recipient shall remit the amount to the  
21 association as promptly as practicable.
- 22 (d) The reinsurer may not terminate an agreement for reinsurance  
23 insofar as it relates to contracts covered by the association in whole or in  
24 part, or set off any unpaid premium due for a period before the coverage  
25 date against the amount due the association, if the association, within 60  
26 days after the election, pays the premiums due for periods both before  
27 and after the coverage date which relate to such contracts.
- 28 3. If the association transfers its obligation to another insurer, and  
29 the association and the other insurer so agree, the other insurer succeeds  
30 to the rights and obligations of the association under subsection 2  
31 effective as of the agreed date, whether or not the association has made  
32 the election described in subsection 2, except that:
- 33 (a) An agreement for indemnity reinsurance automatically terminates  
34 as to new reinsurance unless the reinsurer and the other insurer agree to  
35 the contrary;
- 36 (b) The obligation of the association to the beneficiary under  
37 paragraph (b) of subsection 2 ceases on the date of the transfer to the  
38 other insurer; and
- 39 (c) This subsection does not apply if the association has previously  
40 expressly determined in writing that it will not exercise its right of  
41 election under subsection 2.
- 42 4. The provisions of this section supersede an affected agreement for  
43 reinsurance which provides for or requires payment of proceeds of  
44 reinsurance, on account of a loss or event that occurs after the coverage  
45 date, to the receiver, rehabilitator or liquidator of the insolvent member  
46 insurer. The receiver, rehabilitator or liquidator remains entitled to any  
47 amounts payable by the reinsurer under the agreement with respect to



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1 *losses or events that occur before the coverage date, subject to any*  
2 *applicable setoff.*

3 *5. Except as otherwise expressly provided, this section does not alter*  
4 *or modify the terms or conditions of any agreement of the insolvent*  
5 *insurer for reinsurance, abrogate or limit any right of a reinsurer to*  
6 *rescind an agreement for reinsurance, or give an owner or beneficiary of*  
7 *a policy an independent cause of action against a reinsurer under an*  
8 *agreement for indemnity reinsurance that is not otherwise set forth in the*  
9 *agreement.*

10 **Sec. 15.** *1. The board of directors of the association may exercise*  
11 *reasonable business judgment to determine the means by which the*  
12 *association is to provide the benefits of this chapter in an economical and*  
13 *efficient manner.*

14 *2. Where the association has arranged or offered to provide the*  
15 *benefits of this chapter to a covered person under a plan or arrangement*  
16 *that satisfies the obligations of the association under this chapter, the*  
17 *covered person is not entitled to benefits from the association in addition*  
18 *to or other than those provided under the plan or arrangement.*

19 **Sec. 16.** *Venue in an action against the association arising under*  
20 *this chapter lies in Washoe County. No appeal bond may be required of*  
21 *the association in an appeal that relates to a cause of action arising*  
22 *under this chapter.*

23 **Sec. 17.** *In carrying out its duties in connection with guaranteeing,*  
24 *assuming or reinsuring a policy or contract under NRS 686C.150 and*  
25 *686C.152, the association, subject to the approval of the court in the*  
26 *insolvent or impaired insurer's state which has jurisdiction over the*  
27 *conservation, rehabilitation or liquidation of the insurer, may issue*  
28 *substitute coverage for a policy or contract that provides an interest rate,*  
29 *crediting rate or similar factor determined by use of an index or other*  
30 *external reference stated in the policy or contract employed in*  
31 *calculating returns or changes in value by issuing an alternative policy*  
32 *or contract if:*

33 *1. In lieu of the index or other external reference stated in the*  
34 *original policy or contract, the alternative policy or contract provides for*  
35 *a fixed interest rate, payment of dividends guaranteed as to minimum*  
36 *amount, or a different method of calculating interest or changes in*  
37 *value;*

38 *2. There is no requirement for evidence of insurability, waiting*  
39 *period or other exclusion that would not have applied under the replaced*  
40 *policy or contract; and*

41 *3. The alternative policy or contract is substantially similar to the*  
42 *replaced policy or contract in all other material terms.*

43 **Sec. 18.** *1. A member insurer that wishes to protest all or part of*  
44 *an assessment shall pay the full amount of the assessment when due, as*  
45 *set forth in the notice from the association. The payment may be used to*  
46 *meet obligations of the association during the pendency of the*  
47 *assessment and any subsequent appeal. Payment must be accompanied*



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1 *by a statement in writing that the payment is made under protest and*  
2 *setting forth briefly the grounds for the protest.*

3 2. *Within 60 days after the payment of an assessment under protest,*  
4 *the association shall notify the member insurer in writing of the*  
5 *determination of the association with respect to the protest, unless the*  
6 *association notifies the member insurer that additional time is required*  
7 *to resolve the issues raised by the protest.*

8 3. *Within 30 days after a final decision is made, the association shall*  
9 *notify the protesting member insurer in writing of the final decision.*  
10 *Within 60 days after receipt of that notice, the protesting member insurer*  
11 *may appeal the decision to the commissioner.*

12 4. *As an alternative to making a final decision with respect to a*  
13 *protest concerning the basis of assessment, the association may refer the*  
14 *protest to the commissioner for a final decision, with or without a*  
15 *recommendation from the association.*

16 5. *If a protest or appeal is upheld, the amount paid in error or excess*  
17 *must be returned to the member insurer. Interest must be paid on the*  
18 *refund at the rate actually earned by the association.*

19 **Sec. 19.** *The association may request information from member*  
20 *insurers to aid in the exercise of its powers under this chapter, and each*  
21 *member shall promptly comply with such a request.*

22 **Sec. 20.** *It is unlawful for an insurer, agent or affiliate of an*  
23 *insurer, or other person to make, publish, circulate or place before the*  
24 *public, or cause any other person to do so, in any publication, notice,*  
25 *circular, letter or poster, or over any radio or television station, any*  
26 *advertisement or statement, written or oral, which uses the existence of*  
27 *the association for the sale, solicitation or inducement to purchase any*  
28 *form of insurance covered by the association. This section does not apply*  
29 *to the association or any other person that does not sell or solicit*  
30 *insurance.*

31 **Sec. 21.** NRS 686C.020 is hereby amended to read as follows:  
32 686C.020 The purpose of this chapter is to protect , *within certain*  
33 *limits, the* persons specified in subsection 1 of NRS 686C.030 against  
34 failure in the performance of contractual obligations under life and health  
35 insurance policies ~~[- annuities and contracts]~~ *and contracts, and annuities,*  
36 specified in subsection ~~[- 4]~~ 4 of NRS 686C.030 because of the impairment  
37 or insolvency of ~~[- the]~~ *a member* insurer issuing such policies or contracts.

38 **Sec. 22.** NRS 686C.030 is hereby amended to read as follows:  
39 686C.030 1. This chapter provides coverage for the policies or  
40 contracts described in subsection ~~[- 4]~~ 4 to persons who are:

41 (a) Owners of or certificate holders under such policies or contracts,  
42 *other than structured settlement annuities,* and who:

43 (1) Are residents of this state; or

44 (2) Are not residents, but only if:

45 (I) The ~~[- insurers which]~~ *insurer that* issued the policies or  
46 contracts ~~[- are]~~ *is* domiciled in this state;



\* S B 2 5 2 \*

1 (II) ~~{Those insurers did not hold at the time the policies or~~  
2 ~~contracts were issued a license or certificate of authority in the states in~~  
3 ~~which those persons reside;~~

4 ~~—(III)—~~ The states in which the ~~{nonresident}~~ persons reside have  
5 associations ~~{for protection against impaired or insolvent insurers}~~ similar  
6 to the association created by this chapter; and

7 ~~{(IV) Those}~~

8 (III) *The persons are not eligible for coverage by ~~{those}~~ an*  
9 *association in another state because the insurer was not authorized in the*  
10 *other state at the time specified in that state's law governing guaranty*  
11 *associations; and*

12 (b) Beneficiaries, assignees or payees of the persons covered under  
13 paragraph (a), wherever they reside, except for nonresident certificate  
14 holders under group policies or contracts.

15 2. *For structured settlement annuities, except as otherwise provided*  
16 *in subsection 3, this chapter provides coverage to a payee under the*  
17 *annuity, or beneficiary of a payee if the payee is deceased, if the payee or*  
18 *beneficiary:*

19 (a) *Is a resident of this state, regardless of the residence of the owner*  
20 *of the annuity; or*

21 (b) *Is not a resident of this state, but:*

22 (1) *The owner of the annuity is a resident of this state, or the issuer*  
23 *of the annuity is domiciled in this state and the state in which the owner*  
24 *resides has an association similar to the association created by this*  
25 *chapter; and*

26 (2) *Neither the payee or beneficiary nor the owner of the annuity is*  
27 *eligible for coverage by the association of the state in which the payee,*  
28 *beneficiary or owner resides.*

29 3. *This chapter does not provide coverage for a payee or beneficiary*  
30 *of a structured settlement annuity if the owner of the annuity is a*  
31 *resident of this state and the payee or beneficiary is afforded any*  
32 *coverage by the association of another state. In determining the*  
33 *application of the provisions of this section to a situation where a person*  
34 *could be covered by the association of more than one state, this chapter*  
35 *must be construed in conjunction with the laws of other states to result in*  
36 *coverage by only one association.*

37 4. This chapter provides coverage to the persons described in  
38 subsection 1 for direct, nongroup life, health and supplemental policies or  
39 contracts, and annuities, and certificates under direct group policies and  
40 contracts, and annuities, ~~{issued by member insurers,}~~ except as limited by  
41 this chapter. *As used in this subsection, "annuity" includes an agreement*  
42 *for allocated funding, a structured settlement annuity, and an immediate*  
43 *or deferred annuity.*

44 **Sec. 23.** NRS 686C.035 is hereby amended to read as follows:

45 686C.035 1. This chapter does not provide coverage for:

46 (a) ~~{Any}~~ *A* portion of a policy or contract not guaranteed by the  
47 insurer, or under which the risk is borne by the ~~{holder}~~ *owner* of the  
48 policy or contract.





- 1 (b) ~~{Any}~~ A policy or contract of reinsurance unless assumption  
2 certificates have been issued pursuant to that policy or contract.
- 3 (c) ~~{Any}~~ A portion of a policy or contract to the extent that the rate of  
4 interest on which it is based:
- 5 (1) ~~{When averaged}~~ *Averaged* over the period of 4 years before the  
6 date on which the association becomes obligated with respect to the policy  
7 or contract, ~~for averaged for the period since the policy or contract was~~  
8 ~~issued if it was issued less than 4 years before the association became~~  
9 ~~obligated.~~ exceeds the rate of interest determined by subtracting 2  
10 percentage points from Moody's Corporate Bond Yield Average averaged  
11 for the same period ~~{}~~, *or for the period between the date of issuance of*  
12 *the policy or contract and the date the association became obligated,*  
13 *whichever period is less;* and
- 14 (2) On or after the date on which the association becomes obligated  
15 with respect to the policy or contract, exceeds the rate of interest  
16 determined by subtracting 3 percentage points from ~~{the most recent}~~  
17 Moody's Corporate Bond Yield Average ~~{}~~.
- 18 ~~—(d) Any as most recently available.~~
- 19 (d) A portion of a policy or contract issued to a plan or program of an  
20 employer, association or other person to provide life, health or annuity  
21 benefits to its employees, members or other persons to the extent that the  
22 plan or program is self-funded or uninsured, including, but not limited to,  
23 benefits payable by an employer, association or other person under:
- 24 (1) A multiple employer welfare arrangement ~~{as defined}~~ *described*  
25 *in 29 U.S.C. § 1002; § 1144;*
- 26 (2) A minimum-premium group insurance plan;
- 27 (3) A stop-loss group insurance plan; or
- 28 (4) A contract for administrative services only.
- 29 (e) ~~{Any}~~ A portion of a policy or contract to the extent that it provides  
30 for dividends, credits for experience, voting rights or the payment of any  
31 fee or allowance to any person, including the ~~{holder}~~ *owner* of a policy or  
32 contract, for services or administration connected with the policy or  
33 contract.
- 34 (f) ~~{Any}~~ A policy or contract issued in this state by a member insurer at  
35 a time when the member insurer was not authorized to issue the policy or  
36 contract in this state.
- 37 (g) A portion of a policy or contract to the extent that the assessments  
38 required by NRS 686C.230 ~~{for}~~ *with respect to* the policy or contract are  
39 preempted by federal law.
- 40 (h) An obligation that does not arise under the *express* written terms of  
41 ~~{a}~~ *the* policy or contract issued by the insurer ~~{}~~.
- 42 ~~{+}~~, *including:*
- 43 (1) *Claims based on marketing materials;*
- 44 (2) *Claims based on side letters, riders or other documents that were*  
45 *issued by the insurer without satisfying applicable requirements for filing*  
46 *or approval of policy forms;*
- 47 (3) *Misrepresentations of or regarding policy benefits;*
- 48 (4) *Extra-contractual claims; or*
- 49 (5) *A claim for penalties or consequential or incidental damages.*





1 *(i) A contractual agreement that establishes the member insurer's*  
2 *obligation to provide a guarantee based on accounting at book value for*  
3 *participants in a defined-contribution benefit plan by reference to a*  
4 *portfolio of assets owned by the benefit plan or its trustee, which in each*  
5 *case is not an affiliate of the member insurer.*

6 *(j) An unallocated annuity contract.*

7 2. As used in this section, "Moody's Corporate Bond Yield Average"  
8 means the monthly average for corporate bonds published by Moody's  
9 Investors Service, Inc., or any successor average.

10 **Sec. 24.** NRS 686C.040 is hereby amended to read as follows:

11 686C.040 As used in this chapter, unless the context otherwise  
12 requires, the words and terms defined in NRS 686C.045 to 686C.125,  
13 inclusive, *and sections 3 to 11, inclusive, of this act* have the meanings  
14 ascribed to them in those sections.

15 **Sec. 25.** NRS 686C.070 is hereby amended to read as follows:

16 686C.070 "Contractual obligation" means any obligation under a  
17 policy or contract or a certificate under a group policy or contract, or  
18 portion thereof, for which coverage is provided under NRS 686C.030 . ~~†~~  
19 ~~and includes unearned premiums.†~~

20 **Sec. 26.** NRS 686C.090 is hereby amended to read as follows:

21 686C.090 "Impaired insurer" means an insurer which is not an  
22 insolvent insurer and ~~†~~

23 ~~—1. Is† is~~ placed under an order of rehabilitation or conservation by a  
24 court of competent jurisdiction . ~~†; or~~

25 ~~—2. Is determined by the commissioner to be unable or potentially~~  
26 ~~unable to fulfill its contractual obligations.†~~

27 **Sec. 27.** NRS 686C.100 is hereby amended to read as follows:

28 686C.100 "Member insurer" means ~~†any†~~ *an* insurer which is licensed  
29 or holds a certificate of authority to transact in this state any kind of  
30 insurance for which coverage is provided in this chapter and includes ~~†any†~~  
31 *an* insurer whose license or certificate of authority ~~†to transact such~~  
32 ~~insurance†~~ *in this state* has been suspended, revoked, not renewed or  
33 voluntarily withdrawn. The term does not include:

34 1. A ~~†nonprofit†~~ hospital or medical organization ~~††~~ , *whether or not*  
35 *for profit;*

36 2. A health maintenance organization;

37 3. A fraternal benefit society;

38 4. A mandatory state pooling plan;

39 5. A mutual assessment company or ~~†any entity†~~ *other person* that  
40 operates on the basis of assessments;

41 6. An insurance exchange; ~~†or~~

42 ~~—7. Any other similar entity.†~~

43 *7. An organization that is authorized only to issue charitable gift*  
44 *annuities under NRS 688A.281 to 688A.285, inclusive; or*

45 *8. An organization similar to any of those listed in subsections 1 to 7,*  
46 *inclusive.*

47 **Sec. 28.** NRS 686C.120 is hereby amended to read as follows:

48 686C.120 "Resident" means any person *to whom a contractual*  
49 *obligation is owed and* who resides in this state ~~†at the time†~~ *on the date of*



1 *entry of a court order that determines* a member insurer ~~is determined~~ to  
2 be impaired or insolvent ~~and to whom contractual obligations are owed~~,  
3 *whichever determination is first made*. A person may be a resident of but  
4 one state, which in the case of a person other than a natural person is its  
5 principal place of business. *A citizen of the United States who is a resident*  
6 *of a foreign country or of a territory or insular possession subject to the*  
7 *jurisdiction of the United States which does not have an association*  
8 *similar to the association created by this chapter shall be deemed to be a*  
9 *resident of the state of domicile of the insurer that issued the policy or*  
10 *contract.*

11 **Sec. 29.** NRS 686C.125 is hereby amended to read as follows:

12 686C.125 "Supplemental contract" means ~~an~~ *a written* agreement for  
13 the distribution of proceeds from a ~~contract or policy~~ *life or health*  
14 *insurance policy or an annuity.*

15 **Sec. 30.** NRS 686C.128 is hereby amended to read as follows:

16 686C.128 1. The association shall prepare, and submit to the  
17 commissioner for approval, a summary document describing the general  
18 purposes ~~and exclusions~~ and *current* limitations of this chapter. ~~No insurer~~  
19 ~~may~~ *After the expiration of 60 days after the approval of the summary*  
20 *document by the commissioner, an insurer may not* deliver a policy or  
21 contract ~~described in NRS 686C.030 to an intended holder~~ *to the owner*  
22 *of the policy or contract* unless the *summary* document is delivered to the  
23 ~~intended holder before or~~ *owner* at the time of delivery of the policy or  
24 contract. The document must also be available upon request by ~~a~~  
25 ~~policyholder~~ *the owner of a policy*. The distribution, delivery, contents or  
26 interpretation of this document ~~do not mean~~ *does not guarantee* that the  
27 policy or the contract or ~~the holder thereof would be~~ *its owner is* covered  
28 in the event of the impairment or insolvency of a member insurer. The  
29 descriptive document must be revised by the association as amendments to  
30 this chapter may require. Failure to receive this document does not give the  
31 ~~holder~~ *owner* of a policy or contract, or an insured, any greater rights  
32 than those stated in this chapter.

33 2. The document prepared pursuant to subsection 1 must contain a  
34 clear and conspicuous disclaimer on its face. *The commissioner shall*  
35 *establish the form and content of the disclaimer.* The disclaimer must:

36 (a) State the name and address of the association and of the division;

37 (b) Prominently warn the *owner of the* policy or contract ~~holder~~ that  
38 the association may not cover the policy or, if coverage is available, it will  
39 be subject to substantial limitations and exclusions and conditioned on  
40 continued residence in this state;

41 (c) State *the types of policies for which guaranty funds will provide*  
42 *coverage;*

43 (d) *State* that the insurer and its agents are prohibited by law from using  
44 the existence of the association for the purpose of sales, solicitation or  
45 inducement to purchase any form of insurance;

46 ~~(d) Emphasize~~

47 (e) *State* that the ~~holder~~ *owner* of a policy or contract should not rely  
48 on coverage under the association when selecting an insurer; ~~and~~



\* S B 2 5 2 \*

1 ~~—(e)—~~ (f) *Explain the rights and procedures for filing a complaint to*  
2 *allege a violation of any provision of this chapter; and*

3 (g) Provide other information as directed by the commissioner ~~++~~ ,  
4 *including sources of information about the financial condition of*  
5 *insurers, if the information is not proprietary and is subject to disclosure*  
6 *under the law of the state in which the insurer is domiciled.*

7 3. *A member insurer shall retain evidence of compliance with*  
8 *subsection 1 while the policy or contract for which the notice is given*  
9 *remains in effect.*

10 **Sec. 31.** NRS 686C.130 is hereby amended to read as follows:

11 686C.130 1. There is hereby created a nonprofit ~~+, unincorporated,~~  
12 legal entity to be known as the Nevada Life and Health Insurance Guaranty  
13 Association. All member insurers shall be and remain members of the  
14 association as a condition of their authority to transact insurance in this  
15 state. The association shall perform its functions under the plan of  
16 operation established and approved pursuant to NRS 686C.290 and shall  
17 exercise its powers through a board of directors established pursuant to  
18 NRS 686C.140.

19 2. For purposes of administration and assessment, the association shall  
20 maintain two accounts:

21 (a) The account for health insurance; and

22 (b) The account for life insurance and annuities, which consists of:

23 (1) The subaccount for life insurance; and

24 (2) The subaccount for annuities ~~++~~ , *including annuities owned by a*  
25 *governmental retirement plan, or its trustees, established under section*  
26 *401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,*  
27 *403(b) and 457.*

28 3. The association is under the immediate supervision of the  
29 commissioner and is subject to the applicable provisions of the Nevada  
30 Insurance Code. *Meetings or records of the association may be opened to*  
31 *the public by majority vote of the board of directors.*

32 **Sec. 32.** NRS 686C.140 is hereby amended to read as follows:

33 686C.140 1. The board of directors of the association ~~{shall consist}~~  
34 *consists* of not less than five nor more than nine members, serving terms as  
35 established in the plan of operation. The members of the board ~~{shall}~~ *who*  
36 *represent insurers must* be selected by member insurers subject to the  
37 approval of the commissioner. *Two public representatives must be*  
38 *appointed to the board by the commissioner. A public representative may*  
39 *not be an officer, director or employee of an insurer or engaged in the*  
40 *business of insurance.* Vacancies on the board ~~{shall}~~ *must* be filled for  
41 the remaining period of the term ~~{in the manner described in the plan of~~  
42 ~~operation}~~ *by majority vote of the members of the board, subject to the*  
43 *approval of the commissioner, for members who represent insurers, and*  
44 *by the commissioner for public representatives.* To select the initial board  
45 of directors, and initially organize the association, the commissioner shall  
46 give notice to all member insurers of the time and place of the  
47 organizational meeting. In determining voting rights at the organizational  
48 meeting each member insurer ~~{shall be}~~ *is* entitled to one vote in person or  
49 by proxy. If the board of directors is not selected within 60 days after



\* S B 2 5 2 \*

1 notice of the organizational meeting, the commissioner may appoint the  
2 initial members ~~to~~ *to represent insurers in addition to the public*  
3 *representatives.*

4 2. In approving selections or in appointing members to the board, the  
5 commissioner shall consider, among other things, whether all member  
6 insurers are fairly represented.

7 3. Members of the board may be reimbursed from the assets of the  
8 association for expenses incurred by them as members of the board of  
9 directors but members of the board ~~shall~~ *may* not otherwise be  
10 compensated by the association for their services.

11 **Sec. 33.** NRS 686C.150 is hereby amended to read as follows:

12 686C.150 If a ~~domestic~~ member insurer is an impaired insurer, the  
13 association may, subject to any conditions it may impose which do not  
14 impair the contractual obligations of the impaired insurer, are approved by  
15 the commissioner, and, except in cases of court-ordered conservation or  
16 rehabilitation, are approved by the impaired insurer:

17 1. Guarantee, assume or reinsure, or cause to be guaranteed, assumed  
18 or reinsured, any or all of the covered policies or contracts of the impaired  
19 insurer.

20 2. Provide such money, pledges, *loans*, notes, guarantees or other  
21 means as are proper to effectuate subsection 1, and assure payment of the  
22 contractual obligations of the impaired insurer pending action under  
23 subsection 1.

24 ~~3. Lend money to the impaired insurer.~~

25 **Sec. 34.** NRS 686C.152 is hereby amended to read as follows:

26 686C.152 If a member insurer is an insolvent insurer, the association  
27 shall:

28 1. Guarantee, assume or reinsure, or cause to be guaranteed, assumed  
29 or reinsured, the policies or contracts of the insolvent insurer; or

30 2. Ensure payment of the contractual obligations of the insolvent  
31 insurer and:

32 (a) Provide such money, pledges, *loans, notes*, guarantees or other  
33 means as are reasonably necessary to discharge ~~such~~ *its* duties; or

34 (b) ~~With respect only to life and health insurance policies, provide~~  
35 *Provide* benefits and coverages in accordance with NRS 686C.153 and  
36 686C.154.

37 **Sec. 35.** NRS 686C.153 is hereby amended to read as follows:

38 686C.153 When proceeding pursuant to paragraph (b) of subsection ~~1~~  
39 ~~of NRS 686C.151 or paragraph (b) of subsection~~ 2 of NRS 686C.152, the  
40 association shall ~~with~~ :

41 1. *With* respect to life and health insurance policies ~~only~~:

42 ~~1. Ensure~~ *and annuities, ensure* payment of benefits for premiums  
43 identical to the premiums and benefits, except for terms of conversion and  
44 renewability, which would have been payable under policies *or contracts*  
45 of the insolvent insurer, for claims incurred with respect to:

46 (a) A group policy *or contract*, not later than the earlier of the next  
47 renewal date under the policy or contract or 45 days, but in no event less  
48 than 30 days, after the date when the association becomes obligated with  
49 respect to that policy ~~to~~



1 ~~—(b) An individual policy,} or contract.~~

2 (b) *A nongroup policy, contract or annuity*, not later than the earlier of  
3 the next renewal date, if any, under the policy , *contract or annuity* or 1  
4 year, but in no event less than 30 days, after the date when the association  
5 becomes obligated with respect to that policy ~~},~~ *contract or annuity*.

6 2. Make diligent efforts to provide all known insureds or  
7 ~~{policyholders}~~ *owners* with respect to group policies *or contracts, or*  
8 *annuitants with respect to annuities*, 30 days' notice of termination of the  
9 benefits provided ~~†~~

10 ~~—3. Make} pursuant to subsection 1.~~

11 3. *With respect to nongroup life and health insurance policies and*  
12 *annuities, make* available substitute coverage on an individual basis, in  
13 accordance with the provisions of subsection 4, to each known insured  
14 ~~{under an individual policy,} or annuitant~~, or owner if other than the  
15 insured ~~},~~ *or annuitant*, and to each natural person formerly insured , *or*  
16 *formerly an annuitant*, under a group policy who is not eligible for  
17 replacement group coverage, if the insured *or annuitant* had a right under  
18 law ~~{to convert coverage under} or~~ the terminated policy *or annuity to*  
19 *convert coverage* to individual coverage or to continue an individual policy  
20 *or annuity* in force until a specified age or for a specified period, during  
21 which the insurer had no right unilaterally to make changes in any  
22 provision of the policy *or annuity* or had a right only to make changes in  
23 premium by class.

24 4. In providing the substitute coverage required under subsection 3, the  
25 association may offer to reissue the terminated coverage or to issue an  
26 alternative policy that must be offered without requiring evidence of  
27 insurability or a waiting period or exclusion that would not have applied  
28 under the terminated policy, and may reinsure any alternative or reinsured  
29 policy.

30 **Sec. 36.** NRS 686C.154 is hereby amended to read as follows:

31 686C.154 1. Alternative policies adopted by the association are  
32 subject to the approval of the commissioner ~~†~~ *and the court in the*  
33 *insolvent or impaired insurer's state which has jurisdiction over the*  
34 *conservation, rehabilitation or liquidation of the insurer*. The association  
35 may adopt alternative policies of various types for future issuance without  
36 regard to any particular impairment or insolvency.

37 2. An alternative policy must contain at least the minimum statutory  
38 provisions required in this state and provide benefits that are not  
39 unreasonable in relation to the premium charged. The association shall set  
40 the premium in accordance with a table of rates which it shall adopt. The  
41 premium must reflect the amount of insurance to be provided and the age  
42 and class of risk of each insured, but must not reflect any changes in the  
43 health of the insured after the original policy was last underwritten.

44 3. An alternative policy issued by the association must provide  
45 coverage of a type similar to that of the policy issued by the impaired or  
46 insolvent insurer, as determined by the association.

47 4. If the association elects to reissue terminated coverage at a rate of  
48 premium different from that charged under the terminated policy, the  
49 premium must be set by the association in accordance with the amount of



\* S B 2 5 2 \*

1 insurance provided and the age and class of risk, subject to approval by the  
2 commissioner ~~for by a court of competent jurisdiction.~~ *and the court*  
3 *described in subsection 1.*

4 **Sec. 37.** NRS 686C.155 is hereby amended to read as follows:  
5 686C.155 When proceeding pursuant to paragraph (b) of subsection ~~1~~  
6 ~~of NRS 686C.151 or paragraph (b) of subsection~~ 2 of NRS 686C.152 with  
7 respect to any policy or contract carrying guaranteed minimum interest  
8 rates, the association shall ensure the payment or crediting of a rate of  
9 interest consistent with paragraph (c) of subsection 1 of NRS 686C.035.

10 **Sec. 38.** NRS 686C.160 is hereby amended to read as follows:  
11 686C.160 In carrying out its responsibilities under NRS ~~686C.151~~  
12 ~~and~~ 686C.152, the association may, subject to approval by ~~the court, or~~  
13 ~~by the commissioner if there is no judicial proceeding;~~ *a court of this*  
14 *state:*

15 1. Impose permanent liens on policies and contracts in connection with  
16 any guarantee, assumption or reinsurance if the association finds that the  
17 amounts which can be assessed under this chapter are less than the amounts  
18 needed to ~~assure~~ *ensure* full and prompt performance of the association's  
19 duties or that the economic or financial conditions as they affect member  
20 insurers are sufficiently adverse that the imposition of such permanent liens  
21 is in the public interest.

22 2. Impose temporary moratoriums or liens on payments of cash values  
23 and policy loans or any right to withdraw money held in conjunction with  
24 policies or contracts, in addition to any contractual provisions for deferral  
25 of paying cash value or lending against the policy. *In addition, in the event*  
26 *of a temporary moratorium or charge imposed by the court in the*  
27 *insolvent or impaired insurer's state which has jurisdiction over the*  
28 *conservation, rehabilitation or liquidation of the insurer on such*  
29 *payment or lending, or on any other right to withdraw money held in*  
30 *conjunction with policies or contracts, the association may defer such*  
31 *payment, lending or withdrawal for the period of the moratorium or*  
32 *charge, except for claims covered by the association to be paid in*  
33 *accordance with a procedure for cases of hardship established by the*  
34 *liquidator or rehabilitator and approved by the court.*

35 **Sec. 39.** NRS 686C.170 is hereby amended to read as follows:  
36 686C.170 The association is not liable under NRS ~~686C.151 or~~  
37 ~~686C.152 for any covered policy of a foreign or alien insurer~~ *686C.152*  
38 where a guaranty is provided to residents of this state by the laws of the  
39 domiciliary state or jurisdiction of the impaired or insolvent insurer ~~1~~  
40 *other than this state.*

41 **Sec. 40.** NRS 686C.180 is hereby amended to read as follows:  
42 686C.180 The association may render assistance and advice to the  
43 commissioner upon his request, concerning rehabilitation, payment of  
44 claims, continuation of coverage or the performance of other contractual  
45 obligations of ~~any impaired~~ *an impaired or insolvent* insurer.

46 **Sec. 41.** NRS 686C.190 is hereby amended to read as follows:  
47 686C.190 The association has standing:

48 1. To appear *or intervene* before ~~any~~ *a court or agency* in this state  
49 which has jurisdiction over an impaired or insolvent insurer concerning





1 which the association is or may become obligated under this chapter ~~it~~ *or*  
2 *over any person or property against whom or which the association may*  
3 *have rights through subrogation or otherwise.* Its standing extends to all  
4 matters germane to the powers and duties of the association, including ~~but~~  
5 ~~not limited to~~ proposals for reinsuring , *modifying* or guaranteeing the  
6 ~~covered~~ policies or contracts of the impaired or insolvent insurer and the  
7 determination of the ~~covered~~ policies or contracts and contractual  
8 obligations.

9 2. To appear or intervene before a court *or agency* in another state  
10 which has jurisdiction over an impaired or insolvent insurer for which the  
11 association is or may become obligated, or over ~~a third party~~ *any person*  
12 *or property* against whom *or which* the association may have rights  
13 through subrogation ~~of the insurer's policyholders~~ *or otherwise.*

14 **Sec. 42.** NRS 686C.200 is hereby amended to read as follows:

15 686C.200 1. ~~Any~~ *A* person receiving benefits under this chapter  
16 shall be deemed to have assigned his rights under, and any causes of action  
17 *against any person for losses arising under, resulting from or otherwise*  
18 relating to, the covered policy or contract to the association to the extent of  
19 the benefits received because of this chapter , whether the benefits are  
20 payments of or on account of contractual obligations, continuation of  
21 coverage or provision of substitute or alternative coverages. The  
22 association may require an assignment to it of those rights and causes of  
23 action by any payee, *owner of a* policy or contract , ~~owner~~ beneficiary,  
24 insured or annuitant as a condition precedent to the receipt of any rights or  
25 benefits conferred by this chapter upon that person.

26 2. The rights of the association to subrogation under this subsection  
27 have the same priority against the assets of the impaired or insolvent  
28 insurer as that possessed by the person entitled to receive benefits under  
29 this chapter.

30 3. In addition to the rights provided under subsections 1 and 2, the  
31 association has all rights of subrogation at common law and any other  
32 equitable or legal remedy which would have been available to the impaired  
33 or insolvent insurer or the ~~holder~~ *owner, beneficiary or payee* of a policy  
34 or contract ~~it~~ with respect to the policy or contract ~~it~~ , *including, in the*  
35 *case of a structured settlement annuity, any rights of the owner,*  
36 *beneficiary or payee of the annuity, to the extent of benefits received*  
37 *under this chapter, against a person originally or by succession*  
38 *responsible for the losses arising from the personal injury relating to the*  
39 *annuity or payment for it, except any such person responsible solely by*  
40 *reason of serving as an assignee under section 130 of the Internal*  
41 *Revenue Code, 26 U.S.C. § 130.*

42 4. *If the provisions of subsections 1, 2 and 3 are invalid or ineffective*  
43 *with respect to any person or any claim for any reason, the amount*  
44 *payable to the association with respect to the related covered obligations*  
45 *is reduced by the amount realized by any other person with respect to the*  
46 *person or claim which is attributable to the policies or portions thereof*  
47 *covered by the association.*

48 5. *If the association has provided benefits with respect to a covered*  
49 *obligation and a person recovers amounts as to which the association has*



\* S B 2 5 2 \*



1 *rights under subsections 1 to 4, inclusive, he shall pay to the association*  
2 *the portion of the recovery attributable to the policies or portions thereof*  
3 *covered by the association.*

4 **Sec. 43.** NRS 686C.210 is hereby amended to read as follows:

5 686C.210 1. ~~{Unless further limited by subsection 2, the liability of~~  
6 ~~the association for benefits under this chapter is limited to}~~ *The benefits*  
7 *that the association may become obligated to cover may not exceed* the  
8 lesser of:

9 (a) The contractual obligations for which the insurer is liable or would  
10 have been liable if it were not an impaired or insolvent insurer; ~~for~~

11 (b) With respect to ~~any~~ one life, regardless of the number of policies  
12 or contracts:

13 (1) Three hundred thousand dollars in death benefits from life  
14 insurance, but not more than \$100,000 in net cash for surrender and  
15 withdrawal for life insurance; *or*

16 (2) ~~{One hundred thousand dollars in benefits from health insurance,~~  
17 ~~including any net cash for surrender and withdrawal; and~~

18 ~~—(3)—~~ One hundred thousand dollars in the present value of *benefits*  
19 *from* annuities, including net cash for surrender and withdrawal ~~+~~

20 ~~—2.— The association is not liable to expend more than \$300,000 in the~~  
21 ~~aggregate with~~ ;

22 (c) *With respect to health insurance for any one natural person:*

23 (1) *One hundred thousand dollars for coverages other than*  
24 *disability insurance, basic hospital, medical and surgical insurance or*  
25 *major medical insurance, including any net cash for surrender or*  
26 *withdrawal;*

27 (2) *Three hundred thousand dollars for disability insurance; or*

28 (3) *Five hundred thousand dollars for basic hospital, medical and*  
29 *surgical insurance or major medical insurance; or*

30 (d) *With respect to each payee of a structured settlement annuity, or*  
31 *beneficiary or beneficiaries of the payee if deceased, \$100,000 in present*  
32 *value of benefits from the annuity in the aggregate, including any net*  
33 *cash for surrender or withdrawal.*

34 2. *In no event is the association obligated to cover more than:*

35 (a) *With respect to any one life or person under* ~~{subparagraphs (1), (2)~~  
36 ~~and (3) of paragraph}~~ *paragraphs (b) and (c) of subsection 1* ~~+~~ :

37 (1) *An aggregate of \$300,000 in benefits, excluding benefits for*  
38 *basic hospital, medical and surgical insurance or major medical*  
39 *insurance; or*

40 (2) *An aggregate of \$500,000 in benefits, including benefits for*  
41 *basic hospital, medical and surgical insurance or major medical*  
42 *insurance.*

43 (b) *With respect to one owner of several nongroup policies of life*  
44 *insurance, whether the owner is a natural person or an organization and*  
45 *whether the persons insured are officers, managers, employees or other*  
46 *persons, more than \$5,000,000 in benefits, regardless of the number of*  
47 *policies and contracts held by the owner.*

48 3. *The limitations set forth in this section are limitations on the*  
49 *benefits for which the association is obligated before taking into account*



\* S B 2 5 2 \*

1 *its rights to subrogation or assignment or the extent to which those*  
2 *benefits could be provided out of the assets of the impaired or insolvent*  
3 *insurer attributable to covered policies. The cost of the association's*  
4 *obligations under this chapter may be met by the use of assets*  
5 *attributable to covered policies, or reimbursed to the association*  
6 *pursuant to its rights to subrogation or assignment.*

7 *4. In performing its obligation to provide coverage under NRS*  
8 *686C.150 and 686C.152, the association need not guarantee, assume,*  
9 *reinsure or perform, or cause to be guaranteed, assumed, reinsured or*  
10 *performed, the contractual obligations of the impaired or insolvent*  
11 *insurer under a covered policy or contract which do not materially affect*  
12 *the economic value or economic benefits of the covered policy or*  
13 *contract.*

14 **Sec. 44.** NRS 686C.220 is hereby amended to read as follows:

15 686C.220 The association may:

16 1. Enter into such contracts as are necessary or proper to carry out the  
17 provisions and purposes of this chapter.

18 2. Sue or be sued, including the taking of any legal action necessary or  
19 proper for recovery of any unpaid assessments under NRS 686C.230 or to  
20 settle claims or potential claims against it.

21 3. Borrow money to effect the purposes of this chapter. Any notes or  
22 other evidence of indebtedness of the association not in default are legal  
23 investments for domestic insurers and may be carried as admitted assets.

24 4. Employ or retain such persons as are necessary *or appropriate* to  
25 handle the financial transactions of the association, and to perform such  
26 other functions as become necessary or proper under this chapter.

27 ~~5. Negotiate and contract with any liquidator, rehabilitator,~~  
28 ~~conservator or ancillary receiver to carry out the powers and duties of the~~  
29 ~~association.~~

30 ~~6.~~ Take such legal action as may be necessary *or appropriate* to avoid  
31 *or recover* payment of improper claims.

32 ~~7.~~ 6. Exercise, for the purposes of this chapter and to the extent  
33 approved by the commissioner, the powers of a domestic life or health  
34 insurer, but in no case may the association issue insurance policies or  
35 annuities other than those issued to perform ~~the~~ *its* contractual obligations  
36 ~~of the impaired insurer~~ under this chapter.

37 ~~8.~~ 7. Join an organization of one or more other state associations  
38 having similar purposes, to further the purposes and administer the powers  
39 and duties of the association.

40 8. *Organize itself as a corporation or in other legal form permitted by*  
41 *the laws of this state.*

42 9. *Request information from a person seeking coverage from the*  
43 *association to aid the association in determining its obligations under*  
44 *this chapter with respect to him, and the person shall promptly comply*  
45 *with the request.*

46 10. *Take other necessary or appropriate action to perform its duties*  
47 *and discharge its obligations under this chapter or to exercise its power*  
48 *under this chapter.*



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1     **Sec. 45.** NRS 686C.230 is hereby amended to read as follows:

2     686C.230   1. To provide the money necessary to carry out the powers  
3     and duties of the association, the board *of directors* shall assess the  
4     member insurers, separately for each account, at such times and for such  
5     amounts as the board finds necessary. An assessment is due upon at least  
6     30 days' written notice to the member insurer and accrues interest after it is  
7     due at the rate provided in NRS 99.040.

8     2. There are two classes of assessments, as follows:

9     (a) Assessments in Class A must be ~~made~~ *authorized and called* for  
10    the purpose of meeting administrative and legal costs and other expenses .  
11    ~~including those of examinations conducted pursuant to NRS 686C.310.~~  
12    An assessment in Class A need not be related to a particular impaired or  
13    insolvent insurer.

14    (b) Assessments in Class B must be ~~made~~ *authorized and called* to the  
15    extent necessary to carry out the powers and duties of the association under  
16    NRS 686C.150 to 686C.220, inclusive, with regard to an impaired or  
17    insolvent insurer.

18    **Sec. 46.** NRS 686C.240 is hereby amended to read as follows:

19    686C.240   1. The board *of directors* shall determine the amount of  
20    each assessment in Class A and may, but need not, prorate it. If an  
21    assessment is prorated, the board may provide that any surplus be credited  
22    against future assessments in Class B. An assessment which is not prorated  
23    must not exceed ~~\$300~~ *\$150* for each *member* insurer for any one calendar  
24    year.

25    2. The board may allocate any assessment in Class B among the  
26    accounts according to the premiums or reserves of the impaired or  
27    insolvent insurer or any other standard which it considers fair and  
28    reasonable under the circumstances.

29    3. Assessments in Class B against member insurers for each account  
30    and subaccount must be in the proportion that the premiums received on  
31    business in this state by each assessed member insurer on policies or  
32    contracts covered by each account or subaccount for the 3 most recent  
33    calendar years for which information is available preceding the year in  
34    which the insurer became impaired or insolvent bears to premiums  
35    received on business in this state for those calendar years by all assessed  
36    member insurers.

37    4. Assessments for money to meet the requirements of the association  
38    with respect to an impaired or insolvent insurer must not be ~~made~~  
39    *authorized or called* until necessary to carry out the purposes of this  
40    chapter. Classification of assessments under subsection 2 of NRS  
41    686C.230 and computation of assessments under this section must be made  
42    with a reasonable degree of accuracy, recognizing that exact  
43    determinations may not always be possible. *The association shall notify*  
44    *each member insurer of its anticipated prorated share of an assessment*  
45    *authorized but not yet called within 180 days after it is authorized.*

46    **Sec. 47.** NRS 686C.250 is hereby amended to read as follows:

47    686C.250   1. The association may abate or defer, in whole or in part,  
48    the assessment of a member insurer if, in the opinion of the board ~~of~~ *of*  
49    *directors*, payment of the assessment would endanger the ability of the



1 member insurer to fulfill its contractual obligations. If an assessment  
2 against a member insurer is abated or deferred in whole or in part, the  
3 amount by which that assessment is abated or deferred may be assessed  
4 against the other member insurers in a manner consistent with the basis for  
5 assessments set forth in this section. *As soon as the conditions that caused*  
6 *a deferral have been removed or rectified, the member insurer shall pay*  
7 *all assessments that were deferred pursuant to a plan of repayment*  
8 *approved by the association.*

9 2. ~~He~~ *Except as otherwise provided in subsection 3, the* total of all  
10 assessments ~~upon~~ *authorized by the association with respect to* a  
11 member insurer for:

12 (a) The account for life insurance and annuities and each of its  
13 subaccounts; and

14 (b) The account for health insurance,  
15 respectively must not in any 1 calendar year exceed 2 percent of the  
16 insurer's average *annual* premiums *received* in this state on the policies  
17 *and contracts* covered by the *subaccount or* account during the 3 calendar  
18 years preceding the year in which the ~~impairment or insolvency is~~  
19 ~~determined.~~ *insurer became impaired or insolvent.*

20 3. *If two or more assessments are authorized in 1 calendar year with*  
21 *respect to insurers that became impaired or insolvent in different*  
22 *calendar years, the average annual premiums received for the purposes*  
23 *of the limitation provided in subsection 2 are equal and limited to the*  
24 *higher of the 3-year annual premiums for the applicable account or*  
25 *subaccount as calculated pursuant to this section.*

26 4. If the maximum assessment, together with the other assets of the  
27 association in ~~either~~ *an* account, does not provide in any 1 year in either  
28 account an amount sufficient to carry out the responsibilities of the  
29 association, the necessary additional money must be assessed as soon  
30 thereafter as permitted by this chapter.

31 ~~4. If an assessment of 1 percent for either~~

32 5. *If the maximum assessment for a* subaccount of the account for life  
33 insurance and annuities in any 1 year does not provide an amount sufficient  
34 to carry out the responsibilities of the association, then pursuant to  
35 subsection 3 of NRS 686C.240, the board shall assess ~~both subaccounts~~  
36 *the other subaccount* for the necessary additional amount, subject to the  
37 maximum stated in subsection 2.

38 ~~5.~~ 6. The board may provide in the plan of operation a method of  
39 allocating funds among claims, whether relating to one or more impaired or  
40 insolvent insurers, when the maximum assessment is insufficient to cover  
41 anticipated claims.

42 **Sec. 48.** NRS 686C.260 is hereby amended to read as follows:

43 686C.260 The board *of directors* may, by an equitable method as  
44 established in the plan of operation, refund to member insurers, in  
45 proportion to the contribution of each insurer to that account, the amount  
46 by which the assets of the account exceed the amount the board finds is  
47 necessary to carry out during the coming year the obligations of the  
48 association with regard to that account, including assets accruing from  
49 assignment, subrogation, net realized gains and income from investments.



\* S B 2 5 2 \*

1 A reasonable amount may be retained in any account to provide funds for  
2 the continuing expenses of the association and for future ~~losses.~~ *claims.*

3 **Sec. 49.** NRS 686C.280 is hereby amended to read as follows:

4 686C.280 1. The association shall issue to each insurer paying an  
5 assessment under this chapter, *other than an assessment in Class A*, a  
6 certificate of contribution, in a form prescribed by the commissioner, for  
7 the amount *of the assessment* so paid. All outstanding certificates are of  
8 equal dignity and priority without reference to ~~the~~ amounts or dates of  
9 issue. A member insurer may show a certificate of contribution as an asset  
10 in its financial statement in such form, for such amount, if any, and for  
11 such period as the commissioner may approve.

12 2. A member insurer may offset against its liability for premium tax to  
13 this state, accrued with respect to business transacted in a calendar year, an  
14 amount equal to 20 percent of the amount certified pursuant to subsection 1  
15 in each of the 5 calendar years following the year in which the assessment  
16 was paid. If an insurer ceases to transact business, it may offset all  
17 uncredited assessments against its liability for premium tax for the year in  
18 which it so ceases.

19 3. Any sum acquired by refund from the association pursuant to NRS  
20 686C.260 which previously had been written off by the contributing  
21 insurer and offset against premium taxes as provided in subsection 2 must  
22 be paid to the department of taxation and deposited by it with the state  
23 treasurer for credit to the state general fund. The association shall notify  
24 the commissioner and the department of taxation of each refund made.

25 **Sec. 50.** NRS 686C.290 is hereby amended to read as follows:

26 686C.290 1. The association shall submit to the commissioner a plan  
27 of operation and any amendments thereto necessary or suitable to ~~assure~~  
28 *ensure* the fair, reasonable and equitable administration of the association.  
29 The plan of operation and any amendments thereto become effective upon  
30 approval in writing by the commissioner, or 30 days after submission if he  
31 has not disapproved them. All member insurers shall comply with the plan  
32 of operation.

33 2. If at any time the association fails to submit suitable amendments to  
34 the plan, the commissioner shall adopt, *after notice and hearing*, such  
35 reasonable regulations as are necessary or advisable to effectuate the  
36 provisions of this chapter. The regulations continue in force until modified  
37 by the commissioner or superseded by a plan submitted by the association  
38 and approved by the commissioner.

39 3. ~~The~~ *In addition to satisfying the other requirements of this*  
40 *chapter, the* plan of operation must:

- 41 (a) Establish procedures for handling the assets of the association.
- 42 (b) Establish the amount and method of reimbursing members of the  
43 board *of directors* under NRS 686C.140.
- 44 (c) Establish regular places and times for meetings of the board.
- 45 (d) Establish procedures for records to be kept of all financial  
46 transactions of the association, its agents and the board.
- 47 (e) Establish the procedures whereby selections for the board will be  
48 made and submitted to the commissioner.



\* S B 2 5 2 \*

1 (f) Establish any additional procedures for assessments under NRS  
2 686C.230 to 686C.270, inclusive.

3 (g) Contain additional provisions necessary or proper for the execution  
4 of the powers and duties of the association.

5 4. The plan of operation may provide that any or all powers and duties  
6 of the association, except those under subsection 3 of NRS 686C.220 and  
7 NRS 686C.230 to 686C.280, inclusive, are delegated to a corporation,  
8 association or other organization which performs or will perform functions  
9 similar to those of this association, or its equivalent, in two or more states.

10 *Such an organization must be reimbursed for any payments made on*  
11 *behalf of the association and paid for its performance of any function of*  
12 *the association. A delegation under this subsection takes effect only with*  
13 *the approval of the board of directors and the commissioner, and may be*  
14 *made only to an organization that extends protection not substantially*  
15 *less favorable and effective than that provided by this chapter.*

16 **Sec. 51.** NRS 686C.300 is hereby amended to read as follows:

17 686C.300 1. ~~{The commissioner shall:~~

18 ~~—(a) Notify the board of the existence of an impaired insurer not later~~  
19 ~~than 3 days after a determination of impairment is made or he receives~~  
20 ~~notice of impairment.~~

21 ~~—(b) Upon~~ *In addition to the duties and powers otherwise provided in*  
22 *this chapter, the commissioner :*

23 *(a) Shall, upon* request of the board ~~{}~~ *of directors,* provide the  
24 association with a statement of the premiums in this and any other  
25 appropriate states for each member insurer.

26 ~~{(e) When}~~

27 *(b) Shall, when* an impairment is declared and the amount of the  
28 impairment is determined, serve a demand upon the impaired insurer to  
29 make good the impairment within a reasonable time. Notice to the insurer  
30 is notice to its stockholders, if any. The failure of the insurer to comply  
31 with such demand promptly does not excuse the association from the  
32 performance of its powers and duties under this chapter.

33 *(c) Must, in any liquidation or rehabilitation involving a domestic*  
34 *insurer, be appointed as the liquidator or rehabilitator.*

35 2. The commissioner may suspend or revoke, after notice and hearing,  
36 the certificate of authority to transact insurance in this state of any member  
37 insurer which fails to pay an assessment when due or fails to comply with  
38 the plan of operation. As an alternative the commissioner may levy a  
39 forfeiture on any member insurer which fails to pay an assessment when  
40 due. ~~{Such forfeiture shall}~~ *The forfeiture may* not exceed 5 percent of the  
41 unpaid assessment per month, but no forfeiture may be less than \$100 per  
42 month.

43 3. ~~{Any}~~ *A final* action of the board *of directors* or the association may  
44 be appealed to the commissioner by any member insurer if ~~{such}~~ *the*  
45 appeal is taken within ~~{30}~~ *60* days after the *insurer receives notice of the*  
46 *final* action . ~~{being appealed. If a member insurer appeals from an~~  
47 ~~assessment, it shall pay the amount assessed to the association and that~~  
48 ~~amount is available to meet the obligations of the association during the~~  
49 ~~pendency of the appeal. If the assessment is annulled or reduced on appeal,~~



\* S B 2 5 2 \*



1 ~~the amount paid, or the excess, must be refunded by the association to the~~  
2 ~~insurer. Any~~ A final action or order of the commissioner is subject to  
3 judicial review in a court of competent jurisdiction ~~+~~ *pursuant to the*  
4 *procedure provided in chapter 233B of NRS for contested cases.*

5 4. The liquidator, rehabilitator or conservator of any impaired insurer  
6 may notify all interested persons of the effect of this chapter.

7 **Sec. 52.** NRS 686C.303 is hereby amended to read as follows:

8 686C.303 If the association fails to act within a reasonable time ~~to~~  
9 ~~carry out its duties pursuant to~~ *with respect to an insolvent insurer, as*  
10 *provided in* NRS 686C.150 to 686C.155, inclusive, the commissioner may  
11 exercise the powers *and perform the duties* of the association under this  
12 chapter with respect to the *insolvent* insurer. ~~involved.~~

13 **Sec. 53.** NRS 686C.306 is hereby amended to read as follows:

14 686C.306 1. The commissioner shall notify the commissioners of  
15 insurance of all the other states ~~+, the territories of the United States, and~~  
16 ~~the District of Columbia when~~ *within 30 days after* he takes any of the  
17 following actions against a member insurer:

- 18 (a) Revokes a member insurer's license;  
19 (b) Suspends a member insurer's license; or  
20 (c) Makes any formal order that a member insurer is to restrict its  
21 premium writing, obtain additional contributions to surplus, withdraw from  
22 the state, reinsure all or any part of its business, or increase capital, surplus,  
23 or any other account for the security of ~~policyholders~~ *the owners of its*  
24 *policies* or *its* creditors.

25 ~~[This notice must be mailed to all commissioners within 30 days after the~~  
26 ~~action is taken.]~~

27 2. The commissioner shall report to the board *of directors* when he has  
28 taken any of the actions set forth in subsection 1, or has received a report  
29 from any other commissioner indicating that any such action has been  
30 taken in another state. The report to the board must contain all significant  
31 details of the action taken or the report received from another  
32 commissioner.

33 3. *The commissioner shall report to the board of directors when he*  
34 *has reasonable cause to believe from an examination of a member*  
35 *insurer, whether completed or in process, that the insurer may be*  
36 *impaired or insolvent.*

37 4. The commissioner shall furnish to the board the ratios of the  
38 "insurance regulatory information system" developed by the National  
39 Association of Insurance Commissioners and ~~reports of examinations and~~  
40 listings of companies not included in those ratios, and the board may use  
41 the information contained therein in carrying out its duties and  
42 responsibilities under this chapter. Such reports and the information  
43 contained therein must be kept confidential by the board until such time as  
44 made public by the commissioner or other lawful authority.

45 ~~[4. The board shall, at the conclusion of any insolvency of an insurer~~  
46 ~~in which the association was obligated to pay covered claims, prepare a~~  
47 ~~report to the commissioner containing such information as it may have in~~  
48 ~~its possession bearing on the history and causes of the insolvency. The~~  
49 ~~board shall cooperate with the boards of directors of guaranty associations~~



\* S B 2 5 2 \*



1 ~~in other states in preparing a report on the history and causes of insolvency~~  
2 ~~of a particular insurer, and may adopt by reference any report prepared by~~  
3 ~~one or more other associations.~~

4 **Sec. 54.** NRS 686C.310 is hereby amended to read as follows:

5 686C.310 ~~[To aid in the detection and prevention of the impairment or~~  
6 ~~insolvency of insurers.]~~

7 1. The board ~~[shall.]~~ *of directors may*, upon majority vote, notify the  
8 commissioner of any information indicating any member insurer may be  
9 impaired or insolvent. ~~[The commissioner shall report to the board when he~~  
10 ~~has reasonable cause to believe from any examination, whether or not~~  
11 ~~completed, that any member insurer may be impaired or insolvent.~~

12 ~~—2— The board may, upon majority vote, request that the commissioner~~  
13 ~~order an examination of any member insurer which the board in good faith~~  
14 ~~believes may be impaired or insolvent. The commissioner shall begin the~~  
15 ~~examination within 30 days after receiving the request. The examination~~  
16 ~~may be conducted by the National Association of Insurance~~  
17 ~~Commissioners or by such persons as the commissioner designates. The~~  
18 ~~cost of the examination must be paid by the association and the report~~  
19 ~~treated as are other reports of examinations. The report must not be~~  
20 ~~released to the board before its release to the public, but this does not~~  
21 ~~excuse the commissioner from his obligation to comply with subsection 1.~~  
22 ~~The commissioner shall notify the board when the examination is~~  
23 ~~completed. The request for an examination must be kept on file by the~~  
24 ~~commissioner but it is not open to public inspection before the release of~~  
25 ~~the report of the examination to the public and may be released at that time~~  
26 ~~only if the examination discloses that the examined insurer is impaired or~~  
27 ~~insolvent.~~

28 ~~—3—~~ 2. The board may, upon majority vote, make reports and  
29 recommendations to the commissioner upon any matter germane to the  
30 solvency, liquidation, rehabilitation or conservation of any member insurer  
31 or germane to the solvency of any person seeking admission to transact  
32 insurance in this state. These reports and recommendations are not open to  
33 public inspection.

34 ~~[4.]~~ 3. The commissioner may seek the advice and recommendations  
35 of the board concerning any matter affecting his duties and responsibilities  
36 regarding the financial condition of member insurers and of persons  
37 seeking admission to transact insurance in this state.

38 ~~[5.]~~ 4. The board may, upon majority vote, make recommendations to  
39 the commissioner for the detection and prevention of the insolvency of  
40 insurers.

41 **Sec. 55.** NRS 686C.330 is hereby amended to read as follows:

42 686C.330 1. This chapter does not reduce the liability for unpaid  
43 assessments of the insureds of an impaired insurer operating under a plan  
44 with liability for assessments.

45 2. Records must be kept of all ~~[negotiations and meetings in which the~~  
46 ~~association or its representatives are involved]~~ *meetings of the board of*  
47 *directors* to discuss the activities of the association in carrying out its  
48 powers and duties under NRS 686C.150 to 686C.220, inclusive. ~~[Records~~  
49 ~~of such negotiations or meetings must be made public upon a majority vote~~



\* S B 2 5 2 \*

1 ~~of the board, upon~~ *The records of the association with respect to an*  
2 *impaired or insolvent insurer may not be disclosed before* the termination  
3 of a proceeding for liquidation, rehabilitation or conservation involving the  
4 impaired or insolvent insurer ~~[-, upon]~~ *or* the termination of the impairment  
5 or insolvency of the insurer, ~~[or]~~ *except* upon the order of a court of  
6 competent jurisdiction. This subsection does not limit the duty of the  
7 association to render a report of its activities under NRS 686C.350.

8 3. For the purpose of carrying out its obligations under this chapter, the  
9 association shall be deemed to be a creditor of the impaired or insolvent  
10 insurer to the extent of assets attributable to covered policies reduced by  
11 any amounts to which the association is entitled as subrogee pursuant to  
12 NRS 686C.200. Assets of the impaired or insolvent insurer attributable to  
13 covered policies must be used to continue all covered policies and pay all  
14 contractual obligations of the impaired or insolvent insurer as required by  
15 this chapter. Assets attributable to covered policies, as used in this  
16 subsection, are that proportion of the assets which the reserves that should  
17 have been established for covered policies bear to the reserves that should  
18 have been established for all policies of insurance written by the impaired  
19 or insolvent insurer.

20 4. *As a creditor of the impaired or insolvent insurer under subsection*  
21 *3 and consistent with NRS 696B.415, the association and other similar*  
22 *associations are entitled to receive a disbursement out of the marshaled*  
23 *assets, from time to time as the assets become available to reimburse it, as*  
24 *a credit against contractual obligations under this chapter. If the*  
25 *liquidator has not, within 120 days after a final determination of*  
26 *insolvency of an insurer by the court in the insolvent or impaired*  
27 *insurer's state which has jurisdiction over the conservation,*  
28 *rehabilitation or liquidation of the insurer, made an application to the*  
29 *court for the approval of a proposal to disburse assets out of marshaled*  
30 *assets to guaranty associations having obligations because of the*  
31 *insolvency, the association is entitled to make application to the court for*  
32 *approval of its own proposal to disburse those assets.*

33 5. Before the termination of any proceeding for liquidation,  
34 rehabilitation or conservation, the court may take into consideration the  
35 contributions of the respective parties, including the association, the  
36 shareholders and ~~[policyholders]~~ *owners of policies and contracts* of the  
37 impaired or insolvent insurer, and any other party with a bona fide interest,  
38 in making an equitable distribution of the ownership of the impaired or  
39 insolvent insurer. In making such a determination, consideration must be  
40 given to the welfare of the ~~[policyholders or]~~ *owners of policies issued by*  
41 the continuing or successor insurer. No distribution to stockholders, if any,  
42 of an impaired or insolvent insurer may be made until ~~[and unless]~~ the total  
43 amount of valid claims of the association, with interest thereon, for money  
44 expended in exercising its powers and performing its duties under NRS  
45 686C.150 to 686C.155, inclusive, with respect to that insurer have been  
46 fully recovered by the association.

47 **Sec. 56.** NRS 686C.350 is hereby amended to read as follows:

48 686C.350 The association is subject to examination and regulation by  
49 the commissioner. The board *of directors* shall submit to the



\* S B 2 5 2 \*

1 commissioner, not later than 120 days after the end of its fiscal year, a  
2 financial report in a form approved by the commissioner and a report of its  
3 activities during the preceding fiscal year. *Upon the request of a member*  
4 *insurer, the association shall provide the insurer with a copy of the*  
5 *report.*  
6 **Sec. 57.** NRS 686C.151, 686C.320, 686C.336 and 686C.345 are  
7 hereby repealed.

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#### LEADLINES OF REPEALED SECTIONS

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**686C.151** Duties regarding impaired insurers not making timely payment of claims; conditions.

**686C.320** Association may nominate special deputy.

**686C.336** Liquidation of insolvent insurers: Responsibility for due and unearned premiums.

**686C.345** Restrictions on insurer pending repayment or approval of plan for repayment of guaranty associations.

