

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT S.B. 252

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



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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 2.5 to 20, inclusive, of this act.

8 **Sec. 2.5** *"Annuity" includes an agreement for allocated funding, a*
9 *structured settlement annuity and an immediate or deferred annuity.*

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

14 **Sec. 4.** *"Benefit plan" means a benefit plan for a specific employee,*
15 *union or association of natural persons.*

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

20 **Sec. 6.** *"Extra-contractual claim" includes a claim relating to bad*
21 *faith in the payment of claims and a claim for punitive or exemplary*
22 *damages or for costs and attorney's fees.*

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

28 **Sec. 8.** *"Person" includes a government, governmental agency or*
29 *political subdivision of a government.*

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

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

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

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

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

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

46 **2.** *"Principal place of business" of the sponsor of a benefit plan*
47 *means the principal place of business of the association, committee, joint*
48 *board of trustees or similar group of representatives of the parties who*
49 *establish or maintain the plan or, if that cannot be ascertained, of the*



1 *employer or the employee organization that has the largest investment in*
2 *the plan, except that in either case if more than half of the participants of*
3 *the plan are employed in one state, it means that state. In the case of a*
4 *benefit plan sponsored by affiliated companies comprising a consolidated*
5 *corporation, it means the state in which the holding company or*
6 *controlling affiliate has its principal place of business as determined by*
7 *using the factors set forth in subsection 1.*

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

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

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

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

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

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

47 *(a) The association is responsible for all unpaid premiums due under*
48 *each agreement for periods both before and after the coverage date, and*
49 *for the performance of all other obligations to be performed after the*



1 *coverage date, in each case which relates to a contract covered in whole*
2 *or in part by the association. The association may charge a contract*
3 *covered in part by it, through reasonable methods of allocation, for the*
4 *costs of reinsurance in excess of the obligations of the association.*
5 *(b) The association is entitled to any amount payable by the reinsurer*
6 *under each agreement with respect to losses or events that occur in*
7 *periods after the coverage date and relate to contracts covered in whole*
8 *or in part by the association, but upon receipt of any such amount, the*
9 *association is obligated to pay, to the beneficiary under the contract on*
10 *account of which the amount was paid, that portion of the amount*
11 *received by the association that exceeds the benefits paid by the*
12 *association on account of the contract less the retention by the impaired*
13 *or insolvent member insurer applicable to the loss or event.*
14 *(c) The association and each reinsurer shall, within 30 days after the*
15 *election, calculate the net balance due to or from the association under*
16 *each agreement as of the date of the election, giving full credit for all*
17 *items paid by the member insurer or its receiver, rehabilitator or*
18 *liquidator, or the reinsurer, between the coverage date and the date of the*
19 *election. The association or the reinsurer shall pay the net balance*
20 *within 5 days after the completion of the calculation. If a receiver,*
21 *rehabilitator or liquidator has received any amount due the association*
22 *pursuant to paragraph (b), the recipient shall remit the amount to the*
23 *association as promptly as practicable.*
24 *(d) The reinsurer may not terminate an agreement for reinsurance*
25 *insofar as it relates to contracts covered by the association in whole or in*
26 *part, or set off any unpaid premium due for a period before the coverage*
27 *date against the amount due the association, if the association, within 60*
28 *days after the election, pays the premiums due for periods both before*
29 *and after the coverage date which relate to such contracts.*
30 *3. If the association transfers its obligation to another insurer, and*
31 *the association and the other insurer so agree, the other insurer succeeds*
32 *to the rights and obligations of the association under subsection 2*
33 *effective as of the agreed date, whether or not the association has made*
34 *the election described in subsection 2, except that:*
35 *(a) An agreement for indemnity reinsurance automatically terminates*
36 *as to new reinsurance unless the reinsurer and the other insurer agree to*
37 *the contrary;*
38 *(b) The obligation of the association to the beneficiary under*
39 *paragraph (b) of subsection 2 ceases on the date of the transfer to the*
40 *other insurer; and*
41 *(c) This subsection does not apply if the association has previously*
42 *expressly determined in writing that it will not exercise its right of*
43 *election under subsection 2.*
44 *4. The provisions of this section supersede an affected agreement for*
45 *reinsurance which provides for or requires payment of proceeds of*
46 *reinsurance, on account of a loss or event that occurs after the coverage*
47 *date, to the receiver, rehabilitator or liquidator of the insolvent member*
48 *insurer. The receiver, rehabilitator or liquidator remains entitled to any*
49 *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*
48 *by a statement in writing that the payment is made under protest and*
49 *setting forth briefly the grounds for the protest.*



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

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

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

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

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

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

29 Sec. 21. NRS 686C.020 is hereby amended to read as follows:

30 686C.020 The purpose of this chapter is to protect , within certain
31 limits, the persons specified in ~~subsection~~ subsections 1 and 2 of NRS
32 686C.030 against failure in the performance of contractual obligations
33 under life and health insurance policies ~~-, annuities and contracts~~ and
34 contracts, and annuities, specified in subsection ~~2~~ 4 of NRS 686C.030
35 because of the impairment or insolvency of ~~the~~ a member insurer issuing
36 such policies or contracts.

37 Sec. 22. NRS 686C.030 is hereby amended to read as follows:

38 686C.030 1. This chapter provides coverage for the policies or
39 contracts described in subsection ~~2~~ 4 to persons who are:

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

42 (1) Are residents of this state; or

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

44 (I) The ~~insurers which~~ insurer that issued the policies or
45 contracts ~~are~~ is domiciled in this state;

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



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

4 ~~{(IV) Those}~~

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

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

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

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

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

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

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

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

34 4. This chapter provides coverage to the persons described in
35 ~~{subsection}~~ *subsections 1 and 2* for direct, nongroup life, health and
36 supplemental policies or contracts, and annuities, and certificates under
37 direct group policies and contracts, and annuities, ~~{issued by member~~
38 ~~insurers.}~~ except as limited by this chapter.

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

40 686C.035 1. This chapter does not provide coverage for:

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

44 (b) ~~{Any}~~ *A* policy or contract of reinsurance unless assumption
45 certificates have been issued pursuant to that policy or contract.

46 (c) ~~{Any}~~ *A* portion of a policy or contract to the extent that the rate of
47 interest on which it is based ~~{+}~~ *, or the interest rate, crediting rate or*
48 *similar factor determined by the use of an index or other external*



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1 *reference stated in the policy or contract employed in calculating returns*
2 *or changes in value:*

3 (1) ~~When averaged~~ *Averaged* over the period of 4 years before the
4 date on which the association becomes obligated with respect to the policy
5 or contract, ~~for averaged for the period since the policy or contract was~~
6 ~~issued if it was issued less than 4 years before the association became~~
7 ~~obligated,~~ exceeds the rate of interest determined by subtracting 2
8 percentage points from Moody's Corporate Bond Yield Average averaged
9 for the same period ~~+~~, *or for the period between the date of issuance of*
10 *the policy or contract and the date the association became obligated,*
11 *whichever period is less;* and

12 (2) On or after the date on which the association becomes obligated
13 with respect to the policy or contract, exceeds the rate of interest
14 determined by subtracting 3 percentage points from ~~the most recent~~
15 Moody's Corporate Bond Yield Average ~~+~~

16 ~~—(d) Any~~ *as most recently available.*

17 (d) *A* portion of a policy or contract issued to a plan or program of an
18 employer, association or other person to provide life, health or annuity
19 benefits to its employees, members or other persons to the extent that the
20 plan or program is self-funded or uninsured, including, but not limited to,
21 benefits payable by an employer, association or other person under:

22 (1) A multiple employer welfare arrangement ~~as defined~~ *described*
23 *in 29 U.S.C. ~~§ 1002;~~ § 1144;*

24 (2) A minimum-premium group insurance plan;

25 (3) A stop-loss group insurance plan; or

26 (4) A contract for administrative services only.

27 (e) ~~Any~~ *A* portion of a policy or contract to the extent that it provides
28 for dividends, credits for experience, voting rights or the payment of any
29 fee or allowance to any person, including the ~~holder~~ *owner* of a policy or
30 contract, for services or administration connected with the policy or
31 contract.

32 (f) ~~Any~~ *A* policy or contract issued in this state by a member insurer at
33 a time when the member insurer was not authorized to issue the policy or
34 contract in this state.

35 (g) A portion of a policy or contract to the extent that the assessments
36 required by NRS 686C.230 ~~for~~ *with respect to* the policy or contract are
37 preempted by federal law.

38 (h) An obligation that does not arise under the *express* written terms of
39 ~~the~~ *the* policy or contract issued by the insurer ~~+~~
40 ~~(+)~~, *including:*

41 (1) *Claims based on marketing materials;*

42 (2) *Claims based on side letters, riders or other documents that were*
43 *issued by the insurer without satisfying applicable requirements for filing*
44 *or approval of policy forms;*

45 (3) *Misrepresentations of or regarding policy benefits;*

46 (4) *Extra-contractual claims; or*

47 (5) *A claim for penalties or consequential or incidental damages.*

48 (i) *A contractual agreement that establishes the member insurer's*
49 *obligation to provide a guarantee based on accounting at book value for*



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1 *participants in a defined-contribution benefit plan by reference to a*
2 *portfolio of assets owned by the benefit plan or its trustee, which in each*
3 *case is not an affiliate of the member insurer.*

4 *(j) A portion of a policy or contract to the extent that it provides for*
5 *interest or other changes in value which are determined by the use of an*
6 *index or other external reference stated in the policy or contract, but*
7 *which have not been credited to the policy or contract, or as to which the*
8 *rights of the owner of the policy or contract are subject to forfeiture,*
9 *determined on the date the member insurer becomes an impaired or*
10 *insolvent insurer, whichever occurs first. If the interest or changes in*
11 *value of a policy or contract are credited less frequently than annually,*
12 *for the purpose of determining the values that have been credited and are*
13 *not subject to forfeiture, the interest or change in value determined by*
14 *using procedures stated in the policy or contract must be credited as if*
15 *the contractual date for crediting interest or changing values was the*
16 *date of the impairment or insolvency of the insured member, whichever*
17 *occurs first and is not subject to forfeiture.*

18 *(k) An unallocated annuity contract.*

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

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

23 686C.040 As used in this chapter, unless the context otherwise
24 requires, the words and terms defined in NRS 686C.045 to 686C.125,
25 inclusive, *and sections 2.5 to 11, inclusive, of this act* have the meanings
26 ascribed to them in those sections.

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

28 686C.070 "Contractual obligation" means any obligation under a
29 policy or contract or a certificate under a group policy or contract, or
30 portion thereof, for which coverage is provided under NRS 686C.030 . ~~†~~
31 ~~and includes unearned premiums.†~~

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

33 686C.090 "Impaired insurer" means an insurer which is not an
34 insolvent insurer and ~~†~~

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

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

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

40 686C.100 "Member insurer" means ~~†any†~~ *an* insurer which is licensed
41 or holds a certificate of authority to transact in this state any kind of
42 insurance for which coverage is provided in this chapter and includes ~~†any†~~
43 *an* insurer whose license or certificate of authority ~~†to transact such~~
44 ~~insurance†~~ *in this state* has been suspended, revoked, not renewed or
45 voluntarily withdrawn. The term does not include:

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

48 2. A health maintenance organization;

49 3. A fraternal benefit society;



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1 4. A mandatory state pooling plan;
2 5. A mutual assessment company or ~~any entity~~ *other person* that
3 operates on the basis of assessments;

4 6. An insurance exchange; ~~for~~
5 ~~7. Any other similar entity.~~

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

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

10 **Sec. 27.5** NRS 686C.110 is hereby amended to read as follows:

11 686C.110 "Premiums" means amounts received in any calendar year
12 on covered policies or contracts less premiums, considerations and deposits
13 returned thereon, and less dividends and credits for experience thereon.
14 The term does not include ~~any~~ :

15 *1. Any amounts received for policies or contracts or for the portions of*
16 *policies or contracts for which coverage is not provided under NRS*
17 *686C.030 except that the assessable premium is not reduced on account of*
18 *paragraph (c) of subsection 1 of NRS 686C.035 relating to limitations on*
19 *interest and subsection 2 or paragraph (b) of subsection 1 of NRS*
20 *686C.210 relating to limitations with respect to any one life.*

21 *2. Premiums for an unallocated annuity contract.*

22 *3. Premiums that exceed \$5,000,000 for several nongroup policies of*
23 *life insurance owned by one owner, regardless of:*

24 *(a) Whether the owner is a natural person, firm, corporation or other*
25 *person;*

26 *(b) Whether any person insured under the policies is an officer,*
27 *manager, employee or other person; or*

28 *(c) The number of policies or contracts held by the owner.*

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

30 686C.120 "Resident" means any person *to whom a contractual*
31 *obligation is owed and* who resides in this state ~~at the time~~ *on the date of*
32 *entry of a court order that determines* a member insurer ~~is determined~~
33 *to be impaired or insolvent* ~~and to whom contractual obligations are owed~~ ,
34 *whichever determination is first made.* A person may be a resident of but
35 one state, which in the case of a person other than a natural person is its
36 principal place of business. *A citizen of the United States who is a resident*
37 *of a foreign country or of a territory or insular possession subject to the*
38 *jurisdiction of the United States which does not have an association*
39 *similar to the association created by this chapter shall be deemed to be a*
40 *resident of the state of domicile of the insurer that issued the policy or*
41 *contract.*

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

43 686C.125 "Supplemental contract" means ~~an~~ *a written* agreement for
44 the distribution of proceeds from a ~~contract or policy~~ *life or health*
45 *insurance policy or an annuity.*

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

47 686C.128 1. The association shall prepare, and submit to the
48 commissioner for approval, a summary document describing the general
49 purposes ~~exclusions~~ and *current* limitations of this chapter. ~~No insurer~~



1 ~~may~~ *After the expiration of 60 days after the approval of the summary*
2 *document by the commissioner, an insurer may not* deliver a policy or
3 contract ~~{described in NRS 686C.030 to an intended holder}~~ *to the owner*
4 *of the policy or contract* unless the *summary* document is delivered to the
5 ~~{intended holder before or}~~ *owner* at the time of delivery of the policy or
6 contract. The document must also be available upon request by ~~{a~~
7 ~~policyholder}~~ *the owner of a policy*. The distribution, delivery, contents or
8 interpretation of this document ~~{do not mean}~~ *does not guarantee* that the
9 policy or the contract or ~~{the holder thereof would be}~~ *its owner is* covered
10 in the event of the impairment or insolvency of a member insurer. The
11 descriptive document must be revised by the association as amendments to
12 this chapter may require. Failure to receive this document does not give the
13 ~~{holder}~~ *owner* of a policy or contract, or an insured, any greater rights
14 than those stated in this chapter.

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

18 (a) State the name and address of the association and of the division;
19 (b) Prominently warn the *owner of the* policy or contract ~~{holder}~~ that
20 the association may not cover the policy or, if coverage is available, it will
21 be subject to substantial limitations and exclusions and conditioned on
22 continued residence in this state;

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

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

28 ~~{(d) Emphasize}~~

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

31 ~~{(e)}~~ (f) *Explain the rights and procedures for filing a complaint to*
32 *allege a violation of any provision of this chapter; and*

33 (g) Provide other information as directed by the commissioner ~~{}~~ ,
34 *including sources of information about the financial condition of*
35 *insurers, if the information is not proprietary and is subject to disclosure*
36 *under the law of the state in which the insurer is domiciled*.

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

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

41 686C.130 1. There is hereby created a nonprofit ~~{, unincorporated,}~~
42 legal entity to be known as the Nevada Life and Health Insurance Guaranty
43 Association. All member insurers shall be and remain members of the
44 association as a condition of their authority to transact insurance in this
45 state. The association shall perform its functions under the plan of
46 operation established and approved pursuant to NRS 686C.290 and shall
47 exercise its powers through a board of directors established pursuant to
48 NRS 686C.140.



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

- 3 (a) The account for health insurance; and
4 (b) The account for life insurance and annuities, which consists of:
5 (1) The subaccount for life insurance; and
6 (2) The subaccount for annuities ~~+~~, *including annuities owned by a*
7 *governmental retirement plan, or its trustees, established under section*
8 *401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,*
9 *403(b) and 457.*

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

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

15 686C.140 1. The board of directors of the association ~~{shall consist}~~
16 *consists* of not less than five nor more than nine members, serving terms as
17 established in the plan of operation. The members of the board ~~{shall}~~ *who*
18 *represent insurers must* be selected by member insurers subject to the
19 approval of the commissioner. *Two public representatives must be*
20 *appointed to the board by the commissioner. A public representative may*
21 *not be an officer, director or employee of an insurer or engaged in the*
22 *business of insurance.* Vacancies on the board ~~{shall}~~ *must* be filled for
23 the remaining period of the term ~~{in the manner described in the plan of~~
24 ~~operation.}~~ *by majority vote of the members of the board, subject to the*
25 *approval of the commissioner, for members who represent insurers, and*
26 *by the commissioner for public representatives.* To select the initial board
27 of directors, and initially organize the association, the commissioner shall
28 give notice to all member insurers of the time and place of the
29 organizational meeting. In determining voting rights at the organizational
30 meeting each member insurer ~~{shall be}~~ *is* entitled to one vote in person or
31 by proxy. If the board of directors is not selected within 60 days after
32 notice of the organizational meeting, the commissioner may appoint the
33 initial members ~~+~~ *to represent insurers in addition to the public*
34 *representatives.*

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

38 3. Members of the board may be reimbursed from the assets of the
39 association for expenses incurred by them as members of the board of
40 directors but members of the board ~~{shall}~~ *may* not otherwise be
41 compensated by the association for their services.

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

43 686C.150 If a ~~{domestic}~~ member insurer is an impaired insurer, the
44 association may, subject to any conditions it may impose which do not
45 impair the contractual obligations of the impaired insurer ~~+~~ *and which* are
46 approved by the commissioner : ~~{, and, except in cases of court ordered~~
47 ~~conservation or rehabilitation, are approved by the impaired insurer.}~~



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

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

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

9 **Sec. 34.** NRS 686C.152 is hereby amended to read as follows:
10 686C.152 If a member insurer is an insolvent insurer, the association
11 shall:

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

14 2. Ensure payment of the contractual obligations of the insolvent
15 insurer and:

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

18 (b) ~~With respect only to life and health insurance policies, provide~~
19 *Provide* benefits and coverages in accordance with NRS 686C.153 and
20 686C.154.

21 **Sec. 35.** NRS 686C.153 is hereby amended to read as follows:
22 686C.153 When proceeding pursuant to paragraph (b) of subsection ~~1~~
23 ~~of NRS 686C.151 or paragraph (b) of subsection~~ 2 of NRS 686C.152, the
24 association shall ~~with~~ :

25 1. *With* respect to life and health insurance policies ~~only~~;
26 ~~1. Ensure~~ *and annuities, ensure* payment of benefits for premiums
27 identical to the premiums and benefits, except for terms of conversion and
28 renewability, which would have been payable under policies *or contracts*
29 of the insolvent insurer, for claims incurred with respect to:

30 (a) A group policy *or contract*, not later than the earlier of the next
31 renewal date under the policy or contract or 45 days, but in no event less
32 than 30 days, after the date when the association becomes obligated with
33 respect to that policy ~~1~~;

34 ~~(b) An individual policy,~~ *or contract.*

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

39 2. Make diligent efforts to provide all known insureds or
40 ~~policyholders~~ *owners* with respect to group policies *or contracts, or*
41 *annuitants with respect to annuities*, 30 days' notice of termination of the
42 benefits provided ~~1~~;

43 ~~3. Make~~ *pursuant to subsection 1.*

44 3. *With respect to nongroup life and health insurance policies and*
45 *annuities, make* available substitute coverage on an individual basis, in
46 accordance with the provisions of subsection 4, to each known insured
47 ~~under an individual policy,~~ *or annuitant*, or owner if other than the
48 insured ~~1~~ *or annuitant*, and to each natural person formerly insured , *or*
49 *formerly an annuitant*, under a group policy who is not eligible for



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1 replacement group coverage, if the insured *or annuitant* had a right under
2 law ~~to convert coverage under~~ *or* the terminated policy *or annuity to*
3 *convert coverage* to individual coverage or to continue an individual policy
4 *or annuity* in force until a specified age or for a specified period, during
5 which the insurer had no right unilaterally to make changes in any
6 provision of the policy *or annuity* or had a right only to make changes in
7 premium by class.

8 4. In providing the substitute coverage required under subsection 3, the
9 association may offer to reissue the terminated coverage or to issue an
10 alternative policy that must be offered without requiring evidence of
11 insurability or a waiting period or exclusion that would not have applied
12 under the terminated policy, and may reinsure any alternative or reinsured
13 policy.

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

15 686C.154 1. Alternative policies adopted by the association are
16 subject to the approval of the commissioner ~~and the court in the~~
17 *insolvent or impaired insurer's state which has jurisdiction over the*
18 *conservation, rehabilitation or liquidation of the insurer.* The association
19 may adopt alternative policies of various types for future issuance without
20 regard to any particular impairment or insolvency.

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

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

31 4. If the association elects to reissue terminated coverage at a rate of
32 premium different from that charged under the terminated policy, the
33 premium must be set by the association in accordance with the amount of
34 insurance provided and the age and class of risk, subject to approval by the
35 commissioner ~~for by a court of competent jurisdiction.~~ *and the court*
36 *described in subsection 1.*

37 **Sec. 37.** NRS 686C.155 is hereby amended to read as follows:

38 686C.155 When proceeding pursuant to paragraph (b) of subsection ~~1~~
39 ~~of NRS 686C.151 or paragraph (b) of subsection~~ 2 of NRS 686C.152 with
40 respect to any policy or contract carrying guaranteed minimum interest
41 rates, the association shall ensure the payment or crediting of a rate of
42 interest consistent with paragraph (c) of subsection 1 of NRS 686C.035.

43 **Sec. 38.** NRS 686C.160 is hereby amended to read as follows:

44 686C.160 In carrying out its responsibilities under NRS ~~686C.151~~
45 ~~and~~ 686C.152, the association may, subject to approval by ~~the court, or~~
46 ~~by the commissioner if there is no judicial proceeding,~~ *a court of this*
47 *state:*

48 1. Impose permanent liens on policies and contracts in connection with
49 any guarantee, assumption or reinsurance if the association finds that the



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1 amounts which can be assessed under this chapter are less than the amounts
2 needed to ~~assure~~ *ensure* full and prompt performance of the association's
3 duties or that the economic or financial conditions as they affect member
4 insurers are sufficiently adverse that the imposition of such permanent liens
5 is in the public interest.

6 2. Impose temporary moratoriums or liens on payments of cash values
7 and policy loans or any right to withdraw money held in conjunction with
8 policies or contracts, in addition to any contractual provisions for deferral
9 of paying cash value or lending against the policy. *In addition, in the event
10 of a temporary moratorium or charge imposed by the court in the
11 insolvent or impaired insurer's state which has jurisdiction over the
12 conservation, rehabilitation or liquidation of the insurer on such
13 payment or lending, or on any other right to withdraw money held in
14 conjunction with policies or contracts, the association may defer such
15 payment, lending or withdrawal for the period of the moratorium or
16 charge, except for claims covered by the association to be paid in
17 accordance with a procedure for cases of hardship established by the
18 liquidator or rehabilitator and approved by the court.*

19 **Sec. 39.** NRS 686C.170 is hereby amended to read as follows:
20 686C.170 The association is not liable under NRS ~~686C.151 or~~
21 ~~686C.152 for any covered policy of a foreign or alien insurer~~ *686C.152*
22 where a guaranty is provided to residents of this state by the laws of the
23 domiciliary state or jurisdiction of the impaired or insolvent insurer ~~+~~
24 *other than this state.*

25 **Sec. 40.** NRS 686C.180 is hereby amended to read as follows:
26 686C.180 The association may render assistance and advice to the
27 commissioner upon his request, concerning rehabilitation, payment of
28 claims, continuation of coverage or the performance of other contractual
29 obligations of ~~any impaired~~ *an impaired or insolvent* insurer.

30 **Sec. 41.** NRS 686C.190 is hereby amended to read as follows:
31 686C.190 The association has standing:

32 1. To appear *or intervene* before ~~any~~ *a court or agency* in this state
33 which has jurisdiction over an impaired or insolvent insurer concerning
34 which the association is or may become obligated under this chapter ~~+~~ *or*
35 *over any person or property against whom or which the association may*
36 *have rights through subrogation or otherwise.* Its standing extends to all
37 matters germane to the powers and duties of the association, including ~~but~~
38 ~~not limited to~~ proposals for reinsuring, *modifying* or guaranteeing the
39 ~~covered~~ policies or contracts of the impaired or insolvent insurer and the
40 determination of the ~~covered~~ policies or contracts and contractual
41 obligations.

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

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

48 686C.200 1. ~~Any~~ *A* person receiving benefits under this chapter
49 shall be deemed to have assigned his rights under, and any causes of action



1 *against any person for losses arising under, resulting from or otherwise*
2 relating to, the covered policy or contract to the association to the extent of
3 the benefits received because of this chapter, whether the benefits are
4 payments of or on account of contractual obligations, continuation of
5 coverage or provision of substitute or alternative coverages. The
6 association may require an assignment to it of those rights and causes of
7 action by any payee, *owner of a* policy or contract, ~~owner~~ beneficiary,
8 insured or annuitant as a condition precedent to the receipt of any rights or
9 benefits conferred by this chapter upon that person.

10 2. The rights of the association to subrogation under this subsection
11 have the same priority against the assets of the impaired or insolvent
12 insurer as that possessed by the person entitled to receive benefits under
13 this chapter.

14 3. In addition to the rights provided under subsections 1 and 2, the
15 association has all rights of subrogation at common law and any other
16 equitable or legal remedy which would have been available to the impaired
17 or insolvent insurer or the ~~holder~~ *owner, beneficiary or payee* of a policy
18 or contract ~~+~~ with respect to the policy or contract ~~+~~, *including, in the*
19 *case of a structured settlement annuity, any rights of the owner,*
20 *beneficiary or payee of the annuity, to the extent of benefits received*
21 *under this chapter, against a person originally or by succession*
22 *responsible for the losses arising from the personal injury relating to the*
23 *annuity or payment for it, except any such person responsible solely by*
24 *reason of serving as an assignee under section 130 of the Internal*
25 *Revenue Code, 26 U.S.C. § 130.*

26 4. *If the provisions of subsections 1, 2 and 3 are invalid or ineffective*
27 *with respect to any person or any claim for any reason, the amount*
28 *payable to the association with respect to the related covered obligations*
29 *is reduced by the amount realized by any other person with respect to the*
30 *person or claim which is attributable to the policies or portions thereof*
31 *covered by the association.*

32 5. *If the association has provided benefits with respect to a covered*
33 *obligation and a person recovers amounts as to which the association has*
34 *rights under subsections 1 to 4, inclusive, he shall pay to the association*
35 *the portion of the recovery attributable to the policies or portions thereof*
36 *covered by the association.*

37 **Sec. 43.** NRS 686C.210 is hereby amended to read as follows:
38 686C.210 1. ~~Unless further limited by subsection 2, the liability of~~
39 ~~the association for benefits under this chapter is limited to~~ *The benefits*
40 *that the association may become obligated to cover may not exceed* the
41 lesser of:

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

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

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



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1 (2) ~~One hundred thousand dollars in benefits from health insurance,~~
2 ~~including any net cash for surrender and withdrawal; and~~
3 ~~—(3)—~~ One hundred thousand dollars in the present value of *benefits*
4 *from* annuities, including net cash for surrender and withdrawal ~~+~~
5 ~~—2.— The association is not liable to expend more than \$300,000 in the~~
6 ~~aggregate with~~ ;
7 (c) *With respect to health insurance for any one natural person:*
8 (1) *One hundred thousand dollars for coverages other than*
9 *disability insurance, basic hospital, medical and surgical insurance or*
10 *major medical insurance, including any net cash for surrender or*
11 *withdrawal;*
12 (2) *Three hundred thousand dollars for disability insurance; or*
13 (3) *Five hundred thousand dollars for basic hospital, medical and*
14 *surgical insurance or major medical insurance; or*
15 (d) *With respect to each payee of a structured settlement annuity, or*
16 *beneficiary or beneficiaries of the payee if deceased, \$100,000 in present*
17 *value of benefits from the annuity in the aggregate, including any net*
18 *cash for surrender or withdrawal.*
19 2. *In no event is the association obligated to cover more than:*
20 (a) *With respect to any one life or person under* ~~subparagraphs (1), (2)~~
21 ~~and (3) of paragraph~~ *paragraphs (b) and (c) of subsection 1* ~~+~~ *:*
22 (1) *An aggregate of \$300,000 in benefits, excluding benefits for*
23 *basic hospital, medical and surgical insurance or major medical*
24 *insurance; or*
25 (2) *An aggregate of \$500,000 in benefits, including benefits for*
26 *basic hospital, medical and surgical insurance or major medical*
27 *insurance.*
28 (b) *With respect to one owner of several nongroup policies of life*
29 *insurance, whether the owner is a natural person or an organization and*
30 *whether the persons insured are officers, managers, employees or other*
31 *persons, more than \$5,000,000 in benefits, regardless of the number of*
32 *policies and contracts held by the owner.*
33 3. *The limitations set forth in this section are limitations on the*
34 *benefits for which the association is obligated before taking into account*
35 *its rights to subrogation or assignment or the extent to which those*
36 *benefits could be provided out of the assets of the impaired or insolvent*
37 *insurer attributable to covered policies. The cost of the association's*
38 *obligations under this chapter may be met by the use of assets*
39 *attributable to covered policies, or reimbursed to the association*
40 *pursuant to its rights to subrogation or assignment.*
41 4. *In performing its obligation to provide coverage under NRS*
42 *686C.150 and 686C.152, the association need not guarantee, assume,*
43 *reinsure or perform, or cause to be guaranteed, assumed, reinsured or*
44 *performed, the contractual obligations of the impaired or insolvent*
45 *insurer under a covered policy or contract which do not materially affect*
46 *the economic value or economic benefits of the covered policy or*
47 *contract.*



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

2 686C.220 The association may:

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

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

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

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

14 5. ~~{Negotiate and contract with any liquidator, rehabilitator,~~
15 ~~conservator or ancillary receiver to carry out the powers and duties of the~~
16 ~~association.~~

17 ~~—6.}~~ Take such legal action as may be necessary *or appropriate* to avoid
18 *or recover* payment of improper claims.

19 ~~{7.}~~ 6. Exercise, for the purposes of this chapter and to the extent
20 approved by the commissioner, the powers of a domestic life or health
21 insurer, but in no case may the association issue insurance policies or
22 annuities other than those issued to perform ~~{the}~~ *its* contractual obligations
23 ~~{of the impaired insurer}~~ under this chapter.

24 ~~{8.}~~ 7. Join an organization of one or more other state associations
25 having similar purposes, to further the purposes and administer the powers
26 and duties of the association.

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

29 9. *Request information from a person seeking coverage from the*
30 *association to aid the association in determining its obligations under*
31 *this chapter with respect to him, and the person shall promptly comply*
32 *with the request.*

33 10. *Take other necessary or appropriate action to perform its duties*
34 *and discharge its obligations under this chapter or to exercise its power*
35 *under this chapter.*

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

37 686C.230 1. To provide the money necessary to carry out the powers
38 and duties of the association, the board *of directors* shall assess the
39 member insurers, separately for each account, at such times and for such
40 amounts as the board finds necessary. An assessment is due upon at least
41 30 days' written notice to the member insurer and accrues interest after it is
42 due at the rate provided in NRS 99.040.

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

44 (a) Assessments in Class A must be ~~{made}~~ *authorized and called* for
45 the purpose of meeting administrative and legal costs and other expenses .
46 ~~{, including those of examinations conducted pursuant to NRS 686C.310.}~~

47 An assessment in Class A need not be related to a particular impaired or
48 insolvent insurer.



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

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

6 686C.240 1. The board *of directors* shall determine the amount of
7 each assessment in Class A and may, but need not, prorate it. If an
8 assessment is prorated, the board may provide that any surplus be credited
9 against future assessments in Class B. An assessment which is not prorated
10 must not exceed ~~\$300~~ *\$150* for each *member* insurer for any one calendar
11 year.

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

16 3. Assessments in Class B against member insurers for each account
17 and subaccount must be in the proportion that the premiums received on
18 business in this state by each assessed member insurer on policies or
19 contracts covered by each account or subaccount for the 3 most recent
20 calendar years for which information is available preceding the year in
21 which the insurer became impaired or insolvent bears to premiums
22 received on business in this state for those calendar years by all assessed
23 member insurers.

24 4. Assessments for money to meet the requirements of the association
25 with respect to an impaired or insolvent insurer must not be ~~made~~
26 *authorized or called* until necessary to carry out the purposes of this
27 chapter. Classification of assessments under subsection 2 of NRS
28 686C.230 and computation of assessments under this section must be made
29 with a reasonable degree of accuracy, recognizing that exact
30 determinations may not always be possible. *The association shall notify*
31 *each member insurer of its anticipated prorated share of an assessment*
32 *authorized but not yet called within 180 days after it is authorized.*

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

34 686C.250 1. The association may abate or defer, in whole or in part,
35 the assessment of a member insurer if, in the opinion of the board ~~of~~ *of*
36 *directors*, payment of the assessment would endanger the ability of the
37 member insurer to fulfill its contractual obligations. If an assessment
38 against a member insurer is abated or deferred in whole or in part, the
39 amount by which that assessment is abated or deferred may be assessed
40 against the other member insurers in a manner consistent with the basis for
41 assessments set forth in this section. *As soon as the conditions that caused*
42 *a deferral have been removed or rectified, the member insurer shall pay*
43 *all assessments that were deferred pursuant to a plan of repayment*
44 *approved by the association.*

45 2. ~~The~~ *Except as otherwise provided in subsection 3, the* total of all
46 assessments ~~upon~~ *authorized by the association with respect to* a
47 member insurer for:

48 (a) The account for life insurance and annuities and each of its
49 subaccounts; and



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1 (b) The account for health insurance,
2 respectively must not in any 1 calendar year exceed 2 percent of the
3 insurer's average *annual* premiums *received* in this state on the policies
4 *and contracts* covered by the *subaccount or* account during the 3 calendar
5 years preceding the year in which the ~~impairment or insolvency is~~
6 ~~determined;~~ *insurer became impaired or insolvent.*
7 3. *If two or more assessments are authorized in 1 calendar year with*
8 *respect to insurers that became impaired or insolvent in different*
9 *calendar years, the average annual premiums received for the purposes*
10 *of the limitation provided in subsection 2 are equal and limited to the*
11 *higher of the 3-year annual premiums for the applicable account or*
12 *subaccount as calculated pursuant to this section.*
13 4. If the maximum assessment, together with the other assets of the
14 association in ~~either~~ *an* account, does not provide in any 1 year in either
15 account an amount sufficient to carry out the responsibilities of the
16 association, the necessary additional money must be assessed as soon
17 thereafter as permitted by this chapter.
18 ~~4. If an assessment of 1 percent for either~~
19 5. *If the maximum assessment for a* subaccount of the account for life
20 insurance and annuities in any 1 year does not provide an amount sufficient
21 to carry out the responsibilities of the association, then pursuant to
22 subsection 3 of NRS 686C.240, the board shall assess ~~both subaccounts~~
23 *the other subaccount* for the necessary additional amount, subject to the
24 maximum stated in subsection 2.
25 ~~5. 6.~~ 6. The board may provide in the plan of operation a method of
26 allocating funds among claims, whether relating to one or more impaired or
27 insolvent insurers, when the maximum assessment is insufficient to cover
28 anticipated claims.
29 **Sec. 48.** NRS 686C.260 is hereby amended to read as follows:
30 686C.260 The board *of directors* may, by an equitable method as
31 established in the plan of operation, refund to member insurers, in
32 proportion to the contribution of each insurer to that account, the amount
33 by which the assets of the account exceed the amount the board finds is
34 necessary to carry out during the coming year the obligations of the
35 association with regard to that account, including assets accruing from
36 assignment, subrogation, net realized gains and income from investments.
37 A reasonable amount may be retained in any account to provide funds for
38 the continuing expenses of the association and for future ~~losses~~ *claims*.
39 **Sec. 49.** NRS 686C.280 is hereby amended to read as follows:
40 686C.280 1. The association shall issue to each insurer paying an
41 assessment under this chapter, *other than an assessment in Class A*, a
42 certificate of contribution, in a form prescribed by the commissioner, for
43 the amount *of the assessment* so paid. All outstanding certificates are of
44 equal dignity and priority without reference to ~~the~~ amounts or dates of
45 issue. A member insurer may show a certificate of contribution as an asset
46 in its financial statement in such form, for such amount, if any, and for
47 such period as the commissioner may approve.
48 2. A member insurer may offset against its liability for premium tax to
49 this state, accrued with respect to business transacted in a calendar year, an



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1 amount equal to 20 percent of the amount certified pursuant to subsection 1
2 in each of the 5 calendar years following the year in which the assessment
3 was paid. If an insurer ceases to transact business, it may offset all
4 uncredited assessments against its liability for premium tax for the year in
5 which it so ceases.

6 3. Any sum acquired by refund from the association pursuant to NRS
7 686C.260 which previously had been written off by the contributing
8 insurer and offset against premium taxes as provided in subsection 2 must
9 be paid to the department of taxation and deposited by it with the state
10 treasurer for credit to the state general fund. The association shall notify
11 the commissioner and the department of taxation of each refund made.

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

13 686C.290 1. The association shall submit to the commissioner a plan
14 of operation and any amendments thereto necessary or suitable to ~~assure~~
15 *ensure* the fair, reasonable and equitable administration of the association.
16 The plan of operation and any amendments thereto become effective upon
17 approval in writing by the commissioner, or 30 days after submission if he
18 has not disapproved them. All member insurers shall comply with the plan
19 of operation.

20 2. If at any time the association fails to submit suitable amendments to
21 the plan, the commissioner shall adopt , *after notice and hearing*, such
22 reasonable regulations as are necessary or advisable to effectuate the
23 provisions of this chapter. The regulations continue in force until modified
24 by the commissioner or superseded by a plan submitted by the association
25 and approved by the commissioner.

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

- 28 (a) Establish procedures for handling the assets of the association.
29 (b) Establish the amount and method of reimbursing members of the
30 board *of directors* under NRS 686C.140.
31 (c) Establish regular places and times for meetings of the board.
32 (d) Establish procedures for records to be kept of all financial
33 transactions of the association, its agents and the board.
34 (e) Establish the procedures whereby selections for the board will be
35 made and submitted to the commissioner.
36 (f) Establish any additional procedures for assessments under NRS
37 686C.230 to 686C.270, inclusive.
38 (g) Contain additional provisions necessary or proper for the execution
39 of the powers and duties of the association.

40 4. The plan of operation may provide that any or all powers and duties
41 of the association, except those under subsection 3 of NRS 686C.220 and
42 NRS 686C.230 to 686C.280, inclusive, are delegated to a corporation,
43 association or other organization which performs or will perform functions
44 similar to those of this association , or its equivalent , in two or more states.
45 *Such an organization must be reimbursed for any payments made on*
46 *behalf of the association and paid for its performance of any function of*
47 *the association. A delegation under this subsection takes effect only with*
48 *the approval of the board of directors and the commissioner, and may be*



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1 *made only to an organization that extends protection not substantially*
2 *less favorable and effective than that provided by this chapter.*

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

4 686C.300 1. ~~{The commissioner shall:~~

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

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

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

13 ~~{(c) When}~~

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

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

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

30 3. ~~{Any}~~ *A final* action of the board *of directors* or the association may
31 be appealed to the commissioner by any member insurer if ~~{such}~~ *the*
32 appeal is taken within ~~{30}~~ *60* days after the *insurer receives notice of the*
33 *final* action . ~~{being appealed. If a member insurer appeals from an~~
34 ~~assessment, it shall pay the amount assessed to the association and that~~
35 ~~amount is available to meet the obligations of the association during the~~
36 ~~pendency of the appeal. If the assessment is annulled or reduced on appeal,~~
37 ~~the amount paid, or the excess, must be refunded by the association to the~~
38 ~~insurer. Any}~~ *A* final action or order of the commissioner is subject to
39 judicial review in a court of competent jurisdiction ~~{}~~ *pursuant to the*
40 *procedure provided in chapter 233B of NRS for contested cases.*

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

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

44 686C.303 If the association fails to act within a reasonable time ~~{to~~
45 ~~carry out its duties pursuant to}~~ *with respect to an insolvent insurer, as*
46 *provided in* NRS 686C.150 to 686C.155, inclusive, the commissioner may
47 exercise the powers *and perform the duties* of the association under this
48 chapter with respect to the *insolvent* insurer . ~~{involved.}~~



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1 **Sec. 53.** NRS 686C.306 is hereby amended to read as follows:
2 686C.306 1. The commissioner shall notify the commissioners of
3 insurance of all the other states ~~1, the territories of the United States, and~~
4 ~~the District of Columbia when~~ *within 30 days after* he takes any of the
5 following actions against a member insurer:

6 (a) Revokes a member insurer's license;
7 (b) Suspends a member insurer's license; or
8 (c) Makes any formal order that a member insurer is to restrict its
9 premium writing, obtain additional contributions to surplus, withdraw from
10 the state, reinsure all or any part of its business, or increase capital, surplus,
11 or any other account for the security of ~~policyholders~~ *the owners of its*
12 *policies* or *its* creditors.
13 ~~{This notice must be mailed to all commissioners within 30 days after the~~
14 ~~action is taken.}~~

15 2. The commissioner shall report to the board *of directors* when he has
16 taken any of the actions set forth in subsection 1, or has received a report
17 from any other commissioner indicating that any such action has been
18 taken in another state. The report to the board must contain all significant
19 details of the action taken or the report received from another
20 commissioner.

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

25 4. The commissioner shall furnish to the board the ratios of the
26 "insurance regulatory information system" developed by the National
27 Association of Insurance Commissioners and ~~reports of examinations and~~
28 listings of companies not included in those ratios, and the board may use
29 the information contained therein in carrying out its duties and
30 responsibilities under this chapter. Such reports and the information
31 contained therein must be kept confidential by the board until such time as
32 made public by the commissioner or other lawful authority.

33 ~~{4. The board shall, at the conclusion of any insolvency of an insurer~~
34 ~~in which the association was obligated to pay covered claims, prepare a~~
35 ~~report to the commissioner containing such information as it may have in~~
36 ~~its possession bearing on the history and causes of the insolvency. The~~
37 ~~board shall cooperate with the boards of directors of guaranty associations~~
38 ~~in other states in preparing a report on the history and causes of insolvency~~
39 ~~of a particular insurer, and may adopt by reference any report prepared by~~
40 ~~one or more other associations.}~~

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

42 686C.310 ~~{To aid in the detection and prevention of the impairment or~~
43 ~~insolvency of insurers:}~~

44 1. The board ~~{shall,}~~ *of directors may*, upon majority vote, notify the
45 commissioner of any information indicating any member insurer may be
46 impaired or insolvent. ~~{The commissioner shall report to the board when he~~
47 ~~has reasonable cause to believe from any examination, whether or not~~
48 ~~completed, that any member insurer may be impaired or insolvent.~~



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

17 ~~—3.} 2.~~ The board may, upon majority vote, make reports and
18 recommendations to the commissioner upon any matter germane to the
19 solvency, liquidation, rehabilitation or conservation of any member insurer
20 or germane to the solvency of any person seeking admission to transact
21 insurance in this state. These reports and recommendations are not open to
22 public inspection.

23 ~~{4.} 3.~~ The commissioner may seek the advice and recommendations
24 of the board concerning any matter affecting his duties and responsibilities
25 regarding the financial condition of member insurers and of persons
26 seeking admission to transact insurance in this state.

27 ~~{5.} 4.~~ The board may, upon majority vote, make recommendations to
28 the commissioner for the detection and prevention of the insolvency of
29 insurers.

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

31 686C.330 1. This chapter does not reduce the liability for unpaid
32 assessments of the insureds of an impaired insurer operating under a plan
33 with liability for assessments.

34 2. Records must be kept of all ~~{negotiations and meetings in which the~~
35 ~~association or its representatives are involved}~~ *meetings of the board of*
36 *directors* to discuss the activities of the association in carrying out its
37 powers and duties under NRS 686C.150 to 686C.220, inclusive. ~~{Records~~
38 ~~of such negotiations or meetings must be made public upon a majority vote~~
39 ~~of the board, upon}~~ *The records of the association with respect to an*
40 *impaired or insolvent insurer may not be disclosed before* the termination
41 of a proceeding for liquidation, rehabilitation or conservation involving the
42 impaired or insolvent insurer ~~{, upon}~~ *or* the termination of the impairment
43 or insolvency of the insurer, ~~{or}~~ *except* upon the order of a court of
44 competent jurisdiction. This subsection does not limit the duty of the
45 association to render a report of its activities under NRS 686C.350.

46 3. For the purpose of carrying out its obligations under this chapter, the
47 association shall be deemed to be a creditor of the impaired or insolvent
48 insurer to the extent of assets attributable to covered policies reduced by
49 any amounts to which the association is entitled as subrogee pursuant to



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1 NRS 686C.200. Assets of the impaired or insolvent insurer attributable to
2 covered policies must be used to continue all covered policies and pay all
3 contractual obligations of the impaired or insolvent insurer as required by
4 this chapter. Assets attributable to covered policies, as used in this
5 subsection, are that proportion of the assets which the reserves that should
6 have been established for covered policies bear to the reserves that should
7 have been established for all policies of insurance written by the impaired
8 or insolvent insurer.

9 4. *As a creditor of the impaired or insolvent insurer under subsection*
10 *3 and consistent with NRS 696B.415, the association and other similar*
11 *associations are entitled to receive a disbursement out of the marshaled*
12 *assets, from time to time as the assets become available to reimburse it, as*
13 *a credit against contractual obligations under this chapter. If the*
14 *liquidator has not, within 120 days after a final determination of*
15 *insolvency of an insurer by the court in the insolvent or impaired*
16 *insurer's state which has jurisdiction over the conservation,*
17 *rehabilitation or liquidation of the insurer, made an application to the*
18 *court for the approval of a proposal to disburse assets out of marshaled*
19 *assets to guaranty associations having obligations because of the*
20 *insolvency, the association is entitled to make application to the court for*
21 *approval of its own proposal to disburse those assets.*

22 5. Before the termination of any proceeding for liquidation,
23 rehabilitation or conservation, the court may take into consideration the
24 contributions of the respective parties, including the association, the
25 shareholders and ~~policyholders~~ *owners of policies and contracts* of the
26 impaired or insolvent insurer, and any other party with a bona fide interest,
27 in making an equitable distribution of the ownership of the impaired or
28 insolvent insurer. In making such a determination, consideration must be
29 given to the welfare of the ~~policyholders or~~ *owners of policies issued by*
30 the continuing or successor insurer. No distribution to stockholders, if any,
31 of an impaired or insolvent insurer may be made until ~~and unless~~ the total
32 amount of valid claims of the association, with interest thereon, for money
33 expended in exercising its powers and performing its duties under NRS
34 686C.150 to 686C.155, inclusive, with respect to that insurer have been
35 fully recovered by the association.

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

37 686C.350 The association is subject to examination and regulation by
38 the commissioner. The board *of directors* shall submit to the
39 commissioner, not later than 120 days after the end of its fiscal year, a
40 financial report in a form approved by the commissioner and a report of its
41 activities during the preceding fiscal year. *Upon the request of a member*
42 *insurer, the association shall provide the insurer with a copy of the*
43 *report.*

44 **Sec. 56.5.** The amendatory provisions of this act:

45 1. Apply to the powers and duties of the Nevada Life and Health
46 Insurance Guaranty Association relating to any member insurer that
47 becomes an impaired or insolvent insurer on or after January 1, 2002;

48 2. Do not require the Nevada Life and Health Insurance Guaranty
49 Association to recalculate the assessment bases for any year before



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1 January 1, 2002, and any assessments based on any such year must be
2 authorized on the basis of the premium data previously collected from or
3 reported by member insurers relating to those years; and

4 3. Must not be construed to affect any interpretation of any provision
5 of chapter 686C of NRS that was in effect before January 1, 2002.

6 **Sec. 57.** NRS 686C.151, 686C.320, 686C.336 and 686C.345 are
7 hereby repealed.

8 **Sec. 58.** This act becomes effective on January 1, 2002.

LEADLINES OF REPEALED SECTIONS

**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.**

