

SENATE BILL NO. 4—SENATOR TOWNSEND

PREFILED JANUARY 11, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes regarding insurance. (BDR 57-734)

FISCAL NOTE: Effect on Local Government: No.
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; providing that a competitive market exists for certain types of insurance unless the commissioner of insurance specifically finds to the contrary; revising the provisions governing the filing and approval of rates of insurers in a competitive market; authorizing the commissioner to require certain insurers to file additional supporting data; providing for the issuance by the commissioner of orders to discontinue a rate; and providing other matters properly relating thereto.

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

Section 1. NRS 686B.050 is hereby amended to read as follows:
686B.050 1. Rates must not be excessive, inadequate or unfairly discriminatory, nor may an insurer charge any rate which if continued will have or tend to have the effect of destroying competition or creating a monopoly.
2. *Competition shall be deemed to exist unless the commissioner specifically finds, after a hearing and a review of the structure, performance and conduct of the insurers in the market, that:*
(a) *There is no reasonable degree of competition among the insurers; and*
(b) *The interaction among the insurers is not competitive.*
A finding by the commissioner pursuant to this subsection that the market is not competitive expires 1 year after the date on which the finding is issued.
3. The commissioner may disapprove rates *on the ground that the rates are excessive only* if *the commissioner determines that* there is not a reasonable degree of price competition at the consumer level with respect to the class of business to which they apply ~~H~~ *and that the rates are likely*

1 *to produce a long-run profit that is unreasonably high in relation to the*
2 *riskiness of the class of business or the expenses are unreasonably high*
3 *in relation to the services rendered.* In determining whether a reasonable

4 degree of price competition exists, the commissioner shall consider all
5 relevant tests, including:

6 (a) The number of insurers actively engaged in the class of business and
7 their shares of the market;

8 (b) The existence of differentials in rates in that class of business;

9 (c) Whether long-run profitability for insurers generally of the class of
10 business is unreasonably high in relation to its riskiness;

11 (d) Consumers' knowledge in regard to the market in question; and

12 (e) Whether price competition is a result of the market or is artificial.

13 ~~[[If competition does not exist, rates are excessive if they are likely to~~
14 ~~produce a long-run profit that is unreasonably high in relation to the~~
15 ~~riskiness of the class of business, or if expenses are unreasonably high in~~
16 ~~relation to the services rendered.~~

17 ~~—3.]~~ 4. Rates are inadequate if they are clearly insufficient, together with
18 the income from investments attributable to them, to sustain projected
19 losses and expenses in the class of business to which they apply.

20 ~~[4.]~~ 5. One rate is unfairly discriminatory in relation to another in the
21 same class if it clearly fails to reflect equitably the differences in expected
22 losses and expenses. Rates are not unfairly discriminatory because different
23 premiums result for policyholders with similar exposure to loss but
24 different expense factors, or similar expense factors but different exposure
25 to loss, so long as the rates reflect the differences with reasonable accuracy.
26 Rates are not unfairly discriminatory if they are averaged broadly among
27 persons insured under a group, franchise or blanket policy.

28 **Sec. 2.** NRS 686B.070 is hereby amended to read as follows:

29 686B.070 1. Every authorized insurer and every rate service
30 organization licensed under NRS 686B.130 which has been designated by
31 any insurer for the filing of rates under subsection 2 of NRS 686B.090
32 shall file with the commissioner all:

33 ~~[1.]~~ (a) Rates and proposed increases thereto;

34 ~~[2.]~~ (b) Forms of policies to which the rates apply;

35 ~~[3.]~~ (c) Supplementary rate information; and

36 ~~[4.]~~ (d) Changes and amendments thereof,

37 made by it for use in this state.

38 2. *Except as otherwise provided in this section and NRS 686B.110,*
39 *unless the commissioner has determined that the market is not*
40 *competitive, an insurer shall file the information required by subsection*
41 *1 on or before the date on which the changes are to become effective.*

42 3. *In a competitive market, if the commissioner determines that the*
43 *rates of an insurer require closer supervision by the commissioner*
44 *because of the financial condition of the insurer or because the insurer*
45 *has engaged in rating practices which are unfairly discriminatory, the*
46 *commissioner may require the insurer to file supporting data pursuant to*
47 *NRS 686B.100 or may subject the rates to review pursuant to NRS*
48 *686B.110.*

1 4. The commissioner shall review filings made pursuant to this
2 section as soon as practicable to:

3 (a) Ensure the sufficiency of the financial condition of the insurer;
4 and

5 (b) Determine if the insurer has engaged in rating practices which are
6 unfairly discriminatory.

7 5. Rates for title insurance, surety insurance and liability insurance
8 for medical malpractice must be approved before the insurer may use the
9 rates. If the commissioner does not approve or disapprove a filing
10 involving the rates for such insurance within 60 days after the date of the
11 filing, the rates shall be deemed to be approved.

12 Sec. 3. NRS 686B.100 is hereby amended to read as follows:

13 686B.100 1. ~~[By rule, the commissioner may require the filing of~~
14 ~~supporting data as to any or all kinds or lines of insurance or subdivisions~~
15 ~~thereof or classes of risks or combinations thereof as he deems necessary~~
16 ~~for the proper functioning of the process for monitoring and regulating~~
17 ~~rates.] If the commissioner determines that the market is not competitive,~~
18 ~~the commissioner shall require an insurer to file supporting data for its~~
19 ~~rates if the commissioner determines pursuant to NRS 686B.070 that the~~
20 ~~rates of the insurer require closer supervision.~~

21 2. The supporting data must include:

22 (a) The experience and judgment of the filer, and, to the extent it wishes
23 or the commissioner requires, of other insurers or rate service
24 organizations;

25 (b) Its interpretation of any statistical data relied upon;

26 (c) Descriptions of the actuarial and statistical methods employed in
27 setting the rates; and

28 (d) Any other relevant matters required by the commissioner.

29 ~~[2.]~~ 3. Whenever a filing of a proposed increase in a rate is not
30 accompanied by such information as the commissioner has required ~~[under~~
31 ~~subsection 1.] pursuant to this section,~~ he may so inform the insurer and
32 the filing shall be deemed to be made when the information is furnished.

33 Sec. 4. NRS 686B.110 is hereby amended to read as follows:

34 686B.110 1. ~~[The]~~ If the commissioner has determined that:

35 (a) Pursuant to NRS 686B.050, the market is not competitive;

36 (b) Pursuant to NRS 686B.180, essential insurance coverage is not
37 readily available in a voluntary market; or

38 (c) Pursuant to NRS 686B.070, the rates of the insurer require closer
39 supervision and that the rates are subject to review pursuant to this
40 section,

41 the commissioner shall consider each proposed increase or decrease in the
42 rate of any kind or line of insurance or subdivision thereof filed with him
43 pursuant to NRS 686B.070. If the commissioner finds that a proposed
44 increase will result in a rate which is not in compliance with NRS
45 686B.050, he shall disapprove the proposal. The commissioner shall
46 approve or disapprove each proposal ~~[no]~~ not later than 60 days after it is
47 determined by him to be complete pursuant to subsection 4. If the
48 commissioner fails to approve or disapprove the proposal within that
49 period, the proposal shall be deemed approved.

2. Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by him. When new rates become legally effective, the commissioner shall order the escrowed ~~funds~~ money or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

3. If the commissioner disapproves a proposed rate and an insurer requests a hearing to determine the validity of his action, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive. Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the commissioner; or

(b) Within a period agreed upon by the insurer and the commissioner.

If the hearing is not held within the period specified in paragraph (a) or (b), or if the commissioner fails to issue an order concerning the proposed rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.

4. The commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or decrease a rate submitted to him pursuant to ~~subsection 1.~~ NRS 686B.070. Each such proposal shall be deemed complete upon its filing with the commissioner, unless the commissioner, within 15 business days after the proposal is filed with him, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by him pursuant to this subsection.

5. If, in a competitive market, the commissioner finds that a rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of the rate. An order for the discontinuance of a rate may be issued only after a hearing with at least 10 days' notice for all insurers and rate organizations that would be affected by such an order. The order must be in writing and include, without limitation:

(a) The grounds pursuant to which the order was issued;

(b) The date on which the order to discontinue the rate becomes effective; and

(c) The date, within a reasonable time after the date on which the order becomes effective, on which the order will expire.

An order for the discontinuance of a rate does not affect any contract or policy made or issued before the date on which the order becomes effective.