

**

A.B. 453

ASSEMBLY BILL NO. 453—COMMITTEE ON
COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF BUSINESS
AND INDUSTRY, INSURANCE DIVISION)

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to insurance. (BDR 57-546)

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

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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; expanding the authority of the Commissioner of Insurance to enter into cooperative agreements and to share certain information; revising the requirements for a person to act as a broker for reinsurance; authorizing an insurance consultant to qualify for a license in certain lines of authority; increasing the amount of surplus required to accept surplus lines; requiring an essential insurance association to qualify as a domestic mutual insurer if requested to do so by the Commissioner; revising the amount of money that the Nevada Insurance Guaranty Association and the Nevada Life and Health Insurance Guaranty Association are obligated to pay for a covered claim; revising the order of distribution of certain claims from the estate of an insurer on liquidation of the insurer; reducing the period during which a member of an association of self-insured public or private employers must submit a notice of intent to withdraw from the association; requiring the member to include certain information in the notice; providing penalties; and providing other matters properly relating thereto.



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

- 1 **Section 1.** Chapter 679B of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 **1.** *In addition to the authority conferred upon him pursuant*
4 *to NRS 679B.120, the Commissioner may:*
5 *(a) Enter into and comply with any cooperative or*
6 *coordination agreement with any governmental entity within or*
7 *outside this state relating to the regulation and administration of*
8 *insurance and persons who are materially involved in the business*
9 *of insurance;*
10 *(b) Share any document, material or other information,*
11 *including any document, material or information that is*
12 *confidential or privileged, with any state, federal or international*
13 *regulatory, law enforcement or legislative agency, and the*
14 *National Association of Insurance Commissioners and any of its*
15 *affiliates or subsidiaries, if the recipient of the document, material*
16 *or other information agrees:*
17 *(1) To ensure that the document, material or other*
18 *information remains confidential and privileged; and*
19 *(2) To submit to the jurisdiction of the courts of this state if*
20 *the recipient violates a provision of subparagraph (1); and*
21 *(c) Receive any document, material or other information from*
22 *any agency, association, affiliate or subsidiary specified in*
23 *paragraph (b). The Commissioner shall ensure that any document,*
24 *material or information received pursuant to this paragraph*
25 *remains confidential if the document, material or information is*
26 *provided to the Commissioner with a notice or the understanding*
27 *that it is confidential or privileged under the laws of the*
28 *jurisdiction from which it is submitted.*
29 **2.** *The sharing or receipt of any document, material or other*
30 *information by the Commissioner pursuant to this section does not*
31 *wave any applicable privilege or claim of confidentiality in the*
32 *document, material or other information.*
33 **Sec. 2.** NRS 679B.130 is hereby amended to read as follows:
34 679B.130 1. The Commissioner may adopt reasonable
35 regulations ~~for~~ :
36 *(a) For the administration of any provision of this Code, NRS*
37 287.04335 or chapters 616A to 617, inclusive, of NRS ~~1~~; *or*
38 *(b) As required to ensure compliance by the Commissioner*
39 *with any federal law or regulation relating to insurance.*
40 2. A person who willfully violates any regulation of the
41 Commissioner is subject to such suspension or revocation of a
42 certificate of authority or license, or administrative fine in lieu of



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1 such suspension or revocation, as may be applicable under this Code
2 or chapter 616A, 616B, 616C, 616D or 617 of NRS for violation of
3 the provision to which the regulation relates. No penalty applies to
4 any act done or omitted in good faith in conformity with any such
5 regulation, notwithstanding that the regulation may, after the act or
6 omission, be amended, rescinded or determined by a judicial or
7 other authority to be invalid for any reason.

8 **Sec. 3.** NRS 679B.144 is hereby amended to read as follows:

9 679B.144 1. The Commissioner shall collect and maintain
10 *the information provided by insurers pursuant to NRS 690B.050*
11 regarding each closed claim for medical malpractice filed against
12 ~~[physicians and surgeons]~~ *a person who is covered by a policy of*
13 *insurance for medical malpractice* in this state, including, without
14 limitation:

- 15 (a) The cause of the loss;
- 16 (b) A description of the injury for which the claim was filed;
- 17 (c) The sex of the injured person;
- 18 (d) The names and number of defendants in each claim;
- 19 (e) The type of coverage provided;
- 20 (f) The amount of the initial, highest and last reserves of an
21 insurer for each claim before final resolution of the claim by
22 settlement or trial;
- 23 (g) The disposition of each claim;
- 24 (h) The amount of money awarded through settlement or by
25 verdict;
- 26 (i) The sum of money paid to each claimant and the source of
27 that sum; ~~[and]~~
- 28 (j) Any sum of money allocated to expenses for the adjustment
29 of losses ~~[; and]~~
- 30 *(k) Any other information the Commissioner determines to be*
31 *necessary or appropriate.*

32 2. The Commissioner shall submit with his report to the
33 Legislature required pursuant to NRS 679B.410 ~~[;]~~ a summary of
34 the information collected pursuant to this section.

35 3. The Commissioner shall adopt regulations necessary to carry
36 out the provisions of this section.

37 **4.** *As used in this section, "policy of insurance for medical*
38 *malpractice" means a policy that provides coverage for any*
39 *medical professional liability of the insured under the policy.*

40 **Sec. 4.** NRS 679B.440 is hereby amended to read as follows:

41 679B.440 1. The Commissioner may require that reports
42 submitted pursuant to NRS 679B.430 include, without limitation,
43 information regarding:

- 44 (a) Liability insurance provided to:



- 1 (1) Governmental agencies and political subdivisions of this
2 state, reported separately for:
3 (I) Cities and towns;
4 (II) School districts; and
5 (III) Other political subdivisions;
6 (2) Public officers;
7 (3) Establishments where alcoholic beverages are sold;
8 (4) Facilities for the care of children;
9 (5) Labor, fraternal or religious organizations; and
10 (6) Officers or directors of organizations formed pursuant to
11 title 7 of NRS, reported separately for nonprofit entities and entities
12 organized for profit;
13 (b) Liability insurance for:
14 (1) Defective products;
15 (2) Medical malpractice ~~and~~ *as defined in NRS 41A.009;*
16 (3) Malpractice of attorneys;
17 (4) Malpractice of architects and engineers; and
18 (5) Errors and omissions by other professionally qualified
19 persons;
20 (c) Vehicle insurance, reported separately for:
21 (1) Private vehicles;
22 (2) Commercial vehicles;
23 (3) Liability insurance; and
24 (4) Insurance for property damage; ~~and~~
25 (d) Workers' compensation insurance ~~and~~; *and*
26 *(e) In addition to any information provided pursuant to*
27 *subparagraph (2) of paragraph (b) or NRS 690B.050, a policy of*
28 *insurance for medical malpractice. As used in this paragraph,*
29 *"policy of insurance for medical malpractice" has the meaning*
30 *ascribed to it in NRS 679B.144.*
31 2. The Commissioner may require that the report include,
32 without limitation, information specifically pertaining to this state or
33 to an insurer in its entirety, in the aggregate or by type of insurance,
34 and for a previous or current year, regarding:
35 (a) Premiums directly written;
36 (b) Premiums directly earned;
37 (c) Number of policies issued;
38 (d) Net investment income, using appropriate estimates when
39 necessary;
40 (e) Losses paid;
41 (f) Losses incurred;
42 (g) Loss reserves, including:
43 (1) Losses unpaid on reported claims; and
44 (2) Losses unpaid on incurred but not reported claims;
45 (h) Number of claims, including:



- 1 (1) Claims paid; and
2 (2) Claims that have arisen but are unpaid;
3 (i) Expenses for adjustment of losses, including allocated and
4 unallocated losses;
5 (j) Net underwriting gain or loss;
6 (k) Net operation gain or loss, including net investment income;
7 and
8 (l) Any other information requested by the Commissioner.
9 3. The Commissioner may also obtain, based upon an insurer
10 in its entirety, information regarding:
11 (a) Recoverable federal income tax;
12 (b) Net unrealized capital gain or loss; and
13 (c) All other expenses not included in subsection 2.
14 **Sec. 5.** NRS 679B.460 is hereby amended to read as follows:
15 679B.460 1. An insurer who willfully or repeatedly violates
16 or fails to comply with a provision of NRS 679B.400 to 679B.450,
17 inclusive, or **690B.050 or** a regulation adopted pursuant to NRS
18 679B.430 is subject, after notice and **a** hearing held pursuant to NRS
19 679B.310 to 679B.370, inclusive, to payment of an administrative
20 fine of not more than \$1,000 for each day of the violation or failure
21 to comply, up to a maximum fine of \$50,000.
22 2. An insurer who fails or refuses to comply with an order
23 issued by the Commissioner pursuant to NRS 679B.430 is subject,
24 after notice and **a** hearing held pursuant to NRS 679B.310 to
25 679B.370, inclusive, to suspension or revocation of his certificate of
26 authority to transact insurance in this state.
27 3. The imposition of an administrative fine pursuant to this
28 section must not be considered by the Commissioner in any other
29 administrative proceeding unless the fine has been paid or a court
30 order for payment of the fine has become final.
31 **Sec. 6.** NRS 680A.270 is hereby amended to read as follows:
32 680A.270 1. Each authorized insurer shall annually on or
33 before March 1, or within any reasonable extension of time therefor
34 which the Commissioner for good cause may have granted on or
35 before that date, file with the Commissioner a full and true
36 statement of its financial condition, transactions and affairs as of
37 December 31 preceding. The statement must be **[in]** :
38 **(a) In** the general form and context of, and require information
39 as called for by, **[the form of]** **an** annual statement as **is** currently in
40 general and customary use in the United States for the type of
41 insurer and kinds of insurance to be reported upon, with any useful
42 or necessary modification or adaptation thereof, supplemented by
43 additional information required by the Commissioner **[The**
44 **statement must be verified]** ;
45 **(b) Prepared in accordance with:**



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1 (1) *The Annual Statement Instructions for the type of*
2 *insurer to be reported on as adopted by the National Association*
3 *of Insurance Commissioners for the year in which the insurer files*
4 *the statement; and*

5 (2) *The Accounting Practices and Procedures Manual*
6 *adopted by the National Association of Insurance Commissioners*
7 *and effective on January 1, 2001, and as amended by the National*
8 *Association of Insurance Commissioners after that date; and*

9 (c) *Verified* by the oath of the insurer's president or vice
10 president and secretary or actuary, as applicable, or, in the absence
11 of the foregoing, by two other principal officers, or if a reciprocal
12 insurer, by the oath of the attorney-in-fact, or its like officers if a
13 corporation.

14 2. The statement of an alien insurer must be verified by its
15 United States manager or other officer ~~[duly authorized,]~~ *who is*
16 *authorized to do so*, and may relate only to the insurer's transactions
17 and affairs in the United States unless the Commissioner requires
18 otherwise. If the Commissioner requires a statement as to ~~[such an]~~
19 *the* insurer's affairs throughout the world, the insurer shall file the
20 statement with the Commissioner as soon as reasonably possible.

21 3. The Commissioner may refuse to continue, or may suspend
22 or revoke, the certificate of authority of any insurer failing to file its
23 annual statement when due.

24 4. At the time of filing, the insurer shall pay the fee for filing
25 its annual statement as prescribed by NRS 680B.010.

26 5. The Commissioner may adopt regulations requiring each
27 domestic, foreign and alien insurer which is authorized to transact
28 insurance in this state to file the insurer's annual statement with the
29 National Association of Insurance Commissioners or its successor
30 organization.

31 6. All ratios of financial analyses and synopses of examinations
32 concerning insurers that are submitted to the Division by the
33 National Association of Insurance Commissioners' Insurance
34 Regulatory Information System are confidential and may not be
35 disclosed by the Division.

36 **Sec. 7.** NRS 680B.010 is hereby amended to read as follows:

37 680B.010 The Commissioner shall collect in advance and
38 receipt for, and persons so served must pay to the Commissioner,
39 fees and miscellaneous charges as follows:

40 1. Insurer's certificate of authority:

41 (a) Filing initial application \$2,450

42 (b) Issuance of certificate:

43 (1) For any one kind of insurance as defined in NRS
44 681A.010 to 681A.080, inclusive 283

45 (2) For two or more kinds of insurance as so defined 578



1	(3) For a reinsurer.....	\$2,450
2	(c) Each annual continuation of a certificate.....	2,450
3	(d) Reinstatement pursuant to NRS 680A.180, 50	
4	percent of the annual continuation fee otherwise required.	
5	(e) Registration of additional title pursuant to NRS	
6	680A.240	50
7	(f) Annual renewal of the registration of additional title	
8	pursuant to NRS 680A.240.....	25
9	2. Charter documents, other than those filed with an	
10	application for a certificate of authority. Filing amendments	
11	to articles of incorporation, charter, bylaws, power of	
12	attorney and other constituent documents of the insurer,	
13	each document	\$10
14	3. Annual statement or report. For filing annual	
15	statement or report	\$25
16	4. Service of process:	
17	(a) Filing of power of attorney	\$5
18	(b) Acceptance of service of process.....	30
19	5. Licenses, appointments and renewals for producers	
20	of insurance:	
21	(a) Application and license.....	\$125
22	(b) Appointment fee for each insurer	15
23	(c) Triennial renewal of each license	125
24	(d) Temporary license	10
25	(e) Modification of an existing license.....	50
26	6. Surplus lines brokers:	
27	(a) Application and license	\$ 125
28	(b) Triennial renewal of each license	125
29	7. Managing general agents' licenses, appointments	
30	and renewals:	
31	(a) Application and license.....	\$125
32	(b) Appointment fee for each insurer	15
33	(c) Triennial renewal of each license	125
34	8. Adjusters' licenses and renewals:	
35	(a) Independent and public adjusters:	
36	(1) Application and license	\$125
37	(2) Triennial renewal of each license	125
38	(b) Associate adjusters:	
39	(1) Application and license	125
40	(2) Triennial renewal of each license	125
41	9. Licenses and renewals for appraisers of physical	
42	damage to motor vehicles:	
43	(a) Application and license	\$125
44	(b) Triennial renewal of each license	125



1	10. Additional title and property insurers pursuant to	
2	NRS 680A.240:	
3	(a) Original registration	\$50
4	(b) Annual renewal	25
5	11. Insurance vending machines:	
6	(a) Application and license, for each machine	\$125
7	(b) Triennial renewal of each license	125
8	12. Permit for solicitation for securities:	
9	(a) Application for permit.....	\$100
10	(b) Extension of permit.....	50
11	13. Securities salesmen for domestic insurers:	
12	(a) Application and license	\$25
13	(b) Annual renewal of license	15
14	14. Rating organizations:	
15	(a) Application and license	\$500
16	(b) Annual renewal	500
17	15. Certificates and renewals for administrators	
18	licensed pursuant to chapter 683A of NRS:	
19	(a) Application and certificate of registration	\$125
20	(b) Triennial renewal	125
21	16. For copies of the insurance laws of Nevada, a fee	
22	which is not less than the cost of producing the copies.	
23	17. Certified copies of certificates of authority and	
24	licenses issued pursuant to the Insurance Code.....	\$10
25	18. For copies and amendments of documents on file	
26	in the Division, a reasonable charge fixed by the	
27	Commissioner, including charges for duplicating or	
28	amending the forms and for certifying the copies and	
29	affixing the official seal.	
30	19. Letter of clearance for a producer of insurance or	
31	other licensee <input type="checkbox"/> if requested by someone other than the	
32	licensee	\$10
33	20. Certificate of status as a producer of insurance or	
34	other licensee <input type="checkbox"/> if requested by someone other than the	
35	licensee	\$10
36	21. Licenses, appointments and renewals for bail	
37	agents:	
38	(a) Application and license	\$125
39	(b) Appointment for each surety insurer	15
40	(c) Triennial renewal of each license	125
41	22. Licenses and renewals for bail enforcement agents:	
42	(a) Application and license	\$125
43	(b) Triennial renewal of each license	125
44	23. Licenses, appointments and renewals for general	
45	agents for bail:	



1	(a) Application and license	\$125
2	(b) Initial appointment by each insurer	15
3	(c) Triennial renewal of each license	125
4	24. Licenses and renewals for bail solicitors:	
5	(a) Application and license.....	\$125
6	(b) Triennial renewal of each license	125
7	25. Licenses and renewals for title agents and escrow	
8	officers:	
9	(a) Application and license	\$125
10	(b) Triennial renewal of each license	125
11	(c) Appointment fee for each title insurer	15
12	(d) Change in name or location of business or in	
13	association	10
14	26. Certificate of authority and renewal for a seller of	
15	prepaid funeral contracts	\$125
16	27. Licenses and renewals for agents for prepaid	
17	funeral contracts:	
18	(a) Application and license	\$125
19	(b) Triennial renewal of each license	125
20	28. Licenses, appointments and renewals for agents for	
21	fraternal benefit societies:	
22	(a) Application and license	\$125
23	(b) Appointment for each insurer	15
24	(c) Triennial renewal of each license	125
25	29. Reinsurance intermediary broker or manager:	
26	(a) Application and license.....	\$125
27	(b) Triennial renewal of each license	125
28	30. Agents for and sellers of prepaid burial contracts:	
29	(a) Application and certificate or license	\$125
30	(b) Triennial renewal.....	125
31	31. Risk retention groups:	
32	(a) Initial registration and review of an application	\$2,450
33	(b) Each annual continuation of a certificate of	
34	registration.....	2,450
35	32. Required filing of forms:	
36	(a) For rates and policies	\$25
37	(b) For riders and endorsements	10
38	33. Viatical settlements:	
39	(a) Provider of viatical settlements:	
40	(1) Application and license	\$1,000
41	(2) Annual renewal.....	1,000
42	(b) Broker of viatical settlements:	
43	(1) Application and license	500
44	(2) Annual renewal.....	500
45	34. Insurance consultants:	



- 1 (a) Application and license..... \$125
2 (b) Triennial renewal..... 125
3 35. Licensee's association with or appointment or
4 sponsorship by an organization:
5 (a) Initial appointment, association or sponsorship, for
6 each organization..... \$50
7 (b) Renewal of each association or sponsorship 50
8 (c) Annual renewal of appointment..... 15
9 **36. Purchasing groups:**
10 **(a) Initial registration and review of an application \$100**
11 **(b) Each annual continuation of registration 100**
12 **Sec. 8.** NRS 680B.070 is hereby amended to read as follows:
13 680B.070 1. Each authorized insurer, fraternal benefit
14 society, health maintenance organization, organization for dental
15 care , *prepaid limited health service organization* and motor club
16 shall on or before March 1 of each year pay to the Commissioner
17 ~~the~~ *a reasonable* uniform amount, not to exceed ~~[\$15.]~~ *\$30*, as the
18 Commissioner requires, to cover the assessment levied upon this
19 state in the same calendar year by the National Association of
20 Insurance Commissioners to defray:
21 (a) The general expenses of the Association; and
22 (b) Reasonable and necessary travel and related expenses
23 incurred by the Commissioner and members of his staff, without
24 limitation as to number, in attending meetings of the Association
25 and its committees, subcommittees, hearings and other official
26 activities.
27 The Commissioner shall give written notice of the required amount.
28 2. Expenses incurred for the purposes described in paragraphs
29 (a) and (b) of subsection 1 must be paid in full and are not subject to
30 the limitations expressed in NRS 281.160 or in the regulations of
31 any state agency.
32 3. All money received by the Commissioner pursuant to
33 subsection 1 must be deposited in the State Treasury for credit to the
34 National Association Account of the Division of Insurance, which is
35 hereby created in the State General Fund. Except as otherwise
36 provided in subsection 2, all claims against the Account must be
37 paid as other claims against the State are paid.
38 **Sec. 9.** NRS 681A.160 is hereby amended to read as follows:
39 681A.160 1. Except as otherwise provided in subsection 2,
40 credit must be allowed if reinsurance is ceded to an assuming
41 insurer which is accredited as a reinsurer in this state. An accredited
42 reinsurer is one which:
43 (a) Files with the Commissioner *an executed form approved by*
44 *the Commissioner as* evidence of its submission to this state's
45 jurisdiction;



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1 (b) Submits to this state's authority to examine its books and
2 records;

3 (c) ~~Is~~ *Files with the Commissioner a certified copy of a*
4 *certificate of authority or other evidence approved by the*
5 *Commissioner indicating that it is* licensed to transact insurance or
6 reinsurance in at least one state, or in the case of a branch in the
7 United States of an alien assuming insurer is entered through and
8 licensed to transact insurance or reinsurance in at least one state;

9 (d) Files annually with the Commissioner a copy of its annual
10 statement filed with the Division of its state of domicile or entry and
11 a copy of its most recent audited financial statement; and

12 (e) Maintains a surplus as regards policyholders in an amount
13 which is not less than \$20,000,000 and whose accreditation:

14 (1) Has not been denied by the Commissioner within 90 days
15 after its submission; or

16 (2) Has been approved by the Commissioner.

17 2. No credit may be allowed *for* a domestic ceding insurer if
18 the assuming insurer's accreditation has been revoked by the
19 Commissioner after notice and *a* hearing.

20 **Sec. 10.** NRS 681A.180 is hereby amended to read as follows:

21 681A.180 1. ~~Credit~~ *Except as otherwise provided in*
22 *subsection 4, credit* must be allowed if reinsurance is ceded to an
23 assuming insurer which maintains a trust fund in a qualified
24 financial institution in the United States for the payment of the valid
25 claims of its policyholders and ceding insurers in the United States,
26 their assigns and successors in interest. The assuming insurer shall
27 report annually to the Commissioner information substantially the
28 same as that required to be reported on the National Association of
29 Insurance Commissioners' form of annual statement by licensed
30 insurers to enable the Commissioner to determine the sufficiency of
31 the trust fund.

32 2. In the case of a single assuming insurer, the trust must
33 consist of an account in trust equal to the assuming insurer's
34 liabilities attributable to business written in the United States and
35 the assuming insurer shall maintain a surplus in trust of not less than
36 \$20,000,000.

37 3. In the case of a group of incorporated and individual
38 unincorporated underwriters, the trust must consist of an account in
39 trust equal to the group's liabilities attributable to business written
40 in the United States and the group shall maintain a surplus in trust of
41 which \$100,000,000 must be held jointly for the benefit of ceding
42 insurers in the United States to any member of the group, and the
43 group shall make available to the Commissioner an annual
44 certification of the solvency of each underwriter by the group's
45 domiciliary regulator and its independent public accountants.



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1 4. *If the assuming insurer does not meet the requirements of*
2 *NRS 681A.110, 681A.160 or 681A.170, credit must not be allowed*
3 *unless the assuming insurer has agreed to the following*
4 *conditions set forth in the trust agreement:*

5 (a) *Notwithstanding any provision to the contrary in the trust*
6 *instrument, if the trust fund consists of an amount that is less than*
7 *the amount required pursuant to this section, or if the grantor of*
8 *the trust fund is declared to be insolvent or placed into*
9 *receivership, rehabilitation, liquidation or a similar proceeding in*
10 *accordance with the laws of the grantor's state or country of*
11 *domicile, the trustee of the trust fund must comply with an order*
12 *of the commissioner of insurance or other appropriate person with*
13 *regulatory authority over the trust fund in that state or country or*
14 *a court of competent jurisdiction requiring the trustee to transfer*
15 *to that commissioner or person all the assets of the trust fund;*

16 (b) *The assets of the trust fund must be distributed by and*
17 *claims filed with and valued by the commissioner of insurance or*
18 *other appropriate person with regulatory authority over the trust*
19 *fund in accordance with the laws of the state in which the trust*
20 *fund is domiciled that are applicable to the liquidation of domestic*
21 *insurers in that state;*

22 (c) *If the commissioner of insurance or other appropriate*
23 *person with regulatory authority over the trust fund determines*
24 *that the assets of the trust fund or any portion of the trust fund are*
25 *not required to satisfy any claim of any ceding insurer of the*
26 *grantor of the trust fund in the United States, the assets must be*
27 *returned by that commissioner or person to the trustee of the trust*
28 *fund for distribution in accordance with the trust agreement; and*

29 (d) *The grantor of the trust must waive any right that:*

30 (1) *Is otherwise available to him under the laws of the*
31 *United States; and*

32 (2) *Is inconsistent with the provisions of this subsection.*

33 **Sec. 11.** NRS 681A.190 is hereby amended to read as follows:

34 681A.190 1. Credit must be allowed if reinsurance is ceded
35 to a group of incorporated insurers under common administration
36 which:

37 (a) *Does not engage in any business other than underwriting*
38 *as a member of the group;*

39 (b) *Is subject to the same amount of regulation and solvency*
40 *control by the group's domiciliary regulator as are the*
41 *unincorporated members of the group;*

42 (c) Reports annually to the Commissioner the information
43 required by subsection 1 of NRS 681A.180;



1 ~~[(b)]~~ (d) Has continuously transacted insurance outside the
2 United States for at least 3 years immediately before making *an*
3 application for accreditation;

4 ~~[(e)]~~ (e) Submits to this state's authority to examine its books
5 and records and bears the expense of the examination;

6 ~~[(4)]~~ (f) Has aggregate policyholders' surplus of
7 \$10,000,000,000; and

8 ~~[(e)]~~ (g) Maintains a trust pursuant to subsection 2.

9 2. The trust must be in an amount equal to the group's several
10 liabilities attributable to business ceded by ceding insurers in the
11 United States to any member of the group pursuant to contracts of
12 reinsurance issued in the name of the group, and the group shall
13 maintain a joint surplus in trust of which \$100,000,000 must be held
14 jointly for the benefit of ceding insurers in the United States to any
15 member of the group as additional security for any such liabilities.

16 3. Each member of the group shall , *within 90 days after the*
17 *date its financial statements must be filed with the group's*
18 *domiciliary regulator*, make available to the Commissioner an
19 annual certification of the member's solvency by the member's
20 domiciliary regulator and its independent public accountant.

21 **Sec. 12.** NRS 681A.200 is hereby amended to read as follows:
22 681A.200 1. A trust for the purposes of NRS 681A.180 or
23 681A.190 , *and any amendment to the trust*, must be established *or*
24 *amended* in a form approved by ~~[(the Commissioner)]~~ :

25 (a) *The Commissioner; and*

26 (b) *The commissioner of insurance or other appropriate*
27 *person of:*

28 (1) *The state in which the trust is domiciled; or*

29 (2) *Any other state that, pursuant to the trust instrument,*
30 *accepts regulatory authority over the trust.*

31 2. *The form of the trust and any amendment to the trust must*
32 *be filed with the commissioner of insurance or other appropriate*
33 *person of each state in which the policyholders of the ceding*
34 *insurer who are the beneficiaries of the trust are domiciled.*

35 3. The trust instrument must provide that contested claims
36 become valid ~~[(and enforceable upon)]~~ , *enforceable and payable*
37 *from money held in the trust fund to the extent that the contested*
38 *claims remain unsatisfied, within 30 days after the entry of* the
39 final order of any court of competent jurisdiction in the United
40 States. The trust must vest legal title to its assets in the trustees of
41 the trust for its policyholders and ceding insurers in the United
42 States, their assigns and successors in interest. The trust and
43 the assuming insurer are subject to examination as determined by
44 the Commissioner. The trust must remain in effect for as long as the
45 assuming insurer *or any member or former member of the group of*



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1 *insurers* has outstanding obligations due under the agreements for
2 reinsurance subject to the trust.

3 ~~[2. No]~~

4 *4. Not* later than February 28 of each year the trustees of the
5 trust shall report to the Commissioner in writing setting forth the
6 balance of the trust and listing the trust's investments at the end of
7 the preceding year and shall certify the date of termination of the
8 trust, if so planned, or certify that the trust will not expire before the
9 next following December 31.

10 **Sec. 13.** NRS 681A.210 is hereby amended to read as follows:

11 681A.210 1. Except as otherwise provided in subsection 2, if
12 the assuming insurer is not licensed or accredited to transact
13 insurance or reinsurance in this state, the credit permitted by NRS
14 681A.170 or 681A.180 must not be allowed unless the assuming
15 insurer agrees in the agreements for reinsurance:

16 (a) That in the event of the failure of the assuming insurer to
17 perform its obligations under the terms of the agreement, the
18 assuming insurer, at the request of the ceding insurer, will submit to
19 the jurisdiction of any court of competent jurisdiction in any state of
20 the United States, will comply with all requirements necessary to
21 give the court jurisdiction, and will abide by the final decision of the
22 court or of any appellate court in the event of an appeal; ~~[and]~~

23 (b) To designate the Commissioner or a designated attorney as
24 its true and lawful attorney upon whom may be served any lawful
25 process in an action, suit or proceeding instituted by or on behalf of
26 the ceding company ~~[]~~; *and*

27 *(c) To comply with the conditions set forth in subsection 4 of*
28 *NRS 681A.180.*

29 2. This section does not conflict with or override the obligation
30 of the parties to an agreement for reinsurance to arbitrate their
31 disputes ~~[]~~ if such an obligation is created in the agreement.

32 **Sec. 14.** NRS 681A.420 is hereby amended to read as follows:

33 681A.420 1. A person shall not act as a broker for
34 reinsurance ~~[if he maintains an office, directly or as a member or~~
35 ~~employee of a firm or association or as an officer, director or~~
36 ~~employee of a corporation:~~

37 ~~—(a) In this state,]~~ *for a domestic insurer or reinsurer* unless he
38 is ~~[a]~~:

39 (a) *A* licensed producer in this state; or

40 (b) ~~[In another state, unless he is a licensed producer]~~ *Licensed*
41 *as a nonresident intermediary for reinsurance* in this state . ~~[or in~~
42 ~~another state having a law substantially similar to this title or he is~~
43 ~~licensed in this state as a nonresident intermediary.]~~

44 2. A person shall not act as a ~~[manager]~~ *broker* for reinsurance
45 ~~[]~~:



1 ~~—(a) For~~ for a foreign or alien insurer or reinsurer ~~[domiciled]~~ if
2 he maintains an office, directly or as a member or employee of a
3 firm or association or as an officer, director or employee of a
4 corporation in this state, unless he is ~~[a]~~ :
5 (a) A licensed producer in this state; or
6 (b) ~~[He]~~ Licensed as a nonresident intermediary for
7 reinsurance in this state . ~~[, if he maintains an office individually or~~
8 ~~as a member or employee of a firm or association or as an officer,~~
9 ~~director or employee of a corporation in this state, unless he is a~~
10 ~~licensed producer in this state; or~~
11 ~~—(c) In another state for a foreign insurer, unless he is a licensed~~
12 ~~producer in this state or in another state having a law substantially~~
13 ~~similar to this title or he is licensed in this state as a nonresident~~
14 ~~intermediary.]~~
15 3. A person shall not act as a manager for reinsurance ~~[shall:]~~
16 for a domestic insurer or reinsurer unless he is:
17 (a) A licensed producer in this state; or
18 (b) Licensed as a nonresident manager for reinsurance in this
19 state.
20 4. A person shall not act as a manager for reinsurance for
21 any foreign or alien insurer or reinsurer if he maintains an office,
22 directly or as a member or employee of a firm or association or as
23 an officer, director or employee of a corporation in this state,
24 unless he is:
25 (a) A licensed producer in this state; or
26 (b) Licensed as a nonresident manager for reinsurance in this
27 state.
28 5. A manager for reinsurance shall:
29 (a) File a bond from an insurer in an amount that is acceptable to
30 the Commissioner for the protection of the reinsurer; and
31 (b) Maintain a policy covering errors and omissions in an
32 amount that is acceptable to the Commissioner.
33 **Sec. 15.** NRS 681B.160 is hereby amended to read as follows:
34 681B.160 1. ~~[A]~~ Except as otherwise provided in
35 subsection 5, all bonds or other evidences of debt having a fixed
36 term and rate of interest held by an insurer may, if amply secured
37 and not in default as to principal or interest, be valued as follows:
38 (a) If purchased at par, at the par value.
39 (b) If purchased above or below par, on the basis of the purchase
40 price adjusted so as to bring the value to par at maturity and so as to
41 yield in the meantime the effective rate of interest at which the
42 purchase was made ~~[,]~~ or , in lieu of ~~[such]~~ that method, according
43 to ~~[such]~~ an accepted method of valuation ~~[as]~~ that is approved by
44 the Commissioner.



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1 2. The purchase price ~~[shall in no case]~~ *must not* be taken at a
2 higher figure than the actual market value at the time of purchase,
3 plus actual brokerage, transfer, postage or express charges paid in
4 the acquisition of such securities.

5 3. Unless otherwise provided by *a* valuation established or
6 approved by the Commissioner, ~~[no such security shall]~~ *the security*
7 *must not* be carried at above the call price for the entire issue during
8 any period within which the security may be so called.

9 4. The Commissioner ~~[shall have]~~ *has* full discretion in
10 determining the method of calculating values ~~[according to the rules~~
11 ~~set forth in]~~ *pursuant to* this section.

12 5. *A valuation determined pursuant to this section must not*
13 *be inconsistent with any applicable valuation or method then*
14 *currently formulated or approved by the National Association of*
15 *Insurance Commissioners or its successor organization.*

16 **Sec. 16.** NRS 681B.170 is hereby amended to read as follows:

17 681B.170 1. ~~[Securities,]~~ *Except as otherwise provided in*
18 *subsection 4, securities,* other than those ~~[referred to]~~ *specified* in
19 NRS 681B.160, held by an insurer ~~[shall]~~ *must* be valued, in the
20 discretion of the Commissioner, at their market value, or at their
21 appraised value, or at prices determined by him as representing their
22 fair market value.

23 2. Preferred or guaranteed stocks or shares while paying full
24 dividends may be carried at a fixed value in lieu of market value, at
25 the discretion of the Commissioner and in accordance with ~~[such]~~ *a*
26 method of computation ~~[as he may approve.]~~ *approved by the*
27 *Commissioner.*

28 3. The stock of a subsidiary of an insurer ~~[shall]~~ *must* be
29 valued on the basis of the value of only ~~[such of the]~~ *those* assets of
30 ~~[such]~~ *the* subsidiary as would constitute lawful investments of the
31 insurer if acquired or held directly by the insurer.

32 4. *A valuation determined pursuant to this section must not*
33 *be inconsistent with any applicable valuation or method then*
34 *currently formulated or approved by the National Association of*
35 *Insurance Commissioners or its successor organization.*

36 **Sec. 17.** NRS 682A.080 is hereby amended to read as follows:

37 682A.080 1. An insurer may invest any of its funds in
38 obligations other than those eligible for investment under NRS
39 682A.230 ~~[H, relating to]~~ *real property mortgages, D,]* if they are
40 issued, assumed or guaranteed by any solvent institution ~~[created or~~
41 ~~existing under the laws of the United States of America, Canada or~~
42 ~~Mexico, or of any state, district, province or territory thereof,]~~ and
43 are qualified under any of the following:

44 (a) Obligations which are secured by adequate collateral security
45 and bear fixed interest if, during each of any 3, including the last 2,



1 of the 5 fiscal years next preceding the date of acquisition by the
2 insurer, the net earnings of the issuing, assuming or guaranteeing
3 institution available for its fixed charges, as defined in NRS
4 682A.090, have been not less than 1 1/2 times the total of its fixed
5 charges for ~~[such]~~ *that* year. In determining the adequacy of
6 collateral security, not more than one-third of the total value of
7 ~~[such]~~ *the* required collateral may consist of stock other than stock
8 meeting the requirements of NRS 682A.100 ~~[A]~~ *, relating to*
9 preferred or guaranteed stock. ~~[D]~~

10 (b) Fixed interest-bearing obligations, other than those described
11 in paragraph (a), if the net earnings of the issuing, assuming or
12 guaranteeing institution available for its fixed charges for a period
13 of 5 fiscal years next preceding the date of acquisition by the insurer
14 have averaged per year not less than 1 1/2 times its average annual
15 fixed charges applicable to ~~[such]~~ *that* period and if, during the last
16 year of ~~[such period such]~~ *that period, the* net earnings have been
17 not less than 1 1/2 times its fixed charges for ~~[such]~~ *that* year.

18 (c) Adjustment, income or other contingent interest obligations
19 if the net earnings of the issuing, assuming or guaranteeing
20 institution available for its fixed charges for a period of 5 fiscal
21 years next preceding the date of acquisition by the insurer have
22 averaged per year not less than 1 1/2 times the sum of its average
23 annual fixed charges and its average annual maximum contingent
24 interest applicable to such period and if, during each of the last 2
25 years of ~~[such period such]~~ *that period, the* net earnings have not
26 been less than 1 1/2 times the sum of its fixed charges and
27 maximum contingent interest for such year.

28 (d) Capital stock and other securities of:

29 (1) A state development corporation organized under the
30 provisions of chapter 670 of NRS.

31 (2) A corporation for economic revitalization and
32 diversification organized under the provisions of chapter 670A of
33 NRS, if the insurer is a member of the corporation, and to the extent
34 of its loan limit established under NRS 670A.200.

35 2. No insurer may invest in any such bonds or evidences of
36 indebtedness in excess of 10 percent of any issue of such bonds or
37 evidences of indebtedness or, subject to subsection 1 of NRS
38 682A.050 ~~[(diversification)]~~ *, relating to diversification*, more than
39 an amount equal to 10 percent of the insurer's admitted assets in any
40 issue.

41 **Sec. 18.** NRS 682A.100 is hereby amended to read as follows:

42 682A.100 1. An insurer may invest in preferred or
43 guaranteed stocks or shares of any solvent institution ~~[existing under~~
44 ~~the laws of the United States of America, Canada or Mexico, or of~~
45 ~~any state or province thereof.]~~ if all of the prior obligations and prior



1 preferred stocks, if any, of the institution at the date of acquisition of
2 the investment by the insurer are eligible as investments under this
3 chapter and if the net earnings of the institution available for its
4 fixed charges during either of the last 2 years have been, and during
5 each of the last 5 years have averaged, not less than 1 1/2 times the
6 sum of its average annual fixed charges, if any, its average annual
7 maximum contingent interest, if any, and its average annual
8 preferred dividend requirements. For the purposes of this section,
9 the computation refers to the fiscal years immediately preceding the
10 date of acquisition of the investment by the insurer, and the term
11 "preferred dividend requirement" means cumulative or
12 noncumulative dividends, whether paid or not.

13 2. No insurer may invest in any such preferred or guaranteed
14 stocks in an amount in excess of 35 percent of the particular issue of
15 guaranteed or preferred stock or, subject to subsection 1 of NRS
16 682A.050, more than an amount equal to 10 percent of the insurer's
17 admitted assets in any one issue.

18 **Sec. 19.** NRS 682A.110 is hereby amended to read as follows:

19 682A.110 1. An insurer may invest up to 35 percent of its
20 assets in nonassessable common stocks, other than insurance stocks,
21 of any solvent corporation, ~~[organized and existing under the laws~~
22 ~~of the United States of America, Canada or Mexico, or of any state~~
23 ~~or province thereof,]~~ except that bank or trust company stocks may
24 be assessable and any stocks may be assessable for taxes ~~[i]~~ if the
25 corporation has had net earnings available for dividends on the stock
26 in each of the 5 fiscal years next preceding acquisition by the
27 insurer. If the issuing corporation has not been in legal existence for
28 all of the 5 fiscal years but was formed as a consolidation or merger
29 of two or more businesses of which at least one was in operation on
30 a date 5 years before the investment, the test of eligibility of its
31 common stock under this section must be based upon consolidated
32 pro forma statements of the predecessor or constituent institutions.

33 2. Any amount invested in a fund or trust under NRS 682A.140
34 must not be included in computing the amounts prescribed in
35 subsection 1.

36 **Sec. 20.** NRS 683A.08524 is hereby amended to read as
37 follows:

38 683A.08524 1. Except as otherwise provided ~~[by]~~ *in*
39 subsection 2, the Commissioner shall issue a certificate of
40 registration as an administrator to an applicant who:

41 (a) Submits an application on a form prescribed by the
42 Commissioner;

43 (b) Has complied with the provisions of NRS 683A.08522; and

44 (c) Pays the fee for the issuance of a certificate of registration
45 prescribed in NRS 680B.010.



1 2. The Commissioner may refuse to issue a certificate of
2 registration as an administrator to an applicant if the Commissioner
3 determines that the applicant or any person who has completed an
4 affidavit pursuant to subsection 6 of NRS 683A.08522:

- 5 (a) Is not competent to act as an administrator;
6 (b) Is not trustworthy or financially responsible;
7 (c) Does not have a good personal or business reputation;
8 (d) Has had a license or certificate to transact insurance denied
9 for cause, suspended or revoked in this state or any other state; ~~for~~;
10 (e) Has failed to comply with any provision of this chapter ~~for~~;

11 *or*

12 *(f) Is financially unsound.*

13 **Sec. 21.** NRS 683A.08528 is hereby amended to read as
14 follows:

15 683A.08528 *1. Not later than ~~March~~ July 1 of each year,*
16 *each holder of a certificate of registration as an administrator shall*
17 *file ~~a financial statement~~ an annual report with the Commissioner*
18 *. ~~on a form approved by the Commissioner.~~ The report must be*
19 *verified by at least two officers of the administrator.*

20 *2. Each annual report filed pursuant to subsection 1 must*
21 *include:*

22 *(a) An audited financial statement of the administrator*
23 *prepared by an independent certified public accountant;*

24 *(b) The complete name and address of each person for whom*
25 *the administrator agreed to act as an administrator during the*
26 *immediately preceding fiscal year; and*

27 *(c) Any other information required by the Commissioner.*

28 *3. In addition to the information required pursuant to*
29 *subsection 2, if an annual report is prepared on a consolidated*
30 *basis, the report must include a columnar or combining worksheet*
31 *that:*

32 *(a) Includes the amounts shown on the consolidated audited*
33 *financial statement;*

34 *(b) Separately sets forth the amounts for each entity included*
35 *in the worksheet; and*

36 *(c) Includes an explanation of each consolidating and*
37 *eliminating entry included in the worksheet.*

38 *4. Each administrator who files an annual report pursuant to*
39 *this section shall, at the time of filing the report, pay a filing fee in*
40 *an amount determined by the Commissioner.*

41 *5. On or before September 1 of each year, the Commissioner*
42 *shall, for each administrator, review the annual report that is most*
43 *recently filed by the administrator. As soon as practicable after*
44 *reviewing the report, the Commissioner shall:*

45 *(a) Issue a certificate to the administrator:*



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1 (1) *Indicating that, based on the annual report and the*
2 *audited financial statement included in the report, the*
3 *administrator has a positive net worth and is currently licensed*
4 *and in good standing in this state; or*

5 (2) *Setting forth any deficiency found by the Commissioner*
6 *in the annual report and accompanying financial statement; or*

7 (b) *Submit a statement to any electronic database maintained*
8 *by the National Association of Insurance Commissioners or any*
9 *affiliate or subsidiary of the Association:*

10 (1) *Indicating that, based on the annual report and the*
11 *audited financial statement included in the report, the*
12 *administrator has a positive net worth and is in compliance with*
13 *existing law; or*

14 (2) *Setting forth any deficiency found by the Commissioner*
15 *in the annual report and accompanying financial statement.*

16 **Sec. 22.** NRS 683A.0892 is hereby amended to read as
17 follows:

18 683A.0892 **1.** The Commissioner:

19 ~~1.1~~ (a) Shall suspend or revoke the certificate of registration of
20 an administrator if the Commissioner has determined, after notice
21 and a hearing, that the administrator:

22 ~~1.1(a)~~ (1) Is in an unsound financial condition;

23 ~~1.1(b)~~ (2) Uses methods or practices in the conduct of his
24 business that are hazardous or injurious to insured persons or
25 members of the general public; or

26 ~~1.1(c)~~ (3) Has failed to pay any judgment against him in this state
27 within 60 days after the judgment became final.

28 ~~1.2~~ (b) May suspend or revoke the certificate of registration of
29 an administrator if the Commissioner determines, after notice and a
30 hearing, that the administrator:

31 ~~1.2(a)~~ (1) Has willfully violated or failed to comply with any
32 provision of this Code, any regulation adopted pursuant to this Code
33 or any order of the Commissioner;

34 ~~1.2(b)~~ (2) Has refused to be examined by the Commissioner or
35 has refused to produce accounts, records or files for examination
36 upon the request of the Commissioner;

37 ~~1.2(c)~~ (3) Has, without just cause, refused to pay claims or
38 perform services pursuant to his contracts or has, without just cause,
39 caused persons to accept less than the amount of money owed to
40 them pursuant to the contracts, or has caused persons to employ an
41 attorney or bring a civil action against him to receive full payment
42 or settlement of claims;

43 ~~1.2(d)~~ (4) Is affiliated with, managed by or owned by another
44 administrator or an insurer who transacts insurance in this state
45 without a certificate of authority or certificate of registration;



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1 ~~[(e)]~~ (5) Fails to comply with any of the requirements for a
2 certificate of registration;
3 ~~[(f)]~~ (6) Has been convicted of ~~[(f)]~~ or has entered a plea of guilty
4 or nolo contendere to a felony, whether or not adjudication was
5 withheld; ~~[(f)]~~
6 ~~[(g)]~~ (7) Has had his authority to act as an administrator in
7 another state limited, suspended or revoked ~~[(f)]~~
8 ~~3. May,]~~; or
9 (8) *Has failed to file an annual report in accordance with*
10 *NRS 683A.08528.*
11 (c) *May suspend or revoke the certificate of registration of an*
12 *administrator if the Commissioner determines, after notice and a*
13 *hearing, that a responsible person:*
14 (1) *Has refused to provide any information relating to the*
15 *administrator's affairs or refused to perform any other legal*
16 *obligation relating to an examination upon request by the*
17 *Commissioner; or*
18 (2) *Has been convicted of or has entered a plea of guilty or*
19 *nolo contendere to a felony, whether or not adjudication was*
20 *withheld.*
21 (d) *May*, upon notice to the administrator, suspend the
22 certificate of registration of the administrator pending a hearing if:
23 ~~[(a)]~~ (1) The administrator is impaired or insolvent;
24 ~~[(b)]~~ (2) A proceeding for receivership, conservatorship or
25 rehabilitation has been commenced against the administrator in any
26 state; or
27 ~~[(c)]~~ (3) The financial condition or the business practices of the
28 administrator represent an imminent threat to the public health,
29 safety or welfare of the residents of this state.
30 ~~[(4)]~~ (e) *May*, in addition to or in lieu of the suspension or
31 revocation of the certificate of registration of the administrator,
32 impose a fine of \$2,000 for each act or violation.
33 2. *As used in this section, "responsible person" means any*
34 *person who is responsible for or controls or is authorized to*
35 *control or advise the affairs of an administrator, including,*
36 *without limitation:*
37 (a) *A member of the board of directors, board of trustees,*
38 *executive committee or other governing board or committee of the*
39 *administrator;*
40 (b) *The president, vice president, chief executive officer, chief*
41 *operating officer or any other principal officer of an*
42 *administrator, if the administrator is a corporation;*
43 (c) *A partner or member of the administrator, if the*
44 *administrator is a partnership, association or limited-liability*
45 *company; and*



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1 (d) *Any shareholder or member of the administrator who*
2 *directly or indirectly holds 10 percent or more of the voting stock,*
3 *voting securities or voting interest of the administrator.*

4 **Sec. 23.** NRS 683A.201 is hereby amended to read as follows:
5 683A.201 1. A person shall not sell, solicit or negotiate
6 insurance in this state for any class of insurance unless he is licensed
7 for that class of insurance.

8 2. An insurer is exempt from the requirement for licensure as a
9 producer of insurance, but this exemption does not extend to an
10 insurer's officers, directors, employees, subsidiaries or affiliates ~~[-]~~
11 *who sell, solicit or negotiate insurance.*

12 3. A person required to be licensed in this state who transacts
13 insurance without a license is subject to an administrative fine of not
14 more than \$1,000 for each violation.

15 **Sec. 24.** NRS 683A.211 is hereby amended to read as follows:
16 683A.211 The following persons need not be licensed as
17 producers of insurance:

18 1. An officer, director or employee of an insurer or of a
19 producer of insurance if the officer, director or employee does not
20 receive any commission on policies written or sold to insure risks
21 residing, located or to be performed in this state and:

22 (a) The officer, director or employee's activities are executive,
23 administrative, managerial ~~[-]~~ *or* clerical, or a combination ~~[-]~~
24 ~~these,~~ *thereof,* and are only indirectly related to the sale,
25 solicitation or negotiation of insurance;

26 (b) The officer, director or employee's function relates to
27 underwriting, control of losses, inspection or the processing,
28 adjusting, investigating or settling of claims on contracts of
29 insurance; or

30 (c) The officer, director or employee is acting in the capacity of
31 a special agent or supervisor of an agency assisting producers of
32 insurance where his activities are limited to providing technical
33 advice and assistance to licensed producers and do not include sale,
34 solicitation or negotiation of insurance.

35 2. A person who secures and furnishes information for the
36 purpose of group life insurance, group property and casualty
37 insurance, group annuities, or group or blanket accident and health
38 insurance, or for the purpose of enrolling natural persons under
39 plans, issuing certificates under plans or otherwise assisting in
40 administering plans, or who performs administrative services related
41 to mass marketed property and casualty insurance, if no commission
42 is paid to him for the service ~~[-]~~ *and he does not sell, solicit or*
43 *negotiate insurance.* As used in this subsection, "blanket accident
44 and health insurance" has the meaning ascribed to it in
45 NRS 689B.070.



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1 3. An employer or association or its officers, directors or
2 employees, or the trustees of an employees' trust plan, to the extent
3 that the employer, association, officers, directors, employees or
4 trustees are engaged in the administration or operation of a program
5 of employees' benefits for the employer's or association's own
6 employees or the employees of its subsidiaries or affiliates, if the
7 program involves the use of insurance issued by an insurer and the
8 employer, association, officers, directors, employees or trustees are
9 not compensated by the insurer issuing the contracts.

10 4. Employees of insurers or organizations employed by
11 insurers who are engaged in the inspection, rating or classification
12 of risks or in the supervision of the training of producers of
13 insurance and are not individually engaged in the sale, solicitation or
14 negotiation of insurance.

15 5. A person whose activities in this state are limited to
16 advertising, without the intent to solicit insurance in this state,
17 through communications in printed publications or electronic mass
18 media whose distribution is not limited to residents of this state, if
19 he does not sell, solicit or negotiate insurance of risks residing,
20 located or to be performed in this state.

21 6. A salaried full-time employee who counsels or advises his
22 employer concerning the interests of the employer, or of the
23 subsidiaries or affiliates of the employer, in insurance, if the
24 employee does not sell or solicit insurance or receive a commission.

25 7. An employee of a producer of insurance or an insurer who
26 responds to requests from holders of policies previously issued, if
27 the employee is not directly compensated according to the volume
28 of premiums that may result from those services and does not solicit
29 insurance or offer advice concerning terms or conditions of policies.

30 **Sec. 25.** NRS 683A.251 is hereby amended to read as follows:

31 683A.251 1. The Commissioner shall prescribe the form of
32 application by a natural person for a license as a resident producer
33 of insurance. The applicant must declare, under penalty of refusal to
34 issue, or suspension or revocation of, the license, that the statements
35 made in the application are true, correct and complete to the best of
36 his knowledge and belief. Before approving the application, the
37 Commissioner must find that the applicant has:

38 (a) Attained the age of 18 years;

39 (b) Not committed any act that is a ground for refusal to issue,
40 or suspension or revocation of, a license;

41 (c) Completed a course of study for the lines of authority for
42 which *the* application is made, unless the applicant is exempt from
43 this requirement;



1 (d) Paid the fee prescribed for the license and a fee of \$15 for
2 deposit in the Insurance Recovery Account, neither of which may be
3 refunded; and

4 (e) Successfully passed the examinations for the lines of
5 authority for which application is made, unless the applicant is
6 exempt from this requirement.

7 2. A business organization must be licensed as a producer of
8 insurance in order to act as such. Application must be made on a
9 form prescribed by the Commissioner. Before approving the
10 application, the Commissioner must find that the applicant has:

11 (a) Paid the fee prescribed for the license and a fee of \$15 for
12 deposit in the Insurance Recovery Account, neither of which may be
13 refunded; and

14 (b) Designated a natural person *who is* licensed as a producer of
15 insurance *and who is affiliated with the business organization* to be
16 responsible for the organization's compliance with the laws and
17 regulations of this state relating to insurance.

18 3. A natural person who is a resident of this state applying for a
19 license must furnish a copy of a search concerning him conducted
20 by the Federal Bureau of Investigation in its national criminal
21 records ~~§~~ and of a search concerning him of the Central Repository
22 for Nevada Records of Criminal History. The Commissioner shall
23 adopt regulations concerning the procedures for obtaining this
24 information.

25 4. The Commissioner may require any document reasonably
26 necessary to verify information contained in an application.

27 **Sec. 26.** NRS 683A.261 is hereby amended to read as follows:

28 683A.261 1. Unless the Commissioner refuses to issue the
29 license under NRS 683A.451, he shall issue a license as a producer
30 of insurance to a person who has satisfied the requirements of NRS
31 683A.241 and 683A.251. A producer *of insurance* may qualify for
32 a license in one or more of the lines of authority permitted by statute
33 or regulation, including:

34 (a) Life insurance on human lives, which includes benefits from
35 endowments and annuities and may include additional benefits from
36 death by accident and benefits for dismemberment by accident and
37 for disability.

38 (b) Health insurance for sickness, bodily injury or accidental
39 death, which may include benefits for disability.

40 (c) Property insurance for direct or consequential loss or damage
41 to property of every kind.

42 (d) Casualty insurance against legal liability, including liability
43 for death, injury or disability and damage to real or personal
44 property.



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- 1 (e) Surety indemnifying financial institutions or providing bonds
2 for fidelity, performance of contracts ~~[]~~ or financial guaranty.
- 3 (f) Variable annuities ~~[]~~ *and variable life insurance*, including
4 coverage reflecting the results of a separate investment account.
- 5 (g) Credit insurance, including life, disability, property,
6 unemployment, involuntary unemployment, mortgage life, mortgage
7 guaranty, mortgage disability, guaranteed protection of assets, and
8 any other form of insurance offered in connection with an extension
9 of credit that is limited to wholly or partially extinguishing the
10 obligation which the Commissioner determines should be
11 considered as limited-line credit insurance.
- 12 (h) Personal lines, consisting of automobile and motorcycle
13 insurance and residential property insurance, including coverage for
14 flood, of personal watercraft and of excess liability, written over one
15 or more underlying policies of automobile or residential property
16 insurance.
- 17 (i) Fixed annuities as a limited line.
- 18 (j) Travel and baggage as a limited line.
- 19 (k) Rental car agency as a limited line.
- 20 2. A license as a producer of insurance remains in effect unless
21 revoked, suspended ~~[, allowed to expire]~~ or otherwise terminated ~~[,~~
22 ~~if the license is renewed when due,]~~ *if a request for a renewal is*
23 *submitted on or before the date for the renewal specified on the*
24 *license*, the fee for renewal and a fee of \$15 for deposit in the
25 Insurance Recovery Account are paid for each license and each
26 affiliation with a business organization licensed pursuant to
27 subsection 2 of NRS 683A.251 , and any requirement for education
28 *or any other requirement to renew the license* is satisfied by the
29 ~~[due date,]~~ *date specified on the license for the renewal. A*
30 *producer of insurance may submit a request for a renewal of his*
31 *license within 30 days after the date specified on the license for the*
32 *renewal if the producer of insurance otherwise complies with the*
33 *provisions of this subsection and pays, in addition to any fee paid*
34 *pursuant to this subsection, a penalty of 50 percent of the renewal*
35 *fee. A license as a producer of insurance expires if the*
36 *Commissioner receives a request for a renewal of the license more*
37 *than 30 days after the date specified on the license for the renewal.*
38 *A fee paid pursuant to this subsection is nonrefundable.*
- 39 3. A natural person who allows his license as a producer of
40 insurance to expire may reapply for the same license within 12
41 months after the date *specified on the license for a renewal* ~~[was~~
42 ~~due]~~ without passing a written examination ~~[]~~ *or completing a*
43 *course of study required by paragraph (c) of subsection 1 of NRS*
44 *683A.251*, but a penalty of twice the ~~[unpaid]~~ renewal fee is
45 required for any *request for a renewal* ~~[fee]~~ *of the license that is*



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1 received after the ~~[due date.]~~ *date specified on the license for the*
2 *renewal.*

3 4. A licensed producer of insurance who is unable to renew his
4 license because of military service, extended medical disability or
5 other extenuating circumstance may request a waiver of the time
6 limit and of ~~[an examination.]~~ *any* fine or sanction otherwise
7 required or imposed because of *the* failure to renew.

8 5. A license must state the licensee's name, address, personal
9 identification number, the date of issuance, the lines of authority and
10 the date of expiration and *must* contain any other information the
11 Commissioner considers necessary. A resident producer *of*
12 *insurance* shall maintain a place of business in this state which is
13 accessible to the public and where he principally conducts
14 transactions under his license. The place of business may be in his
15 residence. The license must be conspicuously displayed in an area of
16 the place of business which is open to the public.

17 6. A licensee shall inform the Commissioner of ~~[a]~~ *each*
18 change of *location from which he conducts business as a producer*
19 *of insurance and each change of business or residence* address, in
20 writing or by other means acceptable to the Commissioner, within
21 30 days after the change. If a licensee changes ~~[his]~~ *the location*
22 *from which he conducts business as a producer of insurance or*
23 *his business or residence* address without giving written notice and
24 the Commissioner is unable to locate the licensee after diligent
25 effort, he may revoke the license without a hearing. The mailing of a
26 letter by certified mail, return receipt requested, addressed to the
27 licensee at his last mailing address appearing on the records of the
28 Division, and the return of the letter undelivered, constitutes a
29 diligent effort by the Commissioner.

30 **Sec. 27.** NRS 683A.301 is hereby amended to read as follows:

31 683A.301 1. An applicant for a license as a producer of
32 insurance *or a licensee* who desires to use a name other than his true
33 name as shown on the license shall *submit a request for approval of*
34 *the name and* file with the Commissioner a certified copy of the
35 certificate or any renewal certificate filed pursuant to chapter 602 of
36 NRS. An incorporated applicant or licensee shall file with the
37 Commissioner a document showing the corporation's true name and
38 all fictitious names under which it conducts or intends to conduct
39 business. A licensee shall file promptly with the Commissioner *a*
40 written notice of any change in or discontinuance of the use of a
41 fictitious name.

42 2. The Commissioner may disapprove in writing the use of a
43 true name, other than the true name of a natural person who is the
44 applicant or licensee, or a fictitious name of any applicant or
45 licensee, on any of the following grounds:



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1 (a) The name interferes with or is deceptively similar to a name
2 already filed and in use by another licensee.

3 (b) Use of the name may mislead the public in any respect.

4 (c) The name states or implies that the applicant or licensee is an
5 insurer, motor club or hospital service plan or is entitled to engage
6 in activities related to insurance not permitted under the license
7 applied for or held.

8 (d) The name states or implies that the licensee is an
9 underwriter, but:

10 (1) A natural person licensed as an agent or broker for life
11 insurance may describe himself as an underwriter or "chartered life
12 underwriter" if entitled to do so;

13 (2) A natural person licensed for property and casualty
14 insurance may use the designation "chartered property and casualty
15 underwriter" if entitled thereto; and

16 (3) An insurance agent or brokers' trade association may use
17 a name containing the word "underwriter."

18 (e) The licensee ~~has already filed and not discontinued the use~~
19 ~~of~~ *submits a request to use* more than ~~two names, including the~~
20 ~~true name,~~ *one fictitious name at a single business location.*

21 3. A licensee shall not use a name after written notice from the
22 Commissioner *indicates* that its use violates the provisions of this
23 section. If the Commissioner determines that the use is justified by
24 mitigating circumstances, he may permit, in writing, the use of the
25 name to continue for a specified reasonable period upon conditions
26 imposed by him for the protection of the public consistent with this
27 section.

28 4. Paragraphs (a), (c) and (d) of subsection 2 do not apply to
29 the true name of an organization which on July 1, 1965, held under
30 that name a type of license similar to those governed by this chapter,
31 or to a fictitious name used on July 1, 1965, by a natural person or
32 organization holding such a license, if the fictitious name was filed
33 with the Commissioner on or before July 1, 1965.

34 **Sec. 28.** NRS 683A.351 is hereby amended to read as follows:

35 683A.351 1. Every producer of insurance shall keep
36 complete records of transactions under his license. The records must
37 show, for each insurance policy placed or countersigned by or
38 through the licensee, not less than the names of the insurer and
39 insured, the number and expiration date of, and premium payable as
40 to, the policy or contract, the names of all other persons from whom
41 business is accepted or to whom commissions are promised or paid,
42 all premiums collected, and such additional information as the
43 Commissioner may reasonably require.

44 2. The records must be open to examination of the
45 Commissioner at all times, and the Commissioner may at any time



1 require the licensee to furnish to him, in such *a* manner or form as
2 he requires, any information kept or required to be kept in those
3 records. *The records may be kept in an electronic format if, using*
4 *the electronic format, the records are retained in accordance with*
5 *this section.*

6 3. Records of a particular policy or contract may be destroyed
7 3 years after expiration of the policy or contract.

8 **Sec. 29.** Chapter 683C of NRS is hereby amended by adding
9 thereto the provisions set forth as sections 30 and 31 of this act.

10 **Sec. 30.** *The provisions of chapters 679A and 679B of NRS*
11 *and NRS 683A.301, 683A.341 and 683A.351 apply to an insurance*
12 *consultant.*

13 **Sec. 31.** *A licensee shall inform the Commissioner of all*
14 *locations from which business is conducted and of any change of*
15 *business or residence address, in writing or by any other means*
16 *acceptable to the Commissioner, within 30 days after the change.*
17 *If a licensee changes his address without giving written notice and*
18 *the Commissioner is unable to locate the licensee after making a*
19 *diligent effort, the Commissioner may revoke the license without a*
20 *hearing. The mailing of a letter by certified mail, return receipt*
21 *requested, addressed to the licensee at his last mailing address*
22 *appearing on the records of the Division, and the return of the*
23 *letter undelivered, constitutes a diligent effort by the*
24 *Commissioner.*

25 **Sec. 32.** NRS 683C.020 is hereby amended to read as follows:

26 683C.020 1. Except as otherwise provided in subsection 2,
27 no person may engage in the business of an insurance consultant
28 unless a license has been issued to him by the Commissioner.

29 2. An insurance consultant's license is not required for:

30 (a) An attorney licensed to practice law in this state who is
31 acting in his professional capacity;

32 (b) A licensed insurance agent, broker or surplus lines broker;

33 (c) A trust officer of a bank who is acting in the normal course
34 of his employment; or

35 (d) An actuary or a certified public accountant who provides
36 information, recommendations, advice or services in his
37 professional capacity.

38 **3.** *A person required to be licensed in this state who acts as*
39 *an insurance consultant without a license is subject to an*
40 *administrative fine of not more than \$1,000 for each act or*
41 *violation.*

42 **Sec. 33.** NRS 683C.030 is hereby amended to read as follows:

43 683C.030 1. An application for a license to act as an
44 insurance consultant must be submitted to the Commissioner on
45 forms prescribed by the Commissioner and *must* be accompanied by



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1 ~~[a]~~ *the applicable* license fee ~~[of \$78]~~ *set forth in NRS 680B.010*
2 and an additional fee of \$15 which must be deposited in the
3 Insurance Recovery Account created pursuant to NRS 679B.305.
4 *The license fee and the additional fee are not refundable.* If the
5 applicant is a natural person, the application must include the social
6 security number of the applicant.

7 2. An applicant for an insurance consultant's license must
8 successfully complete an examination and a course of instruction
9 which the Commissioner shall establish by regulation.

10 3. Each license issued pursuant to this chapter is valid for 3
11 years from the date of issuance ~~[]~~ or until it is suspended, revoked
12 or otherwise terminated.

13 **Sec. 34.** NRS 683C.035 is hereby amended to read as follows:

14 683C.035 1. The Commissioner shall prescribe the form of
15 application by a natural person for a license as an insurance
16 consultant. The applicant must declare, under penalty of refusal to
17 issue, or suspension or revocation of, the license, that the statements
18 made in the application are true, correct and complete to the best of
19 his knowledge and belief. Before approving the application, the
20 Commissioner must find that the applicant has:

21 (a) Attained the age of 18 years.

22 (b) Not committed any act that is a ground for refusal to issue,
23 or suspension or revocation of, a license ~~[]~~ *pursuant to*
24 *NRS 683A.451.*

25 (c) Paid the fee prescribed for the license and a fee of \$15 for
26 deposit in the Insurance Recovery Account, neither of which may be
27 refunded.

28 (d) Passed each examination required for the license and
29 successfully completed each course of instruction which the
30 Commissioner requires by regulation, unless he is a resident of
31 another state and holds a similar license in that state.

32 2. A business organization must be licensed as an insurance
33 consultant in order to act as such. Application must be made on a
34 form prescribed by the Commissioner. Before approving the
35 application, the Commissioner must find that the applicant has:

36 (a) Paid the fee prescribed for the license and a fee of \$15 for
37 deposit in the Insurance Recovery Account, neither of which may be
38 refunded; and

39 (b) Designated a natural person *who is* licensed as an insurance
40 consultant *in this state and who is affiliated with the business*
41 *organization* to be responsible for the organization's compliance
42 with the laws and regulations of this state relating to insurance.

43 3. The Commissioner may require any document reasonably
44 necessary to verify information contained in an application.



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1 4. A license issued pursuant to this chapter is valid for 3 years
2 after the date of issuance or until it is suspended, revoked or
3 otherwise terminated.

4 *5. An insurance consultant may qualify for a license*
5 *pursuant to this chapter in one or more of the lines of authority set*
6 *forth in paragraphs (a) to (d), inclusive, of subsection 1 of*
7 *NRS 683A.261.*

8 **Sec. 35.** NRS 683C.040 is hereby amended to read as follows:
9 683C.040 *1.* A license may be renewed for additional 3-year
10 periods by submitting to the Commissioner an application for
11 renewal and:

12 ~~1.1~~ (a) If the application is made:

13 ~~1.1(a)~~ (1) On or before the expiration date of the license, the
14 applicable renewal fee and an additional fee of \$15 for deposit in the
15 Insurance Recovery Account; or

16 ~~1.1(b)~~ (2) Not more than 30 days after the expiration date of the
17 license, the applicable renewal fee plus any late fee required and an
18 additional fee of \$15 for deposit in the Insurance Recovery Account;

19 ~~1.2~~ (b) If the applicant is a natural person, the statement
20 required pursuant to NRS 683C.043; and

21 ~~1.3~~ (c) If the applicant is a resident, proof of the successful
22 completion of appropriate courses of study required for renewal, as
23 established by the Commissioner by regulation.

24 *2. The fees specified in this section are not refundable.*

25 **Sec. 36.** NRS 683C.070 is hereby amended to read as follows:

26 683C.070 ~~No~~ A person licensed pursuant to this chapter may
27 *not* concurrently hold ~~an insurance agent's license, broker's~~ a
28 license *as a producer of insurance* or a surplus lines broker's
29 license in any line.

30 **Sec. 37.** NRS 683C.080 is hereby amended to read as follows:

31 683C.080 ~~No~~ A licensed insurance consultant ~~may~~ *shall not*
32 employ, be employed by or be in partnership with, or receive any
33 remuneration arising out of his activities as an insurance consultant
34 from, any licensed *producer of insurance* ~~agent, broker~~ or surplus
35 lines broker or insurer.

36 **Sec. 38.** NRS 685A.070 is hereby amended to read as follows:

37 685A.070 1. A broker shall not knowingly place surplus lines
38 insurance with an insurer which is unsound financially or ineligible
39 pursuant to this section.

40 2. Except as otherwise provided in this section, ~~no~~ *an* insurer
41 is *not* eligible ~~for the acceptance of~~ *to accept* surplus lines risks
42 pursuant to this chapter unless it has surplus as to policyholders in
43 an amount of not less than ~~\$5,000,000~~ *\$15,000,000* and, if an alien
44 insurer, unless it has and maintains in a bank or trust company
45 which is a member of the United States Federal Reserve System a



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1 trust fund established pursuant to terms *that are* reasonably
2 adequate ~~for the protection of~~ *to protect* all of its policyholders in
3 the United States . ~~in an amount of not less than \$1,500,000.~~ Such
4 a trust fund must not have an expiration date which is at any time
5 less than 5 years in the future, on a continuing basis. In the case of:

6 (a) *A single alien insurer, such a trust fund must not be less*
7 *than the greater of \$5,400,000 or 30 percent of the gross liabilities*
8 *of the alien insurer for surplus lines in the United States,*
9 *excluding any liabilities for aviation, wet marine and*
10 *transportation insurance, not to exceed \$60,000,000, to be*
11 *determined annually on the basis of accounting practices and*
12 *procedures that are substantially equivalent to the accounting*
13 *practices and procedures applicable in this state as of*
14 *December 31 of the year immediately preceding the date of the*
15 *determination where:*

16 (1) *The liabilities are maintained in an irrevocable trust*
17 *account in a qualified financial institution in the United States, on*
18 *behalf of policyholders in the United States, consisting of cash,*
19 *securities, letters of credit or any other investments of substantially*
20 *the same character and quality as investments that are eligible*
21 *investments pursuant to chapter 682A of NRS for the capital and*
22 *statutory reserves of admitted insurers to write like kinds of*
23 *insurance in this state. The trust fund, which must be included in*
24 *any calculation of capital and surplus or its equivalent, must*
25 *comply with the requirements set forth in the Standard Trust*
26 *Agreement required for listing with the International Insurers*
27 *Department of the National Association of Insurance*
28 *Commissioners;*

29 (2) *The alien insurer may request approval by the*
30 *Commissioner to use the trust fund to pay any valid claim against*
31 *a surplus line if the balance of the trust fund is not, during any*
32 *period, less than \$5,400,000 or 30 percent of the alien insurer's*
33 *current gross liabilities for surplus lines in the United States,*
34 *excluding any liabilities for aviation, wet marine and*
35 *transportation insurance; and*

36 (3) *In calculating the amount of the trust fund required by*
37 *this subsection, credit must be given for any deposits for any*
38 *surplus lines that are separately required and maintained within a*
39 *state or territory of the United States, not to exceed the amount of*
40 *the alien insurer's loss and loss adjustment reserves maintained in*
41 *that state or territory.*

42 (b) *A group of insurers which includes individual*
43 *unincorporated insurers, such a trust fund must not be less than*
44 *\$100,000,000.*



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1 ~~[(b)]~~ (c) A group of incorporated insurers under common
2 administration, such a trust fund must not be less than
3 \$100,000,000. *Each insurer within the group must individually*
4 *maintain capital and surplus of not less than \$25,000,000.* The
5 group of incorporated insurers must:
6 (1) Operate under the supervision of the Department of Trade
7 and Industry of the United Kingdom;
8 (2) Possess aggregate policyholders surplus of
9 \$10,000,000,000, which must consist of money in trust in an amount
10 not less than the assuming insurers' liabilities attributable to
11 insurance written in the United States; and
12 (3) Maintain a joint trusted surplus of which \$100,000,000
13 must be held jointly for the benefit of United States ceding insurers
14 of any member of the group.
15 ~~[(e)]~~ (d) An insurance exchange created by the laws of a state,
16 the insurance exchange shall have and maintain a trust fund in an
17 amount of not less than ~~[\$50,000,000]~~ \$75,000,000 or have a
18 surplus as to policyholders in an amount of not less than
19 ~~[\$50,000,000.]~~ \$75,000,000. If an insurance exchange maintains
20 money for the protection of all policyholders, each syndicate shall
21 maintain minimum capital and surplus of not less than ~~[\$5,000,000]~~
22 \$15,000,000 and must qualify separately to be eligible for the
23 acceptance of surplus lines risks pursuant to this chapter.
24 The Commissioner may require larger trust funds or surplus as to
25 policyholders than those set forth in this section if, in his judgment,
26 the volume of business being transacted or proposed to be transacted
27 warrants larger amounts.
28 3. ~~[(No)]~~ An insurer is *not* eligible to write surplus lines of
29 insurance unless it has established a reputation for financial integrity
30 and satisfactory practices in underwriting and handling claims. In
31 addition, a foreign insurer must be authorized in the state of its
32 domicile to write the kinds of insurance which it intends to write in
33 Nevada.
34 4. The Commissioner may from time to time compile or
35 approve a list of all surplus lines insurers deemed by him to be
36 eligible currently, and may mail a copy of the list to each broker at
37 his office last of record with the Commissioner. To be placed on the
38 list, a surplus lines insurer must file an application with the
39 Commissioner. The application must be accompanied by a
40 nonrefundable fee of \$2,450. This subsection does not require the
41 Commissioner to determine the actual financial condition or claims
42 practices of any unauthorized insurer. The status of eligibility, if
43 granted by the Commissioner, indicates only that the insurer appears
44 to be sound financially and to have satisfactory claims practices, and
45 that the Commissioner has no credible evidence to the contrary.



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1 While any such list is in effect, the broker shall restrict to the
2 insurers so listed all surplus lines business placed by him.

3 **Sec. 39.** NRS 685A.120 is hereby amended to read as follows:

4 685A.120 1. No person in this state may act as, hold himself
5 out as ~~[-]~~ or be a surplus lines broker with respect to subjects of
6 insurance resident, located or to be performed in this state or
7 elsewhere unless he is licensed as such by the Commissioner
8 pursuant to this chapter.

9 2. Any person who has been licensed by this state as a ~~[-broker-]~~
10 *producer of insurance* for general lines for at least 6 months, or has
11 been licensed in another state as a surplus lines broker ~~[-for at least 1-~~
12 ~~year-]~~ and continues to be licensed in that state, and who is deemed
13 by the Commissioner to be competent and trustworthy with respect
14 to the handling of surplus lines may be licensed as a surplus lines
15 broker upon:

16 (a) Application for a license and payment of the applicable fee
17 for a license and a fee of \$15 for deposit in the Insurance Recovery
18 Account created by NRS 679B.305;

19 (b) Submitting the statement required pursuant to NRS
20 685A.127; and

21 (c) Passing any examination prescribed by the Commissioner on
22 the subject of surplus lines.

23 3. An application for a license must be submitted to the
24 Commissioner on a form designated and furnished by him. The
25 application must include the social security number of the applicant.

26 4. A license issued pursuant to this chapter continues in force
27 for 3 years unless it is suspended, revoked or otherwise terminated.
28 The license may be renewed upon submission of the statement
29 required pursuant to NRS 685A.127 and payment of the applicable
30 fee for renewal and a fee of \$15 for deposit in the Insurance
31 Recovery Account created by NRS 679B.305 to the Commissioner
32 on or before the last day of the month in which the license is
33 renewable.

34 5. A license which is not renewed expires at midnight on the
35 last day specified for its renewal. The Commissioner may accept a
36 request for renewal received by him within 30 days after the
37 expiration of the license if the request is accompanied by ~~[-the-]~~ :

38 (a) *The* statement required pursuant to NRS 685A.127 ~~[-a-]~~ ;

39 (b) *The applicable* fee for renewal ~~[-of 150-]~~ ;

40 (c) *A penalty in an amount that is equal to 50* percent of the
41 *applicable* fee ~~[-otherwise required and a-]~~ *for renewal; and*

42 (d) *A* fee of \$15 for deposit in the Insurance Recovery Account
43 created by NRS 679B.305.



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1 **Sec. 40.** NRS 685B.080 is hereby amended to read as follows:
2 685B.080 *1. Any unauthorized insurer who transacts any*
3 unauthorized act of an insurance business as set forth in the
4 Unauthorized Insurers Act may be fined not more than \$10,000 for
5 each act or violation.

6 *2. In addition to any other penalties provided in this Code:*

7 *(a) Any producer of insurance or surplus lines broker licensed*
8 *in this state who in this state knowingly represents or aids an*
9 *unauthorized insurer in violation of the Unauthorized Insurers*
10 *Act is guilty of a category C felony and shall be punished as*
11 *provided in NRS 193.130.*

12 *(b) Any person other than a producer of insurance or surplus*
13 *lines broker licensed in this state who in this state represents or*
14 *aids an unauthorized insurer in violation of the Unauthorized*
15 *Insurers Act is guilty of a category C felony and shall be punished*
16 *as provided in NRS 193.130.*

17 *(c) Any person who commits a second or subsequent violation*
18 *of this section is guilty of a category B felony and shall be*
19 *punished by imprisonment in the state prison for a minimum term*
20 *of not less than 1 year and a maximum term of not more than 20*
21 *years.*

22 *3. In addition to the penalties provided in subsection 2, such*
23 *a violator is liable, personally, jointly and severally with any other*
24 *person liable therefor, for the payment of premium taxes at the*
25 *same rate of tax as imposed by law on the premiums of similar*
26 *coverages written by authorized insurers.*

27 **Sec. 41.** Chapter 686B of NRS is hereby amended by adding
28 thereto the provisions set forth as sections 42 to 46, inclusive, of this
29 act.

30 **Sec. 42.** *As used in sections 42 to 46, inclusive, of this act,*
31 *unless the context otherwise requires, “insured” has the meaning*
32 *ascribed to it in NRS 686B.260.*

33 **Sec. 43.** *The provisions of NRS 81.130 and 81.510 do not*
34 *apply to the conversion of an essential insurance association to a*
35 *domestic mutual insurer as provided in sections 42 to 46,*
36 *inclusive, of this act.*

37 **Sec. 44.** *1. An essential insurance association shall, if*
38 *requested to do so by the Commissioner, file a notice of intent to*
39 *qualify as a domestic mutual insurer. In the absence of a request*
40 *by the Commissioner, an essential insurance association may file*
41 *such a notice at such time as the association determines*
42 *appropriate.*

43 *2. The notice must be filed with the Commissioner at least 4*
44 *months before the date the association is to become a domestic*
45 *mutual insurer and must include:*



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1 (a) *An application prepared pursuant to chapter 680A of NRS*
2 *for a certificate of authority to transact business in Nevada as a*
3 *domestic mutual insurer;*

4 (b) *A valuation of the policyholder's surplus according to both*
5 *market and amortized value based on the association's annual*
6 *financial statement for the previous year; and*

7 (c) *A provision for the return of any unused portion of the*
8 *insured's capital stabilization charges.*

9 **Sec. 45.** *1. At the time the association files a notice of*
10 *intent to qualify as a domestic mutual insurer, it must give a notice*
11 *of intent to all participating insurers and all insureds on a form*
12 *approved by the Commissioner.*

13 *2. Any participating insurer or insured may, within 30 days*
14 *after the date of the notice, apply to the Division for a hearing*
15 *concerning the association's ability to qualify as a domestic*
16 *mutual insurer.*

17 *3. An association must comply with the provisions of chapter*
18 *692B of NRS, as applicable to mutual insurers, to qualify as a*
19 *domestic mutual insurer.*

20 **Sec. 46.** *Upon determining that an association has complied*
21 *with sections 42 to 46, inclusive, of this act and all other*
22 *requirements applicable to domestic mutual insurers, the*
23 *Commissioner may issue to the association a certificate of*
24 *authority to transact business as a domestic mutual insurer.*

25 **Sec. 47.** NRS 686B.030 is hereby amended to read as follows:
26 686B.030 1. Except as otherwise provided in subsection 2,
27 NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines
28 of direct insurance written on risks or operations in this state by any
29 insurer authorized to do business in this state, except:

30 (a) Ocean marine insurance;
31 (b) Contracts issued by fraternal benefit societies;
32 (c) Life insurance and credit life insurance;
33 (d) Variable and fixed annuities;
34 (e) Group and blanket health insurance and credit health
35 insurance;

36 (f) Property insurance for business and commercial risks; ~~and~~
37 (g) Casualty insurance for business and commercial risks other
38 than insurance covering the liability of a practitioner licensed
39 pursuant to chapters 630 to 640, inclusive, of NRS ~~§~~; and

40 (h) *Surety insurance.*

41 2. The exclusions set forth in paragraphs (f) and (g) of
42 subsection 1 extend only to issues related to the determination or
43 approval of premium rates.



1 **Sec. 48.** NRS 686B.1781 is hereby amended to read as
2 follows:

3 686B.1781 ~~[NRS 686B.1751 to 686B.1799, inclusive, do not~~
4 ~~prohibit or regulate the payment of dividends, savings, unearned~~
5 ~~premiums deposits or an equivalent abatement of premiums allowed~~
6 ~~or returned by insurers to their policyholders, members or~~
7 ~~subscribers.]~~

8 1. An insurer shall not unfairly discriminate among its
9 policyholders in paying a dividend ~~[]~~, *savings, unearned premium*
10 *deposits or an equivalent abatement of premiums allowed or*
11 *returned by an insurer for a policy of Industrial Insurance.*

12 2. A plan for the payment of dividends ~~[is not a rating system~~
13 ~~or plan.]~~ *for Industrial Insurance must be filed before there is a*
14 *divided payment. The plan shall be deemed approved unless the*
15 *Commissioner disapproves the plan within 30 days after it is filed*
16 *and received by the Commissioner.* An insurer shall not condition
17 the payment of ~~[such]~~ a dividend upon the renewal of a policy or
18 contract by the policyholder, member or subscriber.

19 3. *An insurer paying savings, unearned premium deposits or*
20 *an equivalent abatement for premiums allowed or returned must*
21 *receive prior approval.*

22 **Sec. 49.** NRS 686B.230 is hereby amended to read as follows:

23 686B.230 1. The Nevada Essential Insurance Association
24 has, for purposes of this section and to the extent approved by the
25 Commissioner, the general powers and authority granted under the
26 laws of this state to carriers licensed to transact the kinds of
27 insurance defined in NRS 681A.020 to 681A.080, inclusive.

28 2. The Association may take any necessary action to make
29 available necessary insurance, including , but not limited to , the
30 following:

31 (a) Assess participating insurers amounts necessary to pay the
32 obligations of the Association, administration expenses, the cost of
33 examinations conducted pursuant to NRS 687A.110 and other
34 expenses authorized by this chapter. The assessment of each
35 member insurer for the kind or kinds of insurance designated in the
36 plan ~~[shall]~~ *must* be in the proportion that the net direct written
37 premiums of the member insurer for the preceding calendar year
38 bear to the net direct written premiums of all member insurers for
39 the preceding calendar year. A member insurer may not be assessed
40 in any year an amount greater than 5 percent of his net direct written
41 premiums for the preceding calendar year. Each member insurer
42 ~~[shall]~~ *must* be allowed a premium tax credit at the rate of 20
43 percent per year for 5 successive years ~~[following termination of the~~
44 ~~Association.]~~ *beginning on the first day of the calendar year after*



1 *the calendar year in which the insurer pays the assessment*
2 *pursuant to this subsection.*

3 (b) Enter into such contracts as are necessary or proper to carry
4 out the provisions and purposes of this section.

5 (c) Sue or be sued, including taking any legal action necessary
6 to recover any assessments for, on behalf of or against participating
7 carriers.

8 (d) Investigate claims brought against the fund and adjust,
9 compromise, settle and pay covered claims to the extent of the
10 association's obligation and deny all other claims. Process claims
11 through its employees or through one or more member insurers or
12 other persons designated as servicing facilities. Designation of a
13 service facility is subject to the approval of the Commissioner, but
14 such *a* designation may be declined by a member insurer.

15 (e) Classify risks as may be applicable and equitable.

16 (f) Establish appropriate rates, rate classifications and rating
17 adjustments and file ~~such~~ *those* rates with the Commissioner in
18 accordance with this chapter.

19 (g) Administer any type of reinsurance program for or on behalf
20 of the Association or any participating carriers.

21 (h) Pool risks among participating carriers.

22 (i) Issue and market, through agents, policies of insurance
23 providing the coverage required by this section in its own name or
24 on behalf of participating carriers.

25 (j) Administer separate pools, separate accounts or other plans
26 as may be deemed appropriate for separate carriers or groups of
27 carriers.

28 (k) Invest, reinvest and administer all funds and moneys held by
29 the Association.

30 (l) Borrow funds needed by the Association to ~~effect~~ *carry out*
31 the purposes of this section.

32 (m) Develop, effectuate and promulgate any loss-prevention
33 programs aimed at the best interests of the Association and the
34 insuring public.

35 (n) Operate and administer any combination of plans, pools,
36 reinsurance arrangements or other mechanisms as deemed
37 appropriate to best accomplish the fair and equitable operation of
38 the Association for the purposes of making available essential
39 insurance coverage.

40 3. In providing for the recoupment of a deficit of the
41 Association, an option ~~shall~~ *must* be offered to an insured each
42 policy year to pay a capital stabilization charge which ~~shall~~ *must*
43 not exceed 100 percent of the premium charged to the insured in
44 that year. The Board of Directors shall determine the amount of the
45 charge from appropriate factors of loss experience and risk



1 associated with the Association and the insured. An insured who
2 pays the stabilization charge ~~[shall]~~ *must* not be required to pay any
3 assessment to recoup a deficit of the Association incurred in any
4 policy year for which the charge is paid. The Association's plan of
5 operation ~~[shall]~~ *must* provide for the return to the insured of so
6 much of his payment as remains after all actual or potential
7 liabilities under the policy have been discharged.

8 **Sec. 50.** NRS 686B.240 is hereby amended to read as follows:
9 686B.240 The Commissioner and the Nevada Essential
10 Insurance Association may:

11 1. Give consideration to the need for adequate and readily
12 accessible coverage, to alternative methods of improving the market
13 affected, to the preferences of the insurers and agents, to the
14 inherent limitations of the insurance mechanism, to the need for
15 reasonable underwriting standards and to the requirement of
16 reasonable loss-prevention measures.

17 2. Establish procedures that will create minimum interference
18 with the voluntary market.

19 3. Spread the burden imposed by the facility equitably and
20 efficiently.

21 4. Establish procedures for applicants and participants to have
22 grievances reviewed.

23 5. Take all reasonable and necessary steps to dissolve the
24 Association at the earliest date when essential insurance becomes
25 readily available in the private market. The dissolution of the
26 Association, including its assets and liabilities, ~~[shall]~~ *must* be
27 accomplished under the supervision of the Commissioner in an
28 equitable and reasonable manner. *The dissolution must, if*
29 *determined to be appropriate by the Commissioner, provide for the*
30 *repayment of any loans or other money provided or contributed by*
31 *the State of Nevada for the formation or continuance of the*
32 *Association.*

33 **Sec. 51.** NRS 686B.290 is hereby amended to read as follows:

34 686B.290 1. At the time the Association files a notice of
35 intent to qualify as a domestic stock insurer, it must give notice of
36 its intent to all participating insurers and all insureds ~~[in]~~ *on* a form
37 approved by the Commissioner. The notice to each insured must
38 state the total amount of stock to be issued and the amount of shares
39 to which he is entitled.

40 2. Any participating insurer or insured may, within 30 days
41 after the date of the notice, apply to the Division for a hearing
42 concerning the Association's ability to qualify as a domestic insurer,
43 the valuation of capital and surplus , or the proposed number and
44 distribution of shares of stock.



1 **Sec. 52.** NRS 686B.320 is hereby amended to read as follows:
2 686B.320 Upon determining that ~~that~~ *the* Association has
3 complied with NRS 686B.280 to 686B.310, inclusive, and all other
4 requirements applicable to domestic stock insurers, the
5 Commissioner may issue to the Association a certificate of authority
6 to transact business as a domestic stock insurer . ~~to become~~
7 ~~effective the next following January 1.~~

8 **Sec. 53.** NRS 687A.033 is hereby amended to read as follows:
9 687A.033 1. "Covered claim" means an unpaid claim or
10 judgment, including a claim for unearned premiums, which arises
11 out of and is within the coverage of an insurance policy to which
12 this chapter applies issued by an insurer which becomes an insolvent
13 insurer, if one of the following conditions exists:

14 (a) The claimant or insured, if a natural person, is a resident of
15 this state at the time of the insured event.

16 (b) The claimant or insured, if other than a natural person,
17 maintains its principal place of business in this state at the time of
18 the insured event.

19 (c) The property from which the first party property damage
20 claim arises is permanently located in this state.

21 (d) The claim is not a covered claim pursuant to the laws of any
22 other state and the premium tax imposed on the insurance policy is
23 payable in this state pursuant to NRS 680B.027.

24 2. The term does not include:

25 (a) An amount that is directly or indirectly due a reinsurer,
26 insurer, insurance pool or underwriting association, as recovered by
27 subrogation, indemnity or contribution, or otherwise.

28 (b) That part of a loss which would not be payable because of a
29 provision for a deductible or a self-insured retention specified in the
30 policy.

31 (c) Except as otherwise provided in this paragraph, any claim
32 filed with the Association ~~after:~~

33 ~~(1) Eighteen~~ :

34 (1) *More than 18* months after the date of the order of
35 liquidation; or

36 (2) ~~The~~ *After the* final date set by the court for the filing of
37 claims against the liquidator or receiver of the insolvent
38 insurer,

39 whichever is earlier. The provisions of this paragraph do not apply
40 to a claim for workers' compensation that is reopened pursuant to
41 the provisions of NRS 616C.390.

42 (d) A claim filed with the Association for a loss that is incurred
43 but is not reported to the Association before the expiration of the
44 period specified in subparagraph (1) or (2) of paragraph (c).



1 (e) An obligation to make a supplementary payment for
2 adjustment or attorney's fees and expenses, court costs or interest
3 and bond premiums incurred by the insolvent insurer before the
4 appointment of a liquidator, unless the expenses would also be a
5 valid claim against the insured.

6 (f) A first party or third party claim brought by or against an
7 insured, if the aggregate net worth of the insured and any affiliate of
8 the insured, as determined on a consolidated basis, is more than
9 \$25,000,000 on December 31 of the year immediately preceding the
10 date the insurer becomes an insolvent insurer. The provisions of this
11 paragraph do not apply to a claim for workers' compensation. *As
12 used in this paragraph, "affiliate" means a person who directly or
13 indirectly owns or controls, is owned or controlled by, or is under
14 common ownership or control with, another person. For the
15 purpose of this definition, the terms "owns," "is owned" and
16 "ownership" mean ownership of an equity interest, or the
17 equivalent thereof, of 10 percent or more.*

18 **Sec. 54.** NRS 687A.060 is hereby amended to read as follows:
19 687A.060 1. The Association:

20 (a) Is obligated to the extent of the covered claims existing
21 before the determination of insolvency and arising within 30 days
22 after the determination of insolvency, or before the expiration date
23 of the policy if that date is less than 30 days after the determination,
24 or before the insured replaces the policy or on request cancels
25 the policy if he does so within 30 days after the determination. The
26 obligation of the Association to pay a covered claim is limited to the
27 payment of:

28 (1) The entire amount of the claim, if the claim is for
29 workers' compensation pursuant to the provisions of chapters 616A
30 to 616D, inclusive, or chapter 617 of NRS;

31 (2) ~~More than \$100 but not~~ *Not* more than \$300,000 for
32 each policy ~~if~~ if the claim is for the return of unearned premiums;
33 or

34 (3) The limit specified in a policy or \$300,000, whichever is
35 less, for each occurrence for any covered claim other than a covered
36 claim specified in subparagraph (1) or (2).

37 (b) Shall be deemed the insurer to the extent of its obligations on
38 the covered claims and to that extent has any rights, duties and
39 obligations of the insolvent insurer as if the insurer had not become
40 insolvent. The rights include, without limitation, the right to seek
41 and obtain any recoverable salvage and to subrogate a covered
42 claim, to the extent that the Association has paid its obligation under
43 the claim.

44 (c) Shall assess member insurers amounts necessary to pay the
45 obligations of the Association pursuant to paragraph (a) after an



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1 insolvency, the expenses of handling covered claims subsequent to
2 an insolvency, the cost of examinations pursuant to NRS 687A.110
3 ~~(f)~~ and other expenses authorized by this chapter. The assessment of
4 each member insurer must be in the proportion that the net direct
5 written premiums of the member insurer for the calendar year
6 preceding the assessment bear to the net direct written premiums of
7 all member insurers for the same calendar year. Each member
8 insurer must be notified of the assessment not later than 30 days
9 before it is due. No member insurer may be assessed in any year an
10 amount greater than 2 percent of the net direct written premiums of
11 that member insurer for the calendar year preceding the assessment.
12 If the maximum assessment, together with the other assets of the
13 Association, does not provide in any 1 year an amount sufficient to
14 make all necessary payments, the money available may be prorated
15 and the unpaid portion must be paid as soon as money becomes
16 available. The Association may pay claims in any order, including
17 the order in which the claims are received or in groups or categories.
18 The Association may exempt or defer, in whole or in part, the
19 assessment of any member insurer if the assessment would cause the
20 financial statement of the member insurer to reflect amounts of
21 capital or surplus less than the minimum amounts required for a
22 certificate of authority by any jurisdiction in which the member
23 insurer is authorized to transact insurance. During the period of
24 deferment, no dividends may be paid to shareholders or
25 policyholders. Deferred assessments must be paid when payment
26 will not reduce capital or surplus below required minimums.
27 Payments must be refunded to those companies receiving larger
28 assessments because of deferment, or, in the discretion of the
29 company, credited against future assessments. Each member insurer
30 must be allowed a premium tax credit for any amounts paid pursuant
31 to the provisions of this chapter:

32 (1) For assessments made before January 1, 1993, at the rate
33 of 10 percent per year for 10 successive years beginning March 1,
34 1996; or

35 (2) For assessments made on or after January 1, 1993, at the
36 rate of 20 percent per year for 5 successive years beginning with the
37 calendar year following the calendar year in which the assessments
38 are paid.

39 (d) Shall investigate claims brought against the fund and adjust,
40 compromise, settle and pay covered claims to the extent of the
41 obligation of the Association and deny any other claims.

42 (e) Shall notify such persons as the Commissioner directs
43 pursuant to paragraph (a) of subsection 2 of NRS 687A.080.

44 (f) Shall act on claims through its employees or through one or
45 more member insurers or other persons designated as servicing



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1 facilities. Designation of a servicing facility is subject to the
2 approval of the Commissioner, but the designation may be declined
3 by a member insurer.

4 (g) Shall reimburse each servicing facility for obligations of
5 the Association paid by the facility and for expenses incurred by the
6 facility while handling claims on behalf of the Association ~~and~~ and
7 pay the other expenses of the Association authorized by this chapter.

8 2. The Association may:

9 (a) Appear in, defend and appeal any action on a claim brought
10 against the Association.

11 (b) Employ or retain persons necessary to handle claims and
12 perform other duties of the Association.

13 (c) Borrow money necessary to carry out the purposes of this
14 chapter in accordance with the plan of operation.

15 (d) Sue or be sued.

16 (e) Negotiate and become a party to contracts necessary to carry
17 out the purposes of this chapter.

18 (f) Perform other acts necessary or proper to effectuate the
19 purposes of this chapter.

20 (g) If, at the end of any calendar year, the Board of Directors
21 finds that the assets of the Association exceed its liabilities as
22 estimated by the Board of Directors for the coming year, refund to
23 the member insurers in proportion to the contribution of each that
24 amount by which the assets of the Association exceed the liabilities.

25 (h) Assess each member insurer equally not more than \$100 per
26 year for administrative expenses not related to the insolvency of any
27 insurer.

28 **Sec. 55.** NRS 687A.090 is hereby amended to read as follows:

29 687A.090 1. Any person recovering under this chapter shall
30 be deemed to have assigned his rights under the policy to the
31 Association to the extent of his recovery from the Association.
32 Every insured or claimant seeking the protection of this chapter
33 shall cooperate with the Association to the same extent as ~~such~~ *the*
34 person would have been required to cooperate with the insolvent
35 insurer. ~~[The Association shall have no]~~ *Except as otherwise*
36 *provided in subsection 2, the Association does not have a* cause of
37 action against the insured of the insolvent insurer for any sums it has
38 paid out.

39 2. *The Association may recover the amount of money paid to*
40 *or on behalf of an insured of an insolvent insurer:*

41 (a) *If the aggregate net worth of the insured and any affiliate*
42 *of the insured, as determined on a consolidated basis, is more than*
43 *\$25,000,000 on December 31 of the year immediately preceding*
44 *the date the insurer becomes an insolvent insurer; or*

45 (b) *If the Association paid the money in error.*



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1 **3. The** receiver, liquidator or statutory successor of an
2 insolvent insurer ~~[shall be]~~ **is** bound by **any** settlements of covered
3 claims by the Association or a similar organization in another state.
4 The court having jurisdiction shall grant ~~[such]~~ **those** claims priority
5 equal to that to which the claimant would have been entitled in the
6 absence of this chapter against the assets of the insolvent insurer.
7 The expenses of the Association or similar organization in handling
8 claims ~~[shall]~~ **must** be accorded the same priority as the liquidator's
9 expenses.

10 ~~[3.]~~ **4.** The Association shall periodically file with the receiver
11 or liquidator of the insolvent insurer statements of the covered
12 claims paid by the Association and estimates of anticipated claims
13 on the Association, which statements shall preserve the rights of the
14 Association against the assets of the insolvent insurer.

15 **5. As used in this section, "affiliate" means a person who**
16 **directly or indirectly owns or controls, is owned or controlled by,**
17 **or is under common ownership or control with, another person.**
18 **For the purpose of this definition, the terms "owns," "is owned"**
19 **and "ownership" mean ownership of an equity interest, or the**
20 **equivalent thereof, of 10 percent or more.**

21 **Sec. 56.** NRS 687B.350 is hereby amended to read as follows:
22 687B.350 An insurer shall not renew a policy on different
23 terms, including different rates, unless the insurer notifies the
24 insured in writing of the different terms or rates at least 30 days
25 before ~~[those terms or rates become effective.]~~ **the expiration of the**
26 **policy.** If the insurer ~~[offers or purports to]~~ **fails to provide adequate**
27 **and timely notice, the insurer shall** renew the policy ~~[but on~~
28 ~~different terms, including different rates, the policyholder may, for~~
29 ~~30 days after he receives notice of the changes in the policy, cancel~~
30 ~~the policy. If he elects to cancel, the insurer shall refund to him the~~
31 ~~excess of the premium paid by him above the pro rata premium for~~
32 ~~the expired portion of the new term.]~~ **at the expiring terms and**
33 **rates:**

34 **1. For a period that is equal to the expiring term if the agreed**
35 **term is 1 year or less; or**

36 **2. For 1 year if the agreed term is more than 1 year.**

37 **Sec. 57.** NRS 690B.050 is hereby amended to read as follows:
38 690B.050 1. Each insurer which issues a policy of insurance
39 covering the liability of a physician licensed under chapter 630 of
40 NRS or an osteopathic physician licensed under chapter 633 of NRS
41 for a breach of his professional duty toward a patient shall **, within**
42 **30 days after a claim is closed under the policy, submit a** report to
43 the Commissioner ~~[within 30 days each settlement or award made or~~
44 ~~judgment rendered by reason of a claim, giving the]~~ **concerning the**
45 **claim. The report must include, without limitation:**



1 (a) *The name and address of the claimant and ~~physician and~~*
2 *the insured under the policy;*

3 (b) *A statement setting forth the circumstances of the case ~~[-~~*
4 *~~2.]~~ ;*

5 (c) *Information indicating whether any payment was made on*
6 *the claim and the amount of the payment, if any; and*

7 (d) *The information specified in subsection 2 of NRS*
8 *679B.144.*

9 2. *An insurer who fails to comply with the provisions of*
10 *subsection 1 is subject to the imposition of an administrative fine*
11 *pursuant to NRS 679B.460.*

12 3. *The Commissioner shall , within 30 days after receiving a*
13 *report from an insurer pursuant to this section, submit a report to*
14 *the Board of Medical Examiners or the state board of osteopathic*
15 *medicine, as applicable, ~~within 30 days after receiving the report of~~*
16 *~~the insurer, each claim made and each settlement, award or~~*
17 *~~judgment.] setting forth the information provided to the~~*
18 *Commissioner by the insurer pursuant to this section.*

19 **Sec. 58.** *Chapter 692C of NRS is hereby amended by adding*
20 *thereto the provisions set forth as sections 59 to 65, inclusive, of this*
21 *act.*

22 **Sec. 59.** *“Acquisition” means any agreement, arrangement*
23 *or activity, the consummation of which results in a person directly*
24 *or indirectly acquiring the control of another person. The term*
25 *includes, but is not limited to:*

- 26 1. *The acquiring of a voting security;*
- 27 2. *The acquiring of any asset;*
- 28 3. *Bulk reinsurance; and*
- 29 4. *A merger.*

30 **Sec. 60.** *“Involved insurer” includes an insurer that:*

- 31 1. *Acquires a person or is acquired by a person;*
- 32 2. *Is affiliated with an insurer that acquires a person or is*
33 *acquired by a person; or*
- 34 3. *Is the result of a merger.*

35 **Sec. 61.** *The provisions of this chapter apply to any*
36 *acquisition in which a change in control of an insurer who is*
37 *authorized to do business in this state occurs, except:*

38 1. *An acquisition that is subject to approval or disapproval by*
39 *the Commissioner pursuant to NRS 692C.180 to 692C.250,*
40 *inclusive.*

41 2. *A purchase of securities solely for investment purposes if*
42 *the securities are not used for voting or not otherwise used to*
43 *cause or attempt to cause a substantial lessening of competition in*
44 *any insurance market in this state, except that, if a purchase of*
45 *securities creates a presumption of control of the insurer pursuant*



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- 1 *to subsection 2 of NRS 692C.050, the purchase is not solely for*
2 *investment purposes unless the Commissioner of insurance of the*
3 *insurer's state of domicile:*
4 *(a) Accepts a disclaimer of control or affirmatively finds that*
5 *control does not exist; and*
6 *(b) Submits the accepted disclaimer or a statement setting*
7 *forth the affirmative finding to the Commissioner.*
8 *3. An acquisition of a person by another person if:*
9 *(a) Each of those persons is not directly or through an affiliate*
10 *primarily engaged in the business of insurance; and*
11 *(b) At least 30 days before the effective date of the acquisition,*
12 *a notice is filed with the Commissioner in accordance with section*
13 *62 of this act, if required.*
14 *4. An acquisition by a person of an affiliate of that person.*
15 *5. An acquisition that does not immediately cause:*
16 *(a) The combined market share of the involved insurers to*
17 *exceed 5 percent of the total market;*
18 *(b) An increase in any market share; or*
19 *(c) For any market:*
20 *(1) The combined market share of the involved insurers to*
21 *exceed 12 percent of the total market; and*
22 *(2) The market share to increase by more than 2 percent of*
23 *the total market.*
24 *As used in this subsection, "market" means direct written*
25 *premiums in this state for a line of authority set forth in the*
26 *annual statement required to be filed by insurers authorized to do*
27 *business in this state.*
28 *6. An acquisition for which, solely because of the effect of the*
29 *acquisition on ocean marine insurance, a notification is required*
30 *pursuant to this section.*
31 *7. An acquisition of an insurer whose domiciliary*
32 *commissioner of insurance:*
33 *(a) Determines that:*
34 *(1) The insurer is in a failing condition;*
35 *(2) A feasible alternative for improving that condition does*
36 *not exist; and*
37 *(3) The public benefit received from improving that*
38 *condition through the acquisition of the insurer outweighs the*
39 *public benefit received from increasing competition; and*
40 *(b) Submits his determination made pursuant to paragraph (a)*
41 *to the Commissioner.*
42 **Sec. 62. 1. An acquisition to which the provisions of**
43 **section 61 of this act apply is subject to an order issued pursuant**
44 **to section 64 of this act unless:**



1 (a) *The acquiring person files a notice of acquisition pursuant*
2 *to this section; and*

3 (b) *The waiting period specified in subsection 4 has expired.*

4 2. *The Commissioner shall prescribe the form of the notice*
5 *required pursuant to subsection 1. A notice of acquisition filed*
6 *pursuant to this section must include:*

7 (a) *The information required by the National Association of*
8 *Insurance Commissioners relating to any market that, pursuant to*
9 *subsection 5 of section 61 of this act, causes the acquisition not to*
10 *be exempted from the provisions of this section; and*

11 (b) *Any other material or information required by the*
12 *Commissioner to determine whether or not the proposed*
13 *acquisition, if consummated, would violate the provisions of*
14 *section 63 of this act.*

15 3. *The information required pursuant to subsection 2 may*
16 *include the opinion of an economist relating to the competitive*
17 *effect of the acquisition on the business of insurance in this state*
18 *if the opinion is accompanied by a summary of the education and*
19 *experience of the economist and a statement indicating his ability*
20 *to provide an informed opinion.*

21 4. *Except as otherwise provided in subsection 5, the waiting*
22 *period for an acquisition required pursuant to subsection 1 begins*
23 *on the date the Commissioner receives the notice filed pursuant to*
24 *subsection 1 and ends on the expiration of 30 days after that date*
25 *or on the expiration of a shorter period prescribed by the*
26 *Commissioner, whichever is earlier.*

27 5. *Before the expiration of the waiting period specified in*
28 *subsection 4, the Commissioner may, not more than once, require*
29 *a person to submit additional information relating to the proposed*
30 *acquisition. If the Commissioner requires the submission of*
31 *additional information, the waiting period for the acquisition ends*
32 *upon the expiration of 30 days after the Commissioner receives the*
33 *additional information or upon the expiration of a shorter period*
34 *prescribed by the Commissioner, whichever is earlier.*

35 **Sec. 63. 1.** *The Commissioner may issue an order pursuant*
36 *to section 64 of this act relating to an acquisition if:*

37 (a) *The effect of the acquisition may substantially lessen*
38 *competition in any line of insurance in this state or tend to create*
39 *a monopoly; or*

40 (b) *The acquiring person fails to file sufficient materials or*
41 *information pursuant to section 62 of this act.*

42 2. *In determining whether to issue an order pursuant to*
43 *subsection 1, the Commissioner shall consider the standards set*
44 *forth in the Horizontal Merger Guidelines issued by the United*
45 *States Department of Justice and the Federal Trade Commission*



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1 *and in effect at the time the Commissioner receives the notice*
2 *required pursuant to section 62 of this act.*

3 *3. The Commissioner shall not issue an order specified in*
4 *subsection 1:*

5 *(a) If:*

6 *(1) The acquisition creates substantial economies of scale*
7 *or economies in the use of resources that may not be created in*
8 *any other manner; and*

9 *(2) The public benefit received from those economies*
10 *exceeds the public benefit received from not lessening*
11 *competition; or*

12 *(b) If:*

13 *(1) The acquisition substantially increases the availability*
14 *of insurance; and*

15 *(2) The public benefit received by that increase exceeds the*
16 *public benefit received from not lessening competition.*

17 *4. The public benefits set forth in subparagraph 2 of*
18 *paragraphs (a) and (b) of subsection 3 may be considered*
19 *together, as applicable, in assessing whether the public benefits*
20 *received from the acquisition exceed any benefit to competition*
21 *that would arise from disapproving the acquisition.*

22 *5. The Commissioner has the burden of establishing a*
23 *violation of the competitive standard set forth in subsection 1.*

24 **Sec. 64. 1.** *Except as otherwise provided in this section, if*
25 *the Commissioner determines that an acquisition may*
26 *substantially lessen competition in any line of insurance in this*
27 *state or tends to create a monopoly, he may issue an order:*

28 *(a) Requiring an involved insurer to cease and desist from*
29 *doing business in this state relating to that line of insurance; or*

30 *(b) Denying the application of an acquired or acquiring*
31 *insurer for a license or authority to do business in this state.*

32 *2. The Commissioner shall not issue an order pursuant to*
33 *subsection 1 unless:*

34 *(a) He conducts a hearing concerning the acquisition in*
35 *accordance with NRS 679B.310 to 679B.370, inclusive;*

36 *(b) A notice of the hearing is issued before the expiration of*
37 *the waiting period for the acquisition specified in section 62 of this*
38 *act, but not less than 15 days before the hearing; and*

39 *(c) The hearing is conducted and the order is issued not later*
40 *than 60 days after the expiration of the waiting period.*

41 *3. Each order issued pursuant to subsection 1 must include a*
42 *written decision of the Commissioner setting forth his findings of*
43 *fact and conclusions of law relating to the acquisition.*

44 *4. An order issued pursuant to this section does not become*
45 *final until 30 days after it is issued, during which time the involved*



1 insurer may submit to the Commissioner a plan to remedy, within
2 a reasonable period, the anticompetitive effect of the acquisition.
3 As soon as practicable after receiving the plan, the Commissioner
4 shall, based upon the plan and any information included in the
5 plan, issue a written determination setting forth:

6 (a) The conditions or actions, if any, required to:

7 (1) Eliminate the anticompetitive effect of the acquisition;

8 and

9 (2) Vacate or modify the order; and

10 (b) The period in which the conditions or actions specified in
11 paragraph (a) must be performed.

12 5. An order issued pursuant to subsection 1 does not apply to
13 an acquisition that is not consummated.

14 6. A person who violates a cease and desist order issued
15 pursuant to this section during any period in which the order is in
16 effect is subject, at the discretion of the Commissioner, to:

17 (a) The imposition of a civil penalty of not more than \$10,000
18 per day for each day the violation continues;

19 (b) The suspension or revocation of the person's license or
20 certificate of authority; or

21 (c) Both the imposition of a civil penalty pursuant to
22 paragraph (a) and the suspension or revocation of the person's
23 license or certificate of authority pursuant to paragraph (b).

24 7. In addition to any fine imposed pursuant to NRS
25 692C.480, any insurer or other person who fails to make any filing
26 required by sections 61 to 64, inclusive, of this act and who fails to
27 make a good faith effort to comply with any such requirement is
28 subject to a fine of not more than \$50,000.

29 8. The provisions of NRS 692C.430, 692C.440 and 692C.460
30 do not apply to an acquisition to which the provisions of section 61
31 of this act apply.

32 **Sec. 65.** 1. A director or officer of an insurance holding
33 company system who knowingly violates, or knowingly participates
34 in or assents to a violation of, NRS 692C.350, 692C.360, 692C.363
35 or 692C.390, or who knowingly permits any officer or agent of the
36 insurance holding company to engage in a transaction in violation
37 of NRS 692C.360 or 692C.363 or to pay a dividend or make an
38 extraordinary distribution in violation of NRS 692C.390 shall pay,
39 after receiving notice and a hearing before the Commissioner, a
40 fine of not more than \$10,000 for each violation. In determining
41 the amount of the fine, the Commissioner shall consider the
42 appropriateness of the fine in relation to:

43 (a) The gravity of the violation;

44 (b) The history of any previous violations committed by the
45 director or officer; and



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1 (c) *Any other matters as justice may require.*
2 2. *Whenever it appears to the Commissioner that an insurer*
3 *or any director, officer, employee or agent of the insurer has*
4 *engaged in a transaction or entered into a contract to which the*
5 *provisions of NRS 692C.363 apply and for which the insurer has*
6 *not obtained the Commissioner's approval, the Commissioner may*
7 *order the insurer to cease and desist immediately from engaging in*
8 *any further activity relating to the transaction or contract. In*
9 *addition to issuing such an order, the Commissioner may order*
10 *the insurer to rescind the contract and return each party to the*
11 *contract to the position he was in before the execution of the*
12 *contract if the issuing of the order is in the best interest of:*

13 (a) *The policyholders or creditors of the insurer; or*

14 (b) *The members of the general public.*

15 **Sec. 66.** NRS 692C.020 is hereby amended to read as follows:

16 692C.020 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 692C.030 to
18 692C.110, inclusive, *and sections 59 and 60 of this act*, have the
19 meanings ascribed to them in those sections.

20 **Sec. 67.** NRS 692C.080 is hereby amended to read as follows:

21 692C.080 "Person" *includes an individual, corporation,*
22 *limited-liability company, partnership, association, joint stock*
23 *company, trust, unincorporated organization or any similar entity,*
24 *or any combination thereof acting in concert. The term* does not
25 include ~~any~~:

26 1. *Any joint venture partnership that is exclusively engaged*
27 *in owning, managing, leasing or developing any real or tangible*
28 *personal property; or*

29 2. *Any securities broker performing no more than the usual and*
30 *customary broker's function.*

31 **Sec. 68.** NRS 692C.140 is hereby amended to read as follows:

32 692C.140 In addition to making investments in common stock,
33 preferred stock, debt obligations and other securities permitted
34 under chapter 682A of NRS, a domestic insurer may invest:

35 1. In common stock, preferred stock, debt obligations and other
36 securities of one or more subsidiaries, amounts which do not exceed
37 the lesser of 10 percent of the insurer's assets or 50 percent of its
38 surplus as regards policyholders, if the insurer's surplus as regards
39 policyholders remains at a reasonable level in relation to the
40 insurer's outstanding liabilities and adequate to its financial needs.
41 In calculating the amount of such investments, the following must
42 be included:

43 (a) Total money or other consideration expended and obligations
44 assumed in the acquisition or formation of a subsidiary, including all
45 organizational expenses and contributions to capital and surplus of



1 the subsidiary whether or not represented by the purchase of capital
2 stock or issuance of other securities; and

3 (b) All amounts expended in acquiring additional common
4 stock, preferred stock, debt obligations and other securities and all
5 contributions to the capital or surplus of a subsidiary after its
6 acquisition or formation.

7 2. Any amount in common stock, preferred stock, debt
8 obligations and other securities of one or more subsidiaries, if ~~the~~
9 ~~insurer's total liabilities, as calculated for the National Association~~
10 ~~of Insurance Commissioners' annual statement purposes, are less~~
11 ~~than 10 percent of assets and if the insurer's surplus remains as~~
12 ~~regards policyholders, considering such investment as if it were a~~
13 ~~disallowed asset, at a reasonable level in relation to the insurer's~~
14 ~~outstanding liabilities and adequate to its financial needs.~~

15 ~~—3. Any amount in common stock, preferred stock, debt~~
16 ~~obligations and other securities of one or more subsidiaries if~~ each
17 subsidiary agrees to limit its investments in any asset so that those
18 investments will not cause the amount of the total investment of the
19 insurer to exceed any of the investment limitations specified in
20 subsection 1 or in chapter 682A of NRS. For the purpose of this
21 subsection, "total investment of the insurer" includes any direct
22 investment by the insurer in an asset and the insurer's proportionate
23 share of any investment in an asset by any subsidiary of the insurer,
24 which must be calculated by multiplying the amount of the
25 subsidiary's investment by the percentage of the insurer's ownership
26 of the subsidiary.

27 ~~[4.]~~ 3. Any amount in common stock, preferred stock, debt
28 obligations or other securities of one or more subsidiaries, with the
29 approval of the Commissioner, if the insurer's surplus as regards
30 policyholders remains at a reasonable level in relation to the
31 insurer's outstanding liabilities and adequate to its financial needs.

32 ~~[5. Any amount in the common stock, preferred stock, debt~~
33 ~~obligations or other securities of any subsidiary exclusively engaged~~
34 ~~in holding title to or holding title to and managing or developing~~
35 ~~real or personal property, if after considering as a disallowed asset~~
36 ~~so much of the investment as is represented by subsidiary assets~~
37 ~~which if held directly by the insurer would be considered as a~~
38 ~~disallowed asset, the insurer's surplus as regards policyholders will~~
39 ~~remain at a reasonable level in relation to the insurer's outstanding~~
40 ~~liabilities and adequate to its financial needs, and if after the~~
41 ~~investment all voting securities of the subsidiary are owned by the~~
42 ~~insurer.]~~

43 **Sec. 69.** NRS 692C.180 is hereby amended to read as follows:

44 692C.180 1. No person other than the issuer may make a
45 tender for or a request or invitation for tenders of, or enter into any



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1 agreement to exchange securities for, seek to acquire or acquire in
2 the open market or otherwise, any voting security of a domestic
3 insurer if, after the consummation thereof, he would directly or
4 indirectly, or by conversion or by exercise of any right to acquire, be
5 in control of the insurer , nor may any person enter into an
6 agreement to merge with or otherwise acquire control of a domestic
7 insurer, unless, at the time any such offer, request or invitation is
8 made or any such agreement is entered into, or before the
9 acquisition of those securities if no offer or agreement is involved,
10 he has filed with the Commissioner and has sent to the insurer, and
11 the insurer has sent to its shareholders, a statement containing the
12 information required by NRS 692C.180 to 692C.250, inclusive, and
13 the offer, request, invitation, agreement or acquisition has been
14 approved by the Commissioner in the manner prescribed in this
15 chapter.

16 2. For purposes of this section, a domestic insurer includes any
17 other person controlling a domestic insurer unless the other person
18 is ~~either~~ directly or through ~~its~~ *his* affiliates primarily engaged in
19 *a* business other than the business of insurance. ~~However,~~ *If* a
20 person *is directly or through his affiliates* primarily engaged in
21 ~~another~~ *a* business *other than the business of insurance, he* shall,
22 *at least 60 days before the proposed effective date of the*
23 *acquisition,* file a notice of intent to acquire ~~on a form prescribed~~
24 ~~by~~ *with* the Commissioner ~~at least 60 days before the proposed~~
25 ~~effective date of the acquisition.~~ *setting forth the information*
26 *required by section 62 of this act.*

27 **Sec. 70.** NRS 692C.210 is hereby amended to read as follows:

28 692C.210 1. ~~The~~ *Except as otherwise provided in*
29 *subsection 5, the* Commissioner shall approve any merger or other
30 acquisition of control referred to in NRS 692C.180 unless, after a
31 public hearing thereon, he finds that:

32 (a) After the change of control , the domestic insurer ~~referred~~
33 ~~to~~ *specified* in NRS 692C.180 would not be able to satisfy the
34 requirements for the issuance of a license to write the line or lines of
35 insurance for which it is presently licensed;

36 (b) The effect of the merger or other acquisition of control
37 would be substantially to lessen competition in insurance in this
38 state or tend to create a monopoly ; ~~therein;~~

39 (c) The financial condition of any acquiring party ~~is such as~~
40 ~~might~~ *may* jeopardize the financial stability of the insurer, or
41 prejudice the interest of its policyholders or the interests of any
42 remaining security holders who are unaffiliated with the acquiring
43 party;



1 (d) The terms of the offer, request, invitation, agreement or
2 acquisition referred to in NRS 692C.180 are unfair and
3 unreasonable to the security holders of the insurer;

4 (e) The plans or proposals which the acquiring party has to
5 liquidate the insurer, sell its assets or consolidate or merge it with
6 any person, or to make any other material change in its business or
7 corporate structure or management, are unfair and unreasonable to
8 policyholders of the insurer and not in the public interest; ~~for~~

9 (f) The competence, experience and integrity of those persons
10 who would control the operation of the insurer are such that it would
11 not be in the interest of policyholders of the insurer and of the public
12 to permit the merger or other acquisition of control ~~for~~; or

13 (g) *If approved, the merger or acquisition of control would*
14 *likely be harmful or prejudicial to the members of the public who*
15 *purchase insurance.*

16 2. The public hearing ~~referred to~~ *specified* in subsection 1
17 must be held within 30 days after the statement required by NRS
18 692C.180 has been filed, and at least 20 days' notice thereof must
19 be given by the Commissioner to the person filing the statement.
20 Not less than 7 days' notice of the public hearing must be given by
21 the person filing the statement to the insurer and to ~~such other~~
22 ~~persons as may be~~ *any other person* designated by the
23 Commissioner. The insurer shall give such notice to its security
24 holders. The Commissioner shall make a determination within 30
25 days after the conclusion of the hearing. If he determines that an
26 infusion of capital to restore capital in connection with the change in
27 control is required, the requirement must be met within 60 days after
28 notification is given of the determination. At the hearing, the person
29 filing the statement, the insurer, any person to whom notice of
30 hearing was sent ~~for~~ and any other person whose interests may be
31 affected thereby may present evidence, examine and cross-examine
32 witnesses, and offer oral and written arguments and , in connection
33 therewith , may conduct discovery proceedings in the same manner
34 as is presently allowed in the district court of this state. All
35 discovery proceedings must be concluded not later than 3 days
36 before the commencement of the public hearing.

37 3. The Commissioner may retain at the acquiring party's
38 expense attorneys, actuaries, accountants and other experts not
39 otherwise a part of his staff as may be reasonably necessary to assist
40 him in reviewing the proposed acquisition of control.

41 4. The period for review by the Commissioner must not exceed
42 the 60 days allowed between the filing of the notice of intent to
43 acquire *required pursuant to subsection 2 of NRS 692C.180* and
44 the date of *the* proposed acquisition if the proposed affiliation or



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1 change of control involves a financial institution, or an affiliate of a
2 financial institution, and an insured.

3 *5. When making a determination pursuant to paragraph (b)*
4 *of subsection 1, the Commissioner:*

5 *(a) Shall require the submission of the information specified*
6 *in subsection 2 of section 62 of this act;*

7 *(b) Shall not disapprove the merger or acquisition of control if*
8 *he finds that any of the circumstances specified in subsection 3 of*
9 *section 63 of this act exist; and*

10 *(c) May condition his approval of the merger or acquisition of*
11 *control in the manner provided in subsection 4 of section 64 of*
12 *this act.*

13 *6. If, in connection with a change of control of a domestic*
14 *insurer, the Commissioner determines that the person who is*
15 *acquiring control of the domestic insurer must maintain or restore*
16 *the capital of the domestic insurer in an amount that is required*
17 *by the laws and regulations of this state, the Commissioner shall*
18 *make the determination not later than 60 days after the notice of*
19 *intent to acquire required pursuant to subsection 2 of NRS*
20 *692C.180 is filed with the Commissioner.*

21 **Sec. 71.** NRS 692C.260 is hereby amended to read as follows:

22 692C.260 1. Every insurer which is authorized to do business
23 in this state and which is a member of an insurance holding
24 company system shall register with the Commissioner, except a
25 foreign insurer subject to disclosure requirements and standards
26 adopted by *a* statute or regulation in the jurisdiction of its domicile
27 which are substantially similar to those contained in NRS 692C.260
28 to 692C.350, inclusive.

29 2. Any insurer which is subject to registration under NRS
30 692C.260 to 692C.350, inclusive, shall register ~~no~~ *not* later than
31 September 1, 1973, or 15 days after it becomes subject to
32 registration, whichever is later, unless the Commissioner for good
33 cause shown extends the time for registration. The Commissioner
34 may require any authorized insurer which is a member of a holding
35 company system which is not subject to registration under this
36 section to furnish a copy of the registration statement or other
37 information filed by ~~such~~ *the* insurance company with the
38 insurance regulatory authority of domiciliary jurisdiction.

39 *3. Any person within an insurance holding company system*
40 *subject to registration shall, upon request by an insurer, provide*
41 *complete and accurate information to the insurer if the*
42 *information is reasonably necessary to enable the insurer to*
43 *comply with the provisions of this section.*



1 **Sec. 72.** NRS 692C.270 is hereby amended to read as follows:
2 692C.270 Every insurer subject to registration shall file a
3 registration statement on a form provided by the Commissioner,
4 which ~~{shall}~~ **must** contain current information about:

5 1. The capital structure, general financial condition, ownership
6 and management of the insurer and any person controlling the
7 insurer.

8 2. The identity of every member of the insurance holding
9 company system.

10 3. The following agreements in force, relationships subsisting
11 and transactions currently outstanding between ~~{such}~~ **the** insurer
12 and its affiliates:

13 (a) Loans, other investments or purchases, sales or exchanges of
14 securities of the affiliates by the insurer or of the insurer by its
15 affiliates.

16 (b) Purchases, sales or exchanges of assets.

17 (c) Transactions not in the ordinary course of business.

18 (d) Guarantees or undertakings for the benefit of an affiliate
19 which result in an actual contingent exposure of the insurer's assets
20 to liability, other than insurance contracts entered into in the
21 ordinary course of the insurer's business.

22 (e) All management and service contracts and all cost-sharing
23 arrangements, other than cost allocation arrangements based upon
24 generally accepted accounting principles.

25 (f) Reinsurance agreements covering all or substantially all of
26 one or more lines of insurance of the ceding company.

27 (g) *Any dividend or other distribution made to a shareholder.*

28 (h) *Any consolidated agreement to allocate taxes.*

29 4. ~~{Other}~~ ***Any pledge of the insurer's stock, including the***
30 ***stock of any subsidiary or controlling affiliate of the insurer, for a***
31 ***loan made to any member of the insurance holding company***
32 ***system.***

33 5. ***Any other*** matters concerning transactions between
34 registered insurers and any affiliates as may be included from time
35 to time in any registration forms adopted or approved by the
36 Commissioner.

37 **Sec. 73.** NRS 692C.330 is hereby amended to read as follows:

38 692C.330 1. Any person may file with the Commissioner ~~{a}~~
39 :

40 (a) ***A disclaimer of affiliation with any authorized insurer***
41 ***specified in the disclaimer; or*** ~~{such a}~~

42 (b) ***A request for a termination of registration on the basis that***
43 ***the person does not, or will not after taking an action specified in***
44 ***the request for termination, control another person specified in the***
45 ***request.***



1 2. A disclaimer *of affiliation or request for a termination of*
2 *registration specified in subsection 1* may be filed by ~~[such]~~ *the*
3 *authorized* insurer or any member of an insurance holding company
4 system. ~~[The disclaimer shall fully disclose]~~ A disclaimer *of*
5 *affiliation or request for a termination of registration filed*
6 *pursuant to subsection 1 must include:*

7 (a) A statement indicating the number of authorized, issued
8 and outstanding voting securities of the person specified in the
9 disclaimer of affiliation or request for a termination of
10 registration;

11 (b) A statement indicating the number and percentage of
12 shares of the person specified in the disclaimer of affiliation or
13 request for a termination of registration that are owned or
14 beneficially owned by the person disclaiming control, and the
15 number of those shares for which the person disclaiming control
16 has a direct or indirect right to acquire;

17 (c) A statement setting forth all material relationships and bases
18 for affiliation between ~~[such person and such insurer as well as the~~
19 ~~basis for disclaiming such affiliation.~~

20 ~~—2.]~~ *the person specified in the disclaimer of affiliation or*
21 *request for a termination of registration and the person and any*
22 *affiliate of the person who is disclaiming control of the person*
23 *specified in the disclaimer of affiliation or request for a*
24 *termination of registration; and*

25 (d) An explanation of why the person who is disclaiming
26 control does not control the person specified in the disclaimer of
27 affiliation or request for a termination of registration.

28 3. A request for a termination of registration filed pursuant to
29 subsection 1 shall be deemed granted upon filing unless the
30 Commissioner, within 30 days after receipt of the request for a
31 termination of registration, notifies the person, authorized insurer
32 or member of an insurance holding company system that the
33 request is denied.

34 4. After a disclaimer *of affiliation* has been filed, the insurer
35 ~~[shall be]~~ *is* relieved of any duty to register or report under NRS
36 692C.260 to 692C.350, inclusive, which may arise out of the
37 insurer's relationship with ~~[such]~~ *the* person unless the
38 Commissioner disallows ~~[such a]~~ *the* disclaimer. The Commissioner
39 ~~[shall disallow such a]~~ *may disallow the* disclaimer only after
40 furnishing all parties in interest with a notice and opportunity to be
41 heard and after making specific findings of fact to support ~~[such]~~ *the*
42 disallowance.

43 **Sec. 74.** NRS 692C.350 is hereby amended to read as follows:

44 692C.350 **1.** The failure to file a registration statement or any
45 amendment thereto required by NRS 692C.260 to 692C.350,



1 inclusive, within the time specified for ~~[such filing, shall be]~~ *the*
2 *filing is* a violation of NRS 692C.260 to 692C.350, inclusive.

3 2. *Except as otherwise provided in subsection 3, if an insurer*
4 *fails, without just cause, to file a registration statement required*
5 *pursuant to NRS 692C.270, the insurer shall, after receiving*
6 *notice and a hearing, pay a civil penalty of \$100 for each day the*
7 *insurer fails to file the registration statement. The civil penalty*
8 *may be recovered in a civil action brought by the Commissioner.*
9 *Any civil penalty paid pursuant to this subsection must be*
10 *deposited in the State General Fund.*

11 3. *The maximum civil penalty that may be imposed pursuant*
12 *to subsection 2 is \$20,000. The Commissioner may reduce the*
13 *amount of the civil penalty if the insurer demonstrates to the*
14 *satisfaction of the Commissioner that the payment of the civil*
15 *penalty would impose a financial hardship on the insurer.*

16 4. *Any officer, director or employee of an insurance holding*
17 *company system who willfully and knowingly subscribes to or*
18 *makes or causes to be made any false statement, false report or*
19 *false filing with the intent to deceive the Commissioner in the*
20 *performance of his duties pursuant to NRS 692C.260 to 692C.350,*
21 *inclusive, is guilty of a category D felony and shall be punished as*
22 *provided in NRS 193.130. The officer, director or employee is*
23 *personally liable for any fine imposed against him pursuant to that*
24 *section.*

25 **Sec. 75.** NRS 692C.363 is hereby amended to read as follows:

26 692C.363 1. A domestic insurer shall not enter into any of
27 the following transactions with an affiliate unless the insurer has
28 notified the Commissioner in writing of its intention to enter into the
29 transaction at least 60 days previously, or such shorter period as the
30 Commissioner may permit, and the Commissioner has not
31 disapproved it within that period:

32 (a) A sale, purchase, exchange, loan or extension of credit,
33 guaranty or investment if the transaction equals at least:

34 (1) With respect to an insurer other than a life insurer, the
35 lesser of 3 percent of the insurer's admitted assets or 25 percent of
36 surplus as regards policyholders; or

37 (2) With respect to a life insurer, 3 percent of the insurer's
38 admitted assets,
39 computed as of December 31 next preceding the transaction.

40 (b) A loan or extension of credit to any person who is not an
41 affiliate, if the insurer makes the loan or extension of credit with the
42 agreement or understanding that the proceeds of the transaction, in
43 whole or in substantial part, are to be used to make loans or
44 extensions of credit to, to purchase assets of, or to make investments
45 in, any affiliate of the insurer if the transaction equals at least:



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1 (1) With respect to insurers other than life insurers, the lesser
2 of 3 percent of the insurer's admitted assets or 25 percent of surplus
3 as regards policyholders; or

4 (2) With respect to life insurers, 3 percent of the insurer's
5 admitted assets,
6 computed as of December 31 next preceding the transaction.

7 (c) An agreement for reinsurance or a modification thereto in
8 which the premium for reinsurance or a change in the insurer's
9 liabilities equals at least 5 percent of the insurer's surplus as regards
10 policyholders as of December 31 next preceding the transaction,
11 including an agreement which requires as consideration the transfer
12 of assets from an insurer to a nonaffiliate, if an agreement or
13 understanding exists between the insurer and nonaffiliate that any
14 portion of those assets will be transferred to an affiliate of the
15 insurer.

16 (d) An agreement for management, contract for service,
17 guarantee or arrangement to share costs.

18 (e) A *guaranty made by a domestic insurer, except that a*
19 *guaranty that is quantifiable as to amount is not subject to*
20 *the provisions of this subsection unless the guaranty exceeds the*
21 *lesser of one-half of 1 percent of the admitted assets of the*
22 *domestic insurer or 10 percent of its surplus as regards*
23 *policyholders as of December 31 next preceding the guaranty.*

24 (f) *Except as otherwise provided in subsection 3, a direct or*
25 *indirect acquisition of or investment in a person who controls the*
26 *domestic insurer or an affiliate of the domestic insurer in an*
27 *amount that, when added to its present holdings, exceeds 2.5*
28 *percent of the domestic insurer's surplus to policyholders.*

29 (g) A material transaction, specified by regulation, which the
30 Commissioner determines may adversely affect the interest of the
31 insurer's policyholders.


32 2. This section does not authorize or permit any transaction
33 which, in the case of an insurer not an affiliate, would be contrary to
34 law.

35 3. *The provisions of paragraph (f) of subsection 1 do not*
36 *apply to a direct or indirect acquisition of or investment in:*

37 (a) *A subsidiary acquired in accordance with this section or*
38 *NRS 692C.140; or*

39 (b) *A nonsubsidiary insurance affiliate that is subject to the*
40 *provisions of this chapter.*

41 **Sec. 76.** NRS 692C.380 is hereby amended to read as follows:

42 692C.380 For purposes of NRS 692C.360 to 692C.400,
43 inclusive, an extraordinary dividend or distribution includes any
44 dividend or distribution of cash or other property  whose fair



1 market value together with that of other dividends or distributions
2 made within the preceding 12 months exceeds the greater of:

3 1. Ten percent of the insurer's surplus as regards policyholders
4 as of December 31 next preceding the dividend or distribution; or

5 2. The net gain from operations of the insurer, if the insurer is a
6 life insurer, or the net income, *not* including ~~unrealized~~ *realized*
7 capital gains if the insurer is not a life insurer, for the 12-month
8 period ending December 31 next preceding the dividend or
9 distribution,

10 but does not include pro rata distributions of any class of the
11 insurer's own securities.

12 **Sec. 77.** NRS 692C.390 is hereby amended to read as follows:

13 692C.390 ~~No~~

14 *1. An insurer subject to registration under NRS 692C.260 to*
15 *692C.350, inclusive, shall not pay any extraordinary dividend or*
16 *make any other extraordinary distribution to its shareholders until:*

17 ~~1-1~~ *(a) Thirty days after the Commissioner has received notice*
18 *of the declaration thereof and has not within such that period*
19 *disapproved such the payment; or*

20 ~~2-1~~ *(b) The Commissioner shall have approved such approves*
21 *the payment within such the 30-day period.*

22 *2. A request for approval of an extraordinary dividend or any*
23 *other extraordinary distribution pursuant to subsection 1 must*
24 *include:*

25 *(a) A statement indicating the amount of the proposed*
26 *dividend or distribution;*

27 *(b) The date established for the payment of the proposed*
28 *dividend or distribution;*

29 *(c) A statement indicating whether the proposed dividend or*
30 *distribution is to be paid in the form of cash or property and, if it is*
31 *to be paid in the form of property, a description of the property, its*
32 *cost and its fair market value together with an explanation setting*
33 *forth the basis for determining its fair market value;*

34 *(d) A copy of a work paper or other document setting forth the*
35 *calculations used to determine that the proposed dividend or*
36 *distribution is extraordinary, including:*

37 *(1) The amount, date and form of payment of each regular*
38 *dividend or distribution paid by the insurer, other than any*
39 *distribution of a security of the insurer, within the 12 consecutive*
40 *months immediately preceding the date established for the*
41 *payment of the proposed dividend or distribution;*

42 *(2) The amount of surplus, if any, as regards policyholders,*
43 *including total capital and surplus, as of December 31 next*
44 *preceding;*



1 (3) *If the insurer is a life insurer, the amount of any net*
2 *gains obtained from the operations of the insurer for the 12-month*
3 *period ending December 31 next preceding;*

4 (4) *If the insurer is not a life insurer, the amount of net*
5 *income of the insurer less any realized capital gains for the 12-*
6 *month period ending on the December 31 of the year next*
7 *preceding and the two consecutive 12-month periods immediately*
8 *preceding that period; and*

9 (5) *If the insurer is not a life insurer, the amount of each*
10 *dividend paid by the insurer to shareholders, other than a*
11 *distribution of any securities of the insurer, during the preceding 2*
12 *calendar years;*

13 (e) *A balance sheet and statement of income for the period*
14 *beginning on the date of the last annual statement filed by the*
15 *insurer with the Commissioner and ending on the last day of the*
16 *month immediately preceding the month in which the insurer files*
17 *the request for approval; and*

18 (f) *A brief statement setting forth:*

19 (1) *The effect of the proposed dividend or distribution upon*
20 *the insurer's surplus;*

21 (2) *The reasonableness of the insurer's surplus in relation*
22 *to the insurer's outstanding liabilities; and*

23 (3) *The adequacy of the insurer's surplus in relation to the*
24 *insurer's financial requirements.*

25 3. *Each insurer specified in subsection 1 that pays an*
26 *extraordinary dividend or makes any other extraordinary*
27 *distribution to its shareholders shall, within 15 days after*
28 *declaring the dividend or making the distribution, report that fact*
29 *to the Commissioner. The report must include the information*
30 *specified in paragraph (d) of subsection 2.*

31 **Sec. 78.** NRS 692C.420 is hereby amended to read as follows:

32 692C.420 **1.** All information, documents and copies thereof
33 obtained by or disclosed to the Commissioner or any other person in
34 the course of an examination or investigation made pursuant to NRS
35 692C.410, and all information reported pursuant to NRS 692C.260
36 to 692C.350, inclusive, ~~{shall}~~ **must** be given confidential treatment
37 and ~~{shall not be}~~ **is not** subject to subpoena and ~~{shall}~~ **must** not be
38 made public by the Commissioner or any other person, except to
39 insurance departments of other states, without the prior written
40 consent of the insurer to which it pertains unless the Commissioner,
41 after giving the insurer and its affiliates who would be affected
42 thereby ~~{}~~ **+** notice and **an** opportunity to be heard, determines that
43 the interests of policyholders, shareholders or the public will be
44 served by the publication thereof, in which event he may publish all



1 or any part thereof in ~~[such]~~ *any* manner as he may deem
2 appropriate.

3 *2. The Commissioner or any person who receives any*
4 *documents, materials or other information while acting under the*
5 *authority of the Commissioner must not be permitted or required*
6 *to testify in a private civil action concerning any information,*
7 *document or copy thereof specified in subsection 1.*

8 *3. The Commissioner may share or receive any information,*
9 *document or copy thereof specified in subsection 1 in accordance*
10 *with section 1 of this act. The sharing or receipt of the*
11 *information, document or copy pursuant to this subsection does*
12 *not waive any applicable privilege or claim of confidentiality in the*
13 *information, document or copy.*

14 **Sec. 79.** NRS 694C.050 is hereby amended to read as follows:

15 694C.050 “Association captive insurer” means a captive
16 insurer that only insures risks of the member organizations of an
17 association and the affiliated companies of those members,
18 including groups formed pursuant to the Product Liability Risk
19 Retention Act of 1981, as amended, 15 U.S.C. §§ 3901 et seq., *if:*

20 *1. The association or the member organizations of the*
21 *association:*

22 *(a) Own, control or hold with the power to vote all the*
23 *outstanding voting securities of the association captive insurer, if*
24 *the association captive insurer is incorporated as a stock insurer;*
25 *or*

26 *(b) Have complete voting control over the captive insurer, if*
27 *the captive insurer is formed as a mutual insurer; and*

28 *2. The member organizations of the association collectively*
29 *constitute all the subscribers of the captive insurer, if the captive*
30 *insurer is formed as a reciprocal insurer.*

31 **Sec. 80.** NRS 694C.450 is hereby amended to read as follows:

32 694C.450 1. Except as otherwise provided in this section, a
33 captive insurer shall pay to the Division, not later than March 1 of
34 each year, a tax at the rate of:

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

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

39 (c) Seventy-five thousandths of 1 percent on each additional
40 dollar of its net direct premiums.

41 2. Except as otherwise provided in this section, a captive
42 insurer shall pay to the Division, not later than March 1 of each
43 year, a tax at a rate of:

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



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1 (b) One hundred fifty thousandths of 1 percent on the next
2 \$20,000,000 of revenue from assumed reinsurance premiums; and

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

5 The tax on reinsurance premiums pursuant to this subsection must
6 not be levied on premiums for risks or portions of risks which are
7 subject to taxation on a direct basis pursuant to subsection 1. A
8 captive insurer is not required to pay any reinsurance premium tax
9 pursuant to this subsection on revenue related to the receipt of assets
10 by the captive insurer in exchange for the assumption of loss
11 reserves and other liabilities of another insurer that is under
12 common ownership and control with the captive insurer, if the
13 transaction is part of a plan to discontinue the operation of the other
14 insurer and the intent of the parties to the transaction is to renew or
15 maintain such business with the captive insurer.

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

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

22 5. Notwithstanding any specific statute to the contrary and
23 except as otherwise provided in this subsection, the tax provided for
24 by this section constitutes all the taxes collectible pursuant to the
25 laws of this state from a captive insurer, and no occupation tax or
26 other taxes may be levied or collected from a captive insurer by this
27 state or by any county, city or municipality within this state, except
28 for ad valorem taxes on real or personal property located in this state
29 used in the production of income by the captive insurer.

30 6. Ten percent of the revenues collected from the tax imposed
31 pursuant to this section must be deposited with the State Treasurer
32 for credit to the Account for the Regulation and Supervision of
33 Captive Insurers created pursuant to NRS 694C.460. The remaining
34 90 percent of the revenues collected must be deposited with the
35 State Treasurer for credit to the State General Fund.

36 7. *A captive insurer that is issued a license pursuant to this*
37 *chapter after July 1, 2003, is entitled to receive a nonrefundable*
38 *credit of \$5,000 applied against the aggregate taxes owed by the*
39 *captive insurer for the first year in which the captive insurer*
40 *incurs any liability for the payment of taxes pursuant to this*
41 *section. A captive insurer is entitled to a nonrefundable credit*
42 *pursuant to this section not more than once after the captive*
43 *insurer is initially licensed pursuant to this chapter.*

44 8. As used in this section, unless the context otherwise
45 requires:



1 (a) "Common ownership and control" means:


2 (1) In the case of a stock insurer, the direct or indirect
3 ownership of 80 percent or more of the outstanding voting stock of
4 two or more corporations by the same member or members.


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

8 (b) "Net direct premiums" means the direct premiums collected
9 or contracted for on policies or contracts of insurance written by a
10 captive insurer during the preceding calendar year, less the amounts
11 paid to policyholders as return premiums, including dividends on
12 unabsorbed premiums or premium deposits returned or credited to
13 policyholders.

14 **Sec. 81.** NRS 696B.415 is hereby amended to read as follows:

15 696B.415 1. Upon the issuance of an order of liquidation
16 with a finding of insolvency against a domestic insurer, the
17 Commissioner shall apply to the district court for authority to
18 disburse money to the Nevada Insurance Guaranty Association or
19 the Nevada Life and Health Insurance Guaranty Association out of
20 the marshaled assets of the insurer, as money becomes available, in
21 amounts equal to disbursements made or to be made by the
22 Association for claims-handling expense and covered-claims
23 obligations upon the presentation of evidence that disbursements
24 have been made by the Association. The Commissioner shall apply
25 to the district court for authority to make similar disbursements to
26 insurance guaranty associations in other jurisdictions if one of the
27 Nevada Associations is entitled to like payment pursuant to the laws
28 relating to insolvent insurers in the jurisdiction in which the
29 organization is domiciled.

30 2. The Commissioner, in determining the amounts available for
31 disbursement to the Nevada Insurance Guaranty Association, the
32 Nevada Life and Health Insurance Guaranty Association  and
33 similar organizations in other jurisdictions, shall reserve sufficient
34 assets for the payment of the expenses of administration.

35 3. The Commissioner shall establish procedures for the ratable
36 allocation of disbursements to the Nevada Insurance Guaranty
37 Association, the Nevada Life and Health Insurance Guaranty
38 Association  and similar organizations in other jurisdictions, and
39 shall secure from each organization to which money is paid as a
40 condition to advances in reimbursement of covered-claims
41 obligations an agreement to return to the Commissioner, on demand,
42 amounts previously advanced which are required to pay claims of
43 secured creditors and claims falling within the priorities established
44 in paragraph (a) or (b) of subsection 1 of NRS 696B.420.



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1 4. *The Commissioner, as receiver for an insolvent insurer,*
2 *may file a claim on behalf of all insureds for any unearned*
3 *premiums. The Nevada Insurance Guaranty Association, the*
4 *Nevada Life and Health Insurance Guaranty Association and*
5 *similar organizations in other jurisdictions shall accept the claim*
6 *in lieu of requiring each insured to file a claim for the unearned*
7 *premium.*

8 **Sec. 82.** NRS 696B.420 is hereby amended to read as follows:

9 696B.420 1. The order of distribution of claims from the
10 estate of the insurer on liquidation of the insurer must be as set forth
11 in this section. Each claim in each class must be paid in full or
12 adequate money retained for the payment before the members of the
13 next class receive any payment. No subclasses may be established
14 within any class. Except as otherwise provided in subsection 2, the
15 order of distribution and of priority must be as follows:

16 (a) Administration costs and expenses, including, but not limited
17 to, the following:

18 (1) The actual and necessary costs of preserving or
19 recovering the assets of the insurer;

20 (2) Compensation for any services rendered in the
21 liquidation;

22 (3) Any necessary filing fees;

23 (4) The fees and mileage payable to witnesses; and

24 (5) Reasonable attorney's fees.

25 (b) ~~[Loss claims, including any]~~ *All* claims under policies, ~~[for~~
26 ~~losses incurred, including third party claims.]~~ any claims against
27 ~~[the insurer]~~ *an insured* for liability for bodily injury or for injury to
28 or destruction of tangible property which are ~~[not]~~ *covered claims*
29 under policies, *including any such claims of the Federal*
30 *Government or any state or local government*, and any claims of
31 the Nevada Insurance Guaranty Association, the Nevada Life and
32 Health Insurance Guaranty Association ~~[.]~~ and other similar
33 statutory organizations in other jurisdictions. Any claims under life
34 insurance and annuity policies, whether for death proceeds, annuity
35 proceeds or investment values, must be treated as loss claims. That
36 portion of any loss for which indemnification is provided by other
37 benefits or advantages recovered or recoverable by the claimant may
38 not be included in this class, other than benefits or advantages
39 recovered or recoverable in discharge of familial obligations of
40 support or because of succession at death or as proceeds of life
41 insurance, or as gratuities. No payment made by an employer to his
42 employee may be treated as a gratuity.

43 (c) Unearned premiums and small loss claims, including claims
44 under nonassessable policies for unearned premiums or other
45 premium refunds.



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- 1 (d) ~~{Claims}~~ *Except as otherwise provided in paragraph (b),*
2 *claims* of the Federal Government.
- 3 (e) ~~{Claims}~~ *Except as otherwise provided in paragraph (b),*
4 *claims* of any state or local government, including, but not limited
5 to, a claim of a state or local government for a penalty or forfeiture.
- 6 (f) Wage debts due employees for services performed, not to
7 exceed ~~[\$1,000 to]~~ *an amount equal to 2 months of monetary*
8 *compensation for* each employee ~~[, that have been earned]~~ *for*
9 *services performed within 6 months before the filing of the petition*
10 *for liquidation or, if rehabilitation preceded liquidation,* within 1
11 year before the filing of the petition for ~~[liquidation.]~~ *rehabilitation.*
12 Officers of the insurer are not entitled to the benefit of this priority.
13 The priority set forth in this paragraph must be in lieu of any other
14 similar priority authorized by law as to wages or compensation of
15 employees.
- 16 (g) Residual classification, including any other claims not
17 falling within other classes pursuant to the provisions of this section.
18 Claims for a penalty or forfeiture must be allowed in this class only
19 to the extent of the pecuniary loss sustained from the act, transaction
20 or proceeding out of which the penalty or forfeiture arose, with
21 reasonable and actual costs occasioned thereby. The remainder of
22 the claims must be postponed to the class of claims specified in
23 paragraph (j).
- 24 (h) Judgment claims based solely on judgments. If a claimant
25 files a claim and bases the claim on the judgment and on the
26 underlying facts, the claim must be considered by the liquidator,
27 who shall give the judgment such weight as he deems appropriate.
28 The claim as allowed must receive the priority it would receive in
29 the absence of the judgment. If the judgment is larger than the
30 allowance on the underlying claim, the remaining portion of the
31 judgment must be treated as if it were a claim based solely on a
32 judgment.
- 33 (i) Interest on claims already paid, which must be calculated at
34 the legal rate compounded annually on any claims in the classes
35 specified in paragraphs (a) to (h), inclusive, from the date of the
36 petition for liquidation or the date on which the claim becomes due,
37 whichever is later, until the date on which the dividend is declared.
38 The liquidator, with the approval of the court, may:
- 39 (1) Make reasonable classifications of claims for purposes of
40 computing interest;
- 41 (2) Make approximate computations; and
- 42 (3) Ignore certain classifications and periods as de minimis.
- 43 (j) Miscellaneous subordinated claims, with interest as provided
44 in paragraph (i):
- 45 (1) Claims subordinated by NRS 696B.430;



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1 (2) Claims filed late;
2 (3) Portions of claims subordinated pursuant to the
3 provisions of paragraph (g);

4 (4) Claims or portions of claims the payment of which is
5 provided by other benefits or advantages recovered or recoverable
6 by the claimant; and

7 (5) Claims not otherwise provided for in this section.

8 (k) Preferred ownership claims, including surplus or
9 contribution notes, or similar obligations, and premium refunds on
10 assessable policies. Interest at the legal rate must be added to each
11 claim, as provided in paragraphs (i) and (j).

12 (l) Proprietary claims of shareholders or other owners.

13 2. If there are no existing or potential claims of the government
14 against the estate, claims for wages have priority over any claims set
15 forth in paragraphs (c) to (k), inclusive, of subsection 1. The
16 provisions of this subsection must not be construed to require the
17 accumulation of interest for claims as described in paragraph (i) of
18 subsection 1.

19 **Sec. 83.** NRS 697.290 is hereby amended to read as follows:

20 697.290 Every bail agent must maintain in his office such
21 records of bail bonds, and such additional information as the
22 Commissioner may reasonably require, executed or countersigned
23 by him to enable the public to obtain all necessary information
24 concerning the bail bonds for at least ~~1 year~~ **3 years** after the
25 liability of the surety has been terminated. The records must be open
26 to examination by the Commissioner or his representatives at all
27 times, and the Commissioner at any time may require the licensee to
28 furnish to him, in such manner or form as he requires, any
29 information kept or required to be kept in the records.

30 **Sec. 84.** NRS 697.320 is hereby amended to read as follows:

31 697.320 1. A bail agent may accept collateral security in
32 connection with a bail transaction if the collateral security is
33 reasonable in relation to the face amount of the bond. *The bail agent
34 shall not transfer the collateral to any person other than a bail
35 agent licensed pursuant to this chapter or a surety insurer holding
36 a valid certificate of authority issued by the Commissioner. The
37 collateral must not be transported or otherwise removed from this
38 state. Any person who receives the collateral:*

39 *(a) Shall be deemed to hold the collateral in a fiduciary
40 capacity to the same extent as a bail agent; and*

41 *(b) Shall retain, return and otherwise possess the collateral in
42 accordance with the provisions of this section.*

43 2. The collateral security must be received by the bail agent in
44 his fiduciary capacity, and before any forfeiture of bail must be kept
45 separate and apart from any other funds or assets of the licensee.



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1 Any collateral received must be returned to the person who
2 deposited it with the bail agent or any assignee other than the bail
3 agent as soon as the obligation, the satisfaction of which was
4 secured by the collateral, is discharged and all fees owed to the bail
5 agent have been paid. *The bail agent or any surety insurer having*
6 *custody of the collateral shall, immediately after the bail agent or*
7 *surety insurer receives a request for return of the collateral from*
8 *the person who deposited the collateral, determine whether the*
9 *obligation is discharged.* If the collateral is deposited to secure the
10 obligation of a bond, it must be returned ~~[within 30 days after]~~
11 *immediately upon* the entry of any order by an authorized official
12 by virtue of which liability under the bond is terminated or upon
13 payment of all fees owed to the bail agent, whichever is later. A
14 certified copy of the minute order from the court wherein the bail or
15 undertaking was ordered exonerated shall be deemed prima facie
16 evidence of exoneration or termination of liability.

17 3. If a bail agent *receives as collateral in a bail transaction,*
18 *whether on his or another person's behalf, any document*
19 *conveying title to real property, the bail agent shall not accept the*
20 *document unless it indicates on its face that it is executed as part*
21 *of a security transaction. If the document is recorded, the bail*
22 *agent or any surety insurer having possession of the document*
23 *shall, immediately after the bail agent or surety insurer receives a*
24 *request for return of the collateral from the person who executed*
25 *the document:*

26 (a) *Determine whether the obligation for which the document*
27 *was accepted is discharged; and*

28 (b) *If the obligation has been discharged, reconvey the real*
29 *property by delivering a deed or other document of conveyance to*
30 *the person or to his heirs, legal representative or successor in*
31 *interest. The deed or other document of conveyance must be*
32 *prepared in such a manner that it may be recorded.*

33 4. *If the amount of any collateral received in a bail*
34 *transaction exceeds the amount of any bail forfeited by the*
35 *defendant for whom the collateral was accepted, the bail agent or*
36 *any assignee having custody of the collateral shall, immediately*
37 *after the bail is forfeited, return to the person who deposited the*
38 *collateral the amount by which the collateral exceeds the amount*
39 *of the bail forfeited. Any collateral returned to a person pursuant*
40 *to this subsection is subject to a claim for fees, if any, owed to the*
41 *bail agent returning the collateral.*

42 5. *If a bail agent* accepts collateral, he shall give a written
43 receipt for the collateral. The receipt must include in detail a full
44 account of the collateral received.



1 **Sec. 85.** NRS 697.360 is hereby amended to read as follows:
2 697.360 Licensed bail agents, bail solicitors and *bail*
3 *enforcement agents, and* general agents are also subject to the
4 following provisions of this Code, to the extent reasonably
5 applicable:

6 1. Chapter 679A of NRS.

7 2. Chapter 679B of NRS.

8 3. NRS ~~683A.261.~~

9 4. *NRS* 683A.301.

10 ~~[4.]~~ 5. NRS 683A.311.

11 ~~[5.]~~ 6. NRS 683A.341.

12 ~~[6.]~~ 7. NRS 683A.361.

13 ~~[7.]~~ 8. NRS 683A.400.

14 ~~[8.]~~ 9. NRS 683A.451.

15 ~~[9.]~~ 10. NRS 683A.461.

16 ~~[10.]~~ 11. NRS 683A.480.

17 ~~[11.]~~ 12. NRS *683A.500.*

18 13. *NRS* 683A.520.

19 ~~[12.]~~ 14. NRS 686A.010 to 686A.310, inclusive.

20 **Sec. 86.** NRS 616B.318 is hereby amended to read as follows:

21 616B.318 1. The Commissioner shall impose an
22 administrative fine, not to exceed \$1,000 for each violation, and:

23 (a) Shall withdraw the certification of a self-insured employer if:

24 (1) The deposit required pursuant to NRS 616B.300 is not
25 sufficient and the employer fails to increase the deposit after he has
26 been ordered to do so by the Commissioner;

27 (2) The self-insured employer fails to provide evidence of
28 excess insurance pursuant to NRS 616B.300 within 45 days after he
29 has been so ordered; or

30 (3) ~~[The]~~ *Except as otherwise provided in subsection 4, the*
31 employer becomes insolvent, institutes any voluntary proceeding
32 under the Bankruptcy Act or is named in any involuntary
33 proceeding thereunder.

34 (b) May withdraw the certification of a self-insured employer if:

35 (1) The employer intentionally fails to comply with
36 regulations of the Commissioner regarding reports or other
37 requirements necessary to carry out the purposes of chapters 616A
38 to 616D, inclusive, and chapter 617 of NRS;

39 (2) The employer violates the provisions of subsection 2 of
40 NRS 616B.500 or any regulation adopted by the Commissioner or
41 the Administrator concerning the administration of the employer's
42 plan of self-insurance; or

43 (3) The employer makes a general or special assignment for
44 the benefit of creditors or fails to pay compensation after an order
45 for payment of any claim becomes final.



1 2. Any employer whose certification as a self-insured employer
2 is withdrawn must, on the effective date of the withdrawal, qualify
3 as an employer pursuant to NRS 616B.650.

4 3. The Commissioner may, upon the written request of an
5 employer whose certification as a self-insured employer is
6 withdrawn pursuant to subparagraph (3) of paragraph (a) of
7 subsection 1, reinstate the employer's certificate for a reasonable
8 period to allow the employer sufficient time to provide industrial
9 insurance for his employees.

10 4. *The Commissioner may authorize an employer to retain his*
11 *certification as a self-insured employer during the pendency of a*
12 *proceeding specified in subparagraph (3) of paragraph (a) of*
13 *subsection 1 if the employer establishes to the satisfaction of the*
14 *Commissioner that the employer is able to pay all claims for*
15 *compensation during the pendency of the proceeding.*

16 **Sec. 87.** NRS 616B.336 is hereby amended to read as follows:

17 616B.336 1. Each self-insured employer shall furnish audited
18 financial statements, certified by an auditor licensed to do business
19 in this state, to the Commissioner ~~[of Insurance annually.]~~ *annually*
20 *within 120 days after the expiration of the self-insured employer's*
21 *fiscal year.*

22 2. The Commissioner ~~[of Insurance]~~ may examine the records
23 and interview the employees of each self-insured employer as often
24 as he deems advisable to determine the adequacy of the deposit
25 which the employer has made with the Commissioner, the
26 sufficiency of reserves and the reporting, handling and processing of
27 injuries or claims. The Commissioner shall examine the records for
28 that purpose at least once every 3 years. The self-insured employer
29 shall reimburse the Commissioner for the cost of the examination.

30 **Sec. 88.** NRS 616B.359 is hereby amended to read as follows:

31 616B.359 1. The Commissioner shall grant or deny an
32 application for certification as an association of self-insured public
33 or private employers within 60 days after receiving the application.
34 If the application is materially incomplete or does not comply with
35 the applicable provisions of the law, the Commissioner shall notify
36 the applicant of the additional information or changes required.
37 Under such circumstances, if the Commissioner is unable to act
38 upon the application within this 60-day period, he may extend the
39 period for granting or denying the application, but for not longer
40 than an additional 90 days.

41 2. Upon determining that an association is qualified as an
42 association of self-insured public or private employers, the
43 Commissioner shall issue a certificate to that effect to the
44 association and the Administrator. No certificate may be issued to
45 an association that, within the 2 years immediately preceding its



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1 application, has had its certification as an association of self-insured
2 public or private employers involuntarily withdrawn by the
3 Commissioner.

4 3. A certificate issued pursuant to this section must include,
5 without limitation:

6 (a) The name of the association;

7 (b) The name of each employer who the Commissioner
8 determines is a member of the association at the time of the issuance
9 of the certificate;

10 (c) An identification number assigned to the association by the
11 Commissioner; and

12 (d) The date on which the certificate was issued.

13 4. A certificate issued pursuant to this section remains in effect
14 until withdrawn by the Commissioner or cancelled at the request of
15 the association. Coverage for an association granted a certificate
16 becomes effective on the date of certification or the date specified in
17 the certificate.

18 5. The Commissioner shall not grant a request to cancel a
19 certificate unless the association has insured or reinsured all
20 incurred obligations with an insurer authorized to do business in this
21 state pursuant to an agreement filed with and approved by the
22 Commissioner. The agreement must include coverage for actual
23 claims and claims ~~filed with the association~~ incurred but not
24 reported, and the expenses associated with those claims.

25 **Sec. 89.** NRS 616B.386 is hereby amended to read as follows:

26 616B.386 1. If an employer wishes to become a member of
27 an association of self-insured public or private employers, the
28 employer must:

29 (a) Submit an application for membership to the board of
30 trustees or third-party administrator of the association; and

31 (b) Enter into an indemnity agreement as required by
32 NRS 616B.353.

33 2. The membership of the applicant becomes effective when
34 each member of the association approves the application or on a
35 later date specified by the association. The application for
36 membership and the action taken on the application must be
37 maintained as permanent records of the board of trustees.

38 3. Each member who is a member of an association during the
39 12 months immediately following the formation of the association
40 must:

41 (a) Have a tangible net worth of at least \$500,000; or

42 (b) Have had a reported payroll for the previous 12 months
43 which would have resulted in a manual premium of at least \$15,000,
44 calculated in accordance with a manual prepared pursuant to
45 subsection 4 of NRS 686B.1765.



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1 4. An employer who seeks to become a member of the
2 association after the 12 months immediately following the formation
3 of the association must meet the requirement set forth in paragraph
4 (a) or (b) of subsection 3 unless the Commissioner adjusts the
5 requirement for membership in the association after conducting an
6 annual review of the actuarial solvency of the association pursuant
7 to subsection 1 of NRS 616B.353.

8 5. An association of self-insured private employers may apply
9 to the Commissioner for authority to determine the amount of
10 tangible net worth and manual premium that an employer must have
11 to become a member of the association. The Commissioner shall
12 approve the application if the association:

13 (a) Has been certified to act as an association for at least the 3
14 consecutive years immediately preceding the date on which the
15 association filed the application with the Commissioner;

16 (b) Has a combined tangible net worth of all members in the
17 association of at least \$5,000,000;

18 (c) Has at least 15 members; and

19 (d) Has not been required to meet informally with the
20 Commissioner pursuant to subsection 1 of NRS 616B.431 during
21 the 18-month period immediately preceding the date on which the
22 association filed the application with the Commissioner or, if the
23 association has been required to attend such a meeting during that
24 period, has not had its certificate withdrawn before the date on
25 which the association filed the application.

26 6. An association of self-insured private employers may apply
27 to the Commissioner for authority to determine the documentation
28 demonstrating solvency that an employer must provide to become a
29 member of the association. The Commissioner shall approve the
30 application if the association:

31 (a) Has been certified to act as an association for at least the 3
32 consecutive years immediately preceding the date on which the
33 association filed the application with the Commissioner;

34 (b) Has a combined tangible net worth of all members in the
35 association of at least \$5,000,000; and

36 (c) Has at least 15 members.

37 7. The Commissioner may withdraw his approval of an
38 application submitted pursuant to subsection 5 or 6 if he determines
39 the association has ceased to comply with any of the requirements
40 set forth in subsection 5 or 6, as applicable.

41 8. A member of an association may terminate his membership
42 at any time. To terminate his membership, a member must submit to
43 the association's administrator a notice of intent to withdraw from
44 the association at least ~~120~~ 30 days before the effective date of
45 withdrawal. The ~~association's administrator shall, within 10 days~~



1 ~~after receipt of the notice, notify the Commissioner of the~~
2 ~~employer's] notice of~~ intent to withdraw ~~{from the association.}~~
3 ~~must include a statement indicating that the member has:~~

4 (a) *Been certified as a self-insured employer pursuant to*
5 *NRS 616B.312;*

6 (b) *Become a member of another association of self-insured*
7 *public or private employers; or*

8 (c) *Become insured by a private carrier.*

9 9. The members of an association may cancel the membership
10 of any member of the association in accordance with the bylaws of
11 the association.

12 10. The association shall:

13 (a) Within 30 days after the addition of an employer to the
14 membership of the association, notify the Commissioner of the
15 addition and:

16 (1) If the association has not received authority from the
17 Commissioner pursuant to subsection 5 or 6, as applicable, provide
18 to the Commissioner all information and assurances for the new
19 member that were required from each of the original members of the
20 association upon its organization; or

21 (2) If the association has received authority from the
22 Commissioner pursuant to subsection 5 or 6, as applicable, provide
23 to the Commissioner evidence that is satisfactory to the
24 Commissioner that the new member is a member or associate
25 member of the bona fide trade association as required pursuant to
26 paragraph (a) of subsection 2 of NRS 616B.350, a copy of the
27 indemnity agreement that jointly and severally binds the new
28 member, the other members of the association and the association
29 that is required to be executed pursuant to paragraph (a) of
30 subsection 1 of NRS 616B.353 and any other information the
31 Commissioner may reasonably require to determine whether the
32 amount of security deposited with the Commissioner pursuant to
33 paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient,
34 but such information must not exceed the information required to be
35 provided to the Commissioner pursuant to subparagraph (1);

36 (b) Notify the Commissioner and the Administrator of the
37 termination or cancellation of the membership of any member of the
38 association within 10 days after the termination or cancellation; and

39 (c) At the expense of the member whose membership is
40 terminated or cancelled, maintain coverage for that member for 30
41 days after *a* notice is given pursuant to paragraph (b), unless the
42 association first receives notice from the Administrator that the
43 member has:

44 (1) Been certified as a self-insured employer pursuant to
45 NRS 616B.312;



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1 (2) Become a member of another association of self-insured
2 public or private employers; or

3 (3) Become insured by a private carrier.

4 11. If a member of an association changes his name or form of
5 organization, the member remains liable for any obligations incurred
6 or any responsibilities imposed pursuant to chapters 616A to 617,
7 inclusive, of NRS under his former name or form of organization.

8 12. An association is liable for the payment of any
9 compensation required to be paid by a member of the association
10 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of
11 NRS during his period of membership. The insolvency or
12 bankruptcy of a member does not relieve the association of liability
13 for the payment of the compensation.

14 **Sec. 90.** NRS 616B.404 is hereby amended to read as follows:

15 616B.404 1. An association of self-insured public or private
16 employers shall file with the Commissioner an audited statement of
17 financial condition prepared by an independent certified public
18 accountant. The statement must be filed on or before April 1 of each
19 year or within 90 days after the conclusion of the association's fiscal
20 year ~~and~~ *must* contain information for the previous fiscal year.

21 2. The statement required by subsection 1 must be in a form
22 prescribed by the Commissioner and include, without limitation:

23 (a) A statement of the reserves for:

24 (1) Actual claims and expenses;

25 (2) Claims ~~filed with the association~~ *incurred* but not
26 reported, and the expenses associated with those claims;

27 (3) Assessments that are due, but not paid; and

28 (4) Unpaid debts, which must be shown as liabilities.

29 (b) An actuarial opinion regarding reserves that is prepared by a
30 member of the American Academy of Actuaries or another
31 specialist in loss reserves identified in the annual statement adopted
32 by the National Association of Insurance Commissioners. The
33 actuarial opinion must include a statement of:

34 (1) Actual claims and the expenses associated with those
35 claims; and

36 (2) Claims ~~filed with the association~~ *incurred* but not
37 reported, and the expenses associated with those claims.

38 3. The Commissioner may adopt a uniform financial reporting
39 system for associations of self-insured public and private employers
40 to ensure the accurate and complete reporting of financial
41 information.

42 4. The Commissioner may require the filing of such other
43 reports as he deems necessary to carry out the provisions of this
44 section, including, without limitation:



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- 1 (a) Audits of the payrolls of the members of an association of
- 2 self-insured public or private employers;
- 3 (b) Reports of losses; and
- 4 (c) Quarterly financial statements.

5 **Sec. 91.** NRS 616B.413 is hereby amended to read as follows:

6 616B.413 1. If the assets of an association of self-insured

7 public or private employers exceed the amount necessary for the

8 association to:

- 9 (a) Pay its obligations and administrative expenses;
 - 10 (b) Carry reasonable reserves; and
 - 11 (c) Provide for contingencies,
- 12 the board of trustees of the association may, after obtaining the
- 13 approval of the Commissioner, declare and distribute dividends to
- 14 the members of the association.

15 2. Any dividend declared pursuant to subsection 1 must be

16 distributed not less than 12 months after the end of the ~~{fiscal}~~ *fund*

17 year.

18 3. A dividend may be paid only to those members who are

19 members of the association for the entire ~~{fiscal}~~ *fund* year. The

20 payment of a dividend must not be conditioned upon the member

21 continuing his membership in the association after the ~~{fiscal}~~ *fund*

22 year.

23 4. An association shall give to each prospective member of the

24 association a written description of its plan for distributing

25 dividends when he applies for membership in the association.

26 **Sec. 92.** NRS 616B.416 is hereby amended to read as follows:

27 616B.416 1. Each association of self-insured public or

28 private employers shall adopt a plan for the payment of annual *and*

29 *additional* assessments by the members of the association which

30 must be approved by the Commissioner.

31 2. The plan must include a requirement for:

32 (a) An initial payment, in advance, of a portion of the annual

33 assessment due from each member of the association. If the

34 association is an association of self-insured public employers, the

35 initial payment must be in an amount approved by the

36 Commissioner. If the association is an association of self-insured

37 private employers, the initial payment must be in an amount equal to

38 at least 25 percent of the member's annual assessment.

39 (b) Payment of the balance of the annual assessment due in

40 quarterly or monthly installments.

41 *(c) Payment of at least one additional assessment by each*

42 *member of the association each year or for any other period*

43 *specified in the plan and approved by the Commissioner pursuant*

44 *to subsection 1.*



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1 **Sec. 93.** NRS 616B.419 is hereby amended to read as follows:
2 616B.419 Each association of self-insured public or private
3 employers shall maintain:

4 1. Actuarially appropriate loss reserves. Such reserves must
5 include reserves for:

6 (a) Actual claims and the expenses associated with those claims;
7 and

8 (b) Claims ~~filed with the association~~ *incurred* but not reported,
9 and the expenses associated with those claims.

10 2. Reserves for uncollected debts based on the experience of
11 the association or other associations.

12 **Sec. 94.** NRS 616B.422 is hereby amended to read as follows:

13 616B.422 1. If the assets of an association of self-insured
14 public or private employers are insufficient to make certain the
15 prompt payment of all compensation under chapters 616A to 617,
16 inclusive, of NRS and to maintain the reserves required by NRS
17 616B.419, the association shall immediately notify the
18 Commissioner of the deficiency and:

19 (a) Transfer any surplus acquired from a previous ~~fiscal~~ *fund*
20 year to the current ~~fiscal~~ *fund* year to make up the deficiency;

21 (b) ~~Transfer money from its administrative account to its claims~~
22 ~~account;~~

23 ~~—(c)~~ Collect an additional assessment from its members in an
24 amount required to make up the deficiency; or

25 ~~(d)~~ (c) Take any other action to make up the deficiency which
26 is approved by the Commissioner.

27 2. If the association wishes to transfer any surplus from one
28 ~~fiscal~~ *fund* year to another, the association must first notify the
29 Commissioner of the transfer.

30 3. The Commissioner shall order the association to make up
31 any deficiency pursuant to subsection 1 if the association fails to do
32 so within 30 days after notifying the Commissioner of the
33 deficiency. The association shall be deemed insolvent if it fails to:

34 (a) Collect an additional assessment from its members within 30
35 days after being ordered to do so by the Commissioner; or

36 (b) Make up the deficiency in any other manner within 60 days
37 after being ordered to do so by the Commissioner.

38 **Sec. 95.** 1. This section and section 76 of this act become
39 effective upon passage and approval.

40 2. Sections 1 to 75, inclusive, and 77 to 94, inclusive, of this
41 act become effective on October 1, 2003.

