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SECOND REPRINT

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; authorizing the Commissioner to examine the accounts, records, documents and transactions of an external review organization for certain purposes; 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; clarifying that underinsured vehicle coverage includes coverage for certain damages to the extent those damages exceed a limitation of liability for a governmental agency; 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; requiring an insurer that issues a policy of insurance covering the liability of certain physicians to submit a report to the



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Commissioner within a certain period after closing a claim under the policy; revising the order of distribution of certain claims from the estate of an insurer on liquidation of the insurer; prohibiting a bail agent from acting as an attorney-in-fact for an insurer on an undertaking unless the bail agent registers in the office of the sheriff and with the clerk of the district court in which the bail agent resides; requiring a member of an association of self-insured public or private employers to include certain information in a notice of intent to withdraw from the association; providing penalties; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 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.***



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1 2. *The sharing or receipt of any document, material or other*
2 *information by the Commissioner pursuant to this section does not*
3 *waive any applicable privilege or claim of confidentiality in the*
4 *document, material or other information.*

5 **Sec. 2.** NRS 679B.130 is hereby amended to read as follows:

6 679B.130 1. The Commissioner may adopt reasonable
7 regulations ~~for~~ :

8 (a) *For* the administration of any provision of this Code, NRS
9 287.04335 or chapters 616A to 617, inclusive, of NRS ~~[-]~~ ; *or*

10 (b) *As required to ensure compliance by the Commissioner*
11 *with any federal law or regulation relating to insurance.*

12 2. A person who willfully violates any regulation of the
13 Commissioner is subject to such suspension or revocation of a
14 certificate of authority or license, or administrative fine in lieu of
15 such suspension or revocation, as may be applicable under this Code
16 or chapter 616A, 616B, 616C, 616D or 617 of NRS for violation of
17 the provision to which the regulation relates. No penalty applies to
18 any act done or omitted in good faith in conformity with any such
19 regulation, notwithstanding that the regulation may, after the act or
20 omission, be amended, rescinded or determined by a judicial or
21 other authority to be invalid for any reason.

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

23 679B.144 1. The Commissioner shall collect and maintain
24 *the* information *provided by insurers pursuant to NRS 690B.050*
25 *regarding each closed claim for medical malpractice filed against*
26 ~~[physicians and surgeons]~~ *a person who is covered by a policy of*
27 *insurance for medical malpractice* in this state, including, without
28 limitation:

29 (a) The cause of the loss;

30 (b) A description of the injury for which the claim was filed;

31 (c) The sex of the injured person;

32 (d) The names and number of defendants in each claim;

33 (e) The type of coverage provided;

34 (f) The amount of the initial, highest and last reserves of an
35 insurer for each claim before final resolution of the claim by
36 settlement or trial;

37 (g) The disposition of each claim;

38 (h) The amount of money awarded through settlement or by
39 verdict;

40 (i) The sum of money paid to each claimant and the source of
41 that sum; ~~and~~

42 (j) Any sum of money allocated to expenses for the adjustment
43 of losses ~~[-]~~ ; *and*

44 (k) *Any other information the Commissioner determines to be*
45 *necessary or appropriate.*



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1 2. The Commissioner shall submit with his report to the
2 Legislature required pursuant to NRS 679B.410 ~~§~~ a summary of
3 the information collected pursuant to this section.

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

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

9 **Sec. 3.3.** NRS 679B.240 is hereby amended to read as follows:

10 679B.240 To ascertain compliance with law, or relationships
11 and transactions between any person and any insurer or proposed
12 insurer, the Commissioner may, as often as he deems advisable,
13 examine the accounts, records, documents and transactions relating
14 to such compliance or relationships of:

15 1. Any insurance agent, solicitor, broker, surplus lines broker,
16 general agent, adjuster, insurer representative, bail agent, motor club
17 agent or any other licensee or any other person the Commissioner
18 has reason to believe may be acting as or holding himself out as any
19 of the foregoing.

20 2. Any person having a contract under which he enjoys in fact
21 the exclusive or dominant right to manage or control an insurer.

22 3. Any insurance holding company or other person holding the
23 shares of voting stock or the proxies of policyholders of a domestic
24 insurer, to control the management thereof, as voting trustee or
25 otherwise.

26 4. Any subsidiary of the insurer.

27 5. Any person engaged in this state in, or proposing to be
28 engaged in this state in, or holding himself out in this state as so
29 engaging or proposing, or in this state assisting in, the promotion,
30 formation or financing of an insurer or insurance holding
31 corporation, or corporation or other group to finance an insurer or
32 the production of its business.

33 ***6. Any external review organization, as defined in section 19***
34 ***of Assembly Bill No. 79 of this session.***

35 **Sec. 3.7.** NRS 679B.290 is hereby amended to read as follows:

36 679B.290 1. Except as otherwise provided in subsection 2:

37 (a) The expense of examination of an insurer, or of any person
38 referred to in subsection 1, 2, ~~§~~ 5 or 6 of NRS 679B.240, must be
39 borne by the person examined. Such expense includes only the
40 reasonable and proper hotel and travel expenses of the
41 Commissioner and his examiners and assistants, including expert
42 assistance, reasonable compensation as to such examiners and
43 assistants and incidental expenses as necessarily incurred in the
44 examination. As to expense and compensation involved in any such
45 examination the Commissioner shall give due consideration to



1 scales and limitations recommended by the National Association of
2 Insurance Commissioners and outlined in the examination manual
3 sponsored by that association.

4 (b) The person examined shall promptly pay to the
5 Commissioner the expenses of the examination upon presentation
6 by the Commissioner of a reasonably detailed written statement
7 thereof.

8 2. The Commissioner may bill an insurer for the examination
9 of any person referred to in subsection 1 of NRS 679B.240 and shall
10 adopt regulations governing such billings.

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

12 679B.440 1. The Commissioner may require that reports
13 submitted pursuant to NRS 679B.430 include, without limitation,
14 information regarding:

15 (a) Liability insurance provided to:

16 (1) Governmental agencies and political subdivisions of this
17 state, reported separately for:

18 (I) Cities and towns;

19 (II) School districts; and

20 (III) Other political subdivisions;

21 (2) Public officers;

22 (3) Establishments where alcoholic beverages are sold;

23 (4) Facilities for the care of children;

24 (5) Labor, fraternal or religious organizations; and

25 (6) Officers or directors of organizations formed pursuant to
26 title 7 of NRS, reported separately for nonprofit entities and entities
27 organized for profit;

28 (b) Liability insurance for:

29 (1) Defective products;

30 (2) Medical *or dental* malpractice ~~and~~ of:

31 (I) *A practitioner licensed pursuant to chapter 630,*
32 *630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639 or*
33 *640 of NRS;*

34 (II) *A hospital or other health care facility; or*

35 (III) *Any related corporate entity.*

36 (3) Malpractice of attorneys;

37 (4) Malpractice of architects and engineers; and

38 (5) Errors and omissions by other professionally qualified
39 persons;

40 (c) Vehicle insurance, reported separately for:

41 (1) Private vehicles;

42 (2) Commercial vehicles;

43 (3) Liability insurance; and

44 (4) Insurance for property damage; ~~and~~

45 (d) Workers' compensation insurance ~~and~~; *and*



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1 (e) *In addition to any information provided pursuant to*
2 *subparagraph (2) of paragraph (b) or NRS 690B.050, a policy of*
3 *insurance for medical malpractice. As used in this paragraph,*
4 *“policy of insurance for medical malpractice” has the meaning*
5 *ascribed to it in NRS 679B.144.*

6 2. The Commissioner may require that the report include,
7 without limitation, information specifically pertaining to this state or
8 to an insurer in its entirety, in the aggregate or by type of insurance,
9 and for a previous or current year, regarding:

- 10 (a) Premiums directly written;
11 (b) Premiums directly earned;
12 (c) Number of policies issued;
13 (d) Net investment income, using appropriate estimates when
14 necessary;
15 (e) Losses paid;
16 (f) Losses incurred;
17 (g) Loss reserves, including:
18 (1) Losses unpaid on reported claims; and
19 (2) Losses unpaid on incurred but not reported claims;
20 (h) Number of claims, including:
21 (1) Claims paid; and
22 (2) Claims that have arisen but are unpaid;
23 (i) Expenses for adjustment of losses, including allocated and
24 unallocated losses;
25 (j) Net underwriting gain or loss;
26 (k) Net operation gain or loss, including net investment income;
27 and
28 (l) Any other information requested by the Commissioner.

29 3. The Commissioner may also obtain, based upon an insurer
30 in its entirety, information regarding:

- 31 (a) Recoverable federal income tax;
32 (b) Net unrealized capital gain or loss; and
33 (c) All other expenses not included in subsection 2.

34 **Sec. 5.** NRS 679B.460 is hereby amended to read as follows:

35 679B.460 1. An insurer who willfully or repeatedly violates
36 or fails to comply with a provision of NRS 679B.400 to 679B.450,
37 inclusive, or *690B.050 or* a regulation adopted pursuant to NRS
38 679B.430 is subject, after notice and *a* hearing held pursuant to NRS
39 679B.310 to 679B.370, inclusive, to payment of an administrative
40 fine of not more than \$1,000 for each day of the violation or failure
41 to comply, up to a maximum fine of \$50,000.

42 2. An insurer who fails or refuses to comply with an order
43 issued by the Commissioner pursuant to NRS 679B.430 is subject,
44 after notice and *a* hearing held pursuant to NRS 679B.310 to



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1 679B.370, inclusive, to suspension or revocation of his certificate of
2 authority to transact insurance in this state.

3 3. The imposition of an administrative fine pursuant to this
4 section must not be considered by the Commissioner in any other
5 administrative proceeding unless the fine has been paid or a court
6 order for payment of the fine has become final.

7 **Sec. 6.** NRS 680A.270 is hereby amended to read as follows:

8 680A.270 1. Each authorized insurer shall annually on or
9 before March 1, or within any reasonable extension of time therefor
10 which the Commissioner for good cause may have granted on or
11 before that date, file with the Commissioner a full and true
12 statement of its financial condition, transactions and affairs as of
13 December 31 preceding. The statement must be ~~in~~ :

14 (a) *In* the general form and context of, and require information
15 as called for by, ~~the form of~~ *an* annual statement as *is* currently in
16 general and customary use in the United States for the type of
17 insurer and kinds of insurance to be reported upon, with any useful
18 or necessary modification or adaptation thereof, supplemented by
19 additional information required by the Commissioner ~~[-The~~
20 ~~statement must be verified]~~ ;

21 (b) *Prepared in accordance with:*

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

26 (2) *The Accounting Practices and Procedures Manual*
27 *adopted by the National Association of Insurance Commissioners*
28 *and effective on January 1, 2001, and as amended by the National*
29 *Association of Insurance Commissioners after that date; and*

30 (c) *Verified* by the oath of the insurer's president or vice
31 president and secretary or actuary, as applicable, or, in the absence
32 of the foregoing, by two other principal officers, or if a reciprocal
33 insurer, by the oath of the attorney-in-fact, or its like officers if a
34 corporation.

35 2. The statement of an alien insurer must be verified by its
36 United States manager or other officer ~~duly authorized,~~ *who is*
37 *authorized to do so*, and may relate only to the insurer's transactions
38 and affairs in the United States unless the Commissioner requires
39 otherwise. If the Commissioner requires a statement as to ~~such an~~
40 *the* insurer's affairs throughout the world, the insurer shall file the
41 statement with the Commissioner as soon as reasonably possible.

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



- 1 4. At the time of filing, the insurer shall pay the fee for filing
2 its annual statement as prescribed by NRS 680B.010.
- 3 5. The Commissioner may adopt regulations requiring each
4 domestic, foreign and alien insurer which is authorized to transact
5 insurance in this state to file the insurer's annual statement with the
6 National Association of Insurance Commissioners or its successor
7 organization.
- 8 6. All ratios of financial analyses and synopses of examinations
9 concerning insurers that are submitted to the Division by the
10 National Association of Insurance Commissioners' Insurance
11 Regulatory Information System are confidential and may not be
12 disclosed by the Division.
- 13 **Sec. 7.** NRS 680B.010 is hereby amended to read as follows:
14 680B.010 The Commissioner shall collect in advance and
15 receipt for, and persons so served must pay to the Commissioner,
16 fees and miscellaneous charges as follows:
- 17 1. Insurer's certificate of authority:
- 18 (a) Filing initial application..... \$2,450
19 (b) Issuance of certificate:
- 20 (1) For any one kind of insurance as defined in NRS
21 681A.010 to 681A.080, inclusive..... 283
22 (2) For two or more kinds of insurance as so defined..... 578
23 (3) For a reinsurer..... 2,450
24 (c) Each annual continuation of a certificate..... 2,450
25 (d) Reinstatement pursuant to NRS 680A.180, 50
26 percent of the annual continuation fee otherwise required.
27 (e) Registration of additional title pursuant to NRS
28 680A.240 50
29 (f) Annual renewal of the registration of additional title
30 pursuant to NRS 680A.240..... 25
- 31 2. Charter documents, other than those filed with an
32 application for a certificate of authority. Filing amendments
33 to articles of incorporation, charter, bylaws, power of
34 attorney and other constituent documents of the insurer,
35 each document \$10
- 36 3. Annual statement or report. For filing annual
37 statement or report \$25
- 38 4. Service of process:
- 39 (a) Filing of power of attorney \$5
40 (b) Acceptance of service of process..... 30
- 41 5. Licenses, appointments and renewals for producers
42 of insurance:
- 43 (a) Application and license..... \$125
44 (b) Appointment fee for each insurer 15
45 (c) Triennial renewal of each license 125



1	(d) Temporary license	\$10
2	(e) Modification of an existing license	50
3	6. Surplus lines brokers:	
4	(a) Application and license	\$ 125
5	(b) Triennial renewal of each license	125
6	7. Managing general agents' licenses, appointments	
7	and renewals:	
8	(a) Application and license	\$125
9	(b) Appointment fee for each insurer	15
10	(c) Triennial renewal of each license	125
11	8. Adjusters' licenses and renewals:	
12	(a) Independent and public adjusters:	
13	(1) Application and license	\$125
14	(2) Triennial renewal of each license	125
15	(b) Associate adjusters:	
16	(1) Application and license	125
17	(2) Triennial renewal of each license	125
18	9. Licenses and renewals for appraisers of physical	
19	damage to motor vehicles:	
20	(a) Application and license	\$125
21	(b) Triennial renewal of each license	125
22	10. Additional title and property insurers pursuant to	
23	NRS 680A.240:	
24	(a) Original registration	\$50
25	(b) Annual renewal	25
26	11. Insurance vending machines:	
27	(a) Application and license, for each machine	\$125
28	(b) Triennial renewal of each license	125
29	12. Permit for solicitation for securities:	
30	(a) Application for permit	\$100
31	(b) Extension of permit	50
32	13. Securities salesmen for domestic insurers:	
33	(a) Application and license	\$25
34	(b) Annual renewal of license	15
35	14. Rating organizations:	
36	(a) Application and license	\$500
37	(b) Annual renewal	500
38	15. Certificates and renewals for administrators	
39	licensed pursuant to chapter 683A of NRS:	
40	(a) Application and certificate of registration	\$125
41	(b) Triennial renewal	125
42	16. For copies of the insurance laws of Nevada, a fee	
43	which is not less than the cost of producing the copies.	
44	17. Certified copies of certificates of authority and	
45	licenses issued pursuant to the Insurance Code	\$10



1	18. For copies and amendments of documents on file	
2	in the Division, a reasonable charge fixed by the	
3	Commissioner, including charges for duplicating or	
4	amending the forms and for certifying the copies and	
5	affixing the official seal.	
6	19. Letter of clearance for a producer of insurance or	
7	other licensee <input type="checkbox"/> if requested by someone other than the	
8	licensee	\$10
9	20. Certificate of status as a producer of insurance or	
10	other licensee <input type="checkbox"/> if requested by someone other than the	
11	licensee	\$10
12	21. Licenses, appointments and renewals for bail	
13	agents:	
14	(a) Application and license	\$125
15	(b) Appointment for each surety insurer	15
16	(c) Triennial renewal of each license	125
17	22. Licenses and renewals for bail enforcement agents:	
18	(a) Application and license	\$125
19	(b) Triennial renewal of each license	125
20	23. Licenses, appointments and renewals for general	
21	agents for bail:	
22	(a) Application and license	\$125
23	(b) Initial appointment by each insurer	15
24	(c) Triennial renewal of each license	125
25	24. Licenses and renewals for bail solicitors:	
26	(a) Application and license	\$125
27	(b) Triennial renewal of each license	125
28	25. Licenses and renewals for title agents and escrow	
29	officers:	
30	(a) Application and license	\$125
31	(b) Triennial renewal of each license	125
32	(c) Appointment fee for each title insurer	15
33	(d) Change in name or location of business or in	
34	association	10
35	26. Certificate of authority and renewal for a seller of	
36	prepaid funeral contracts	\$125
37	27. Licenses and renewals for agents for prepaid	
38	funeral contracts:	
39	(a) Application and license	\$125
40	(b) Triennial renewal of each license	125
41	28. Licenses, appointments and renewals for agents for	
42	fraternal benefit societies:	
43	(a) Application and license	\$125
44	(b) Appointment for each insurer	15
45	(c) Triennial renewal of each license	125



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1	29. Reinsurance intermediary broker or manager:	
2	(a) Application and license.....	\$125
3	(b) Triennial renewal of each license	125
4	30. Agents for and sellers of prepaid burial contracts:	
5	(a) Application and certificate or license	\$125
6	(b) Triennial renewal	125
7	31. Risk retention groups:	
8	(a) Initial registration and review of an application	\$2,450
9	(b) Each annual continuation of a certificate of	
10	registration	2,450
11	32. Required filing of forms:	
12	(a) For rates and policies	\$25
13	(b) For riders and endorsements	10
14	33. Viatical settlements:	
15	(a) Provider of viatical settlements:	
16	(1) Application and license	\$1,000
17	(2) Annual renewal.....	1,000
18	(b) Broker of viatical settlements:	
19	(1) Application and license	500
20	(2) Annual renewal.....	500
21	34. Insurance consultants:	
22	(a) Application and license.....	\$125
23	(b) Triennial renewal.....	125
24	35. Licensee's association with or appointment or	
25	sponsorship by an organization:	
26	(a) Initial appointment, association or sponsorship, for	
27	each organization.....	\$50
28	(b) Renewal of each association or sponsorship	50
29	(c) Annual renewal of appointment.....	15
30	36. Purchasing groups:	
31	(a) Initial registration and review of an application	\$100
32	(b) Each annual continuation of registration	100
33	Sec. 8. NRS 680B.070 is hereby amended to read as follows:	
34	680B.070 1. Each authorized insurer, fraternal benefit	
35	society, health maintenance organization, organization for dental	
36	care , <i>prepaid limited health service organization</i> and motor club	
37	shall on or before March 1 of each year pay to the Commissioner	
38	the <i>a reasonable</i> uniform amount, not to exceed [\$15.] <i>\$30</i> , as the	
39	Commissioner requires, to cover the assessment levied upon this	
40	state in the same calendar year by the National Association of	
41	Insurance Commissioners to defray:	
42	(a) The general expenses of the Association; and	
43	(b) Reasonable and necessary travel and related expenses	
44	incurred by the Commissioner and members of his staff, without	
45	limitation as to number, in attending meetings of the Association	



1 and its committees, subcommittees, hearings and other official
2 activities.

3 The Commissioner shall give written notice of the required amount.

4 2. Expenses incurred for the purposes described in paragraphs
5 (a) and (b) of subsection 1 must be paid in full and are not subject to
6 the limitations expressed in NRS 281.160 or in the regulations of
7 any state agency.

8 3. All money received by the Commissioner pursuant to
9 subsection 1 must be deposited in the State Treasury for credit to the
10 National Association Account of the Division of Insurance, which is
11 hereby created in the State General Fund. Except as otherwise
12 provided in subsection 2, all claims against the Account must be
13 paid as other claims against the State are paid.

14 **Sec. 9.** NRS 681A.160 is hereby amended to read as follows:

15 681A.160 1. Except as otherwise provided in subsection 2,
16 credit must be allowed if reinsurance is ceded to an assuming
17 insurer which is accredited as a reinsurer in this state. An accredited
18 reinsurer is one which:

19 (a) Files with the Commissioner *an executed form approved by*
20 *the Commissioner as* evidence of its submission to this state's
21 jurisdiction;

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

24 (c) ~~Has~~ *Files with the Commissioner a certified copy of a*
25 *certificate of authority or other evidence approved by the*
26 *Commissioner indicating that it is* licensed to transact insurance or
27 reinsurance in at least one state, or in the case of a branch in the
28 United States of an alien assuming insurer is entered through and
29 licensed to transact insurance or reinsurance in at least one state;

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

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

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

37 (2) Has been approved by the Commissioner.

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

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

42 681A.180 1. ~~Credit~~ *Except as otherwise provided in*
43 *subsection 4, credit* must be allowed if reinsurance is ceded to an
44 assuming insurer which maintains a trust fund in a qualified
45 financial institution in the United States for the payment of the valid



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1 claims of its policyholders and ceding insurers in the United States,
2 their assigns and successors in interest. The assuming insurer shall
3 report annually to the Commissioner information substantially the
4 same as that required to be reported on the National Association of
5 Insurance Commissioners' form of annual statement by licensed
6 insurers to enable the Commissioner to determine the sufficiency of
7 the trust fund.

8 2. In the case of a single assuming insurer, the trust must
9 consist of an account in trust equal to the assuming insurer's
10 liabilities attributable to business written in the United States and
11 the assuming insurer shall maintain a surplus in trust of not less than
12 \$20,000,000.

13 3. In the case of a group of incorporated and individual
14 unincorporated underwriters, the trust must consist of an account in
15 trust equal to the group's liabilities attributable to business written
16 in the United States and the group shall maintain a surplus in trust of
17 which \$100,000,000 must be held jointly for the benefit of ceding
18 insurers in the United States to any member of the group, and the
19 group shall make available to the Commissioner an annual
20 certification of the solvency of each underwriter by the group's
21 domiciliary regulator and its independent public accountants.

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

26 (a) *Notwithstanding any provision to the contrary in the trust*
27 *instrument, if the trust fund consists of an amount that is less than*
28 *the amount required pursuant to this section, or if the grantor of*
29 *the trust fund is declared to be insolvent or placed into*
30 *receivership, rehabilitation, liquidation or a similar proceeding in*
31 *accordance with the laws of the grantor's state or country of*
32 *domicile, the trustee of the trust fund must comply with an order*
33 *of the commissioner of insurance or other appropriate person with*
34 *regulatory authority over the trust fund in that state or country or*
35 *a court of competent jurisdiction requiring the trustee to transfer*
36 *to that commissioner or person all the assets of the trust fund;*

37 (b) *The assets of the trust fund must be distributed by and*
38 *claims filed with and valued by the commissioner of insurance or*
39 *other appropriate person with regulatory authority over the trust*
40 *fund in accordance with the laws of the state in which the trust*
41 *fund is domiciled that are applicable to the liquidation of domestic*
42 *insurers in that state;*

43 (c) *If the commissioner of insurance or other appropriate*
44 *person with regulatory authority over the trust fund determines*
45 *that the assets of the trust fund or any portion of the trust fund are*



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1 *not required to satisfy any claim of any ceding insurer of the*
2 *grantor of the trust fund in the United States, the assets must be*
3 *returned by that commissioner or person to the trustee of the trust*
4 *fund for distribution in accordance with the trust agreement; and*

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

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

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

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

10 681A.190 1. Credit must be allowed if reinsurance is ceded
11 to a group of incorporated insurers under common administration
12 which:

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

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

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

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

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

25 ~~[(f)]~~ (f) Has aggregate policyholders' surplus of
26 \$10,000,000,000; and

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

28 2. The trust must be in an amount equal to the group's several
29 liabilities attributable to business ceded by ceding insurers in the
30 United States to any member of the group pursuant to contracts of
31 reinsurance issued in the name of the group, and the group shall
32 maintain a joint surplus in trust of which \$100,000,000 must be held
33 jointly for the benefit of ceding insurers in the United States to any
34 member of the group as additional security for any such liabilities.

35 3. Each member of the group shall , *within 90 days after the*
36 *date its financial statements must be filed with the group's*
37 *domiciliary regulator*, make available to the Commissioner an
38 annual certification of the member's solvency by the member's
39 domiciliary regulator and its independent public accountant.

40 **Sec. 12.** NRS 681A.200 is hereby amended to read as follows:

41 681A.200 1. A trust for the purposes of NRS 681A.180 or
42 681A.190 , *and any amendment to the trust*, must be established *or*
43 *amended* in a form approved by ~~the Commissioner.~~ :

44 (a) *The Commissioner; and*



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1 ***(b) The commissioner of insurance or other appropriate***
2 ***person of:***

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

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

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

10 ***3. The trust instrument must provide that contested claims***
11 ***become valid ~~[and enforceable upon]~~ , enforceable and payable***
12 ***from money held in the trust fund to the extent that the contested***
13 ***claims remain unsatisfied, within 30 days after the entry of the***
14 ***final order of any court of competent jurisdiction in the United***
15 ***States. The trust must vest legal title to its assets in the trustees of***
16 ***the trust for its policyholders and ceding insurers in the United***
17 ***States, their assigns and successors in interest. The trust and***
18 ***the assuming insurer are subject to examination as determined by***
19 ***the Commissioner. The trust must remain in effect for as long as the***
20 ***assuming insurer ~~or any member or former member of the group of~~***
21 ***insurers has outstanding obligations due under the agreements for***
22 ***reinsurance subject to the trust.***

23 ~~***[2. No]***~~

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

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

31 681A.210 1. Except as otherwise provided in subsection 2, if
32 the assuming insurer is not licensed or accredited to transact
33 insurance or reinsurance in this state, the credit permitted by NRS
34 681A.170 or 681A.180 must not be allowed unless the assuming
35 insurer agrees in the agreements for reinsurance:

36 (a) That in the event of the failure of the assuming insurer to
37 perform its obligations under the terms of the agreement, the
38 assuming insurer, at the request of the ceding insurer, will submit to
39 the jurisdiction of any court of competent jurisdiction in any state of
40 the United States, will comply with all requirements necessary to
41 give the court jurisdiction, and will abide by the final decision of the
42 court or of any appellate court in the event of an appeal; ~~***[and]***~~

43 (b) To designate the Commissioner or a designated attorney as
44 its true and lawful attorney upon whom may be served any lawful



1 process in an action, suit or proceeding instituted by or on behalf of
2 the ceding company ~~[]~~; and

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

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

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

9 681A.420 1. A person shall not act as a broker for
10 reinsurance ~~[if he maintains an office, directly or as a member or~~
11 ~~employee of a firm or association or as an officer, director or~~
12 ~~employee of a corporation:~~

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

15 (a) A licensed producer in this state; or

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

20 2. A person shall not act as a ~~[manager]~~ *broker* for reinsurance
21 ~~[-~~

22 ~~—(a) For]~~ *for a foreign or alien insurer or reinsurer [domiciled] if*
23 *he maintains an office, directly or as a member or employee of a*
24 *firm or association or as an officer, director or employee of a*
25 *corporation* in this state, unless he is ~~[a]~~ :

26 (a) A licensed producer in this state; or

27 (b) ~~[a]~~ *Licensed as a nonresident intermediary for*
28 *reinsurance* in this state . ~~[, if he maintains an office individually or~~
29 ~~as a member or employee of a firm or association or as an officer,~~
30 ~~director or employee of a corporation in this state, unless he is a~~
31 ~~licensed producer in this state; or~~

32 ~~—(c) In another state for a foreign insurer, unless he is a licensed~~
33 ~~producer in this state or in another state having a law substantially~~
34 ~~similar to this title or he is licensed in this state as a nonresident~~
35 ~~intermediary.]~~

36 3. A *person shall not act as a* manager for reinsurance ~~[shall:]~~
37 *for a domestic insurer or reinsurer unless he is:*

38 (a) A licensed producer in this state; or

39 (b) *Licensed as a nonresident manager for reinsurance in this*
40 *state.*

41 4. A *person shall not act as a manager for reinsurance for*
42 *any foreign or alien insurer or reinsurer if he maintains an office,*
43 *directly or as a member or employee of a firm or association or as*
44 *an officer, director or employee of a corporation in this state,*
45 *unless he is:*



- 1 (a) *A licensed producer in this state; or*
2 (b) *Licensed as a nonresident manager for reinsurance in this*
3 *state.*

4 **5. A manager for reinsurance shall:**

- 5 (a) File a bond from an insurer in an amount that is acceptable to
6 the Commissioner for the protection of the reinsurer; and
7 (b) Maintain a policy covering errors and omissions in an
8 amount that is acceptable to the Commissioner.

9 **Sec. 15.** NRS 681B.160 is hereby amended to read as follows:

10 681B.160 1. ~~{A#}~~ *Except as otherwise provided in*
11 *subsection 5, all* bonds or other evidences of debt having a fixed
12 term and rate of interest held by an insurer may, if amply secured
13 and not in default as to principal or interest, be valued as follows:

- 14 (a) If purchased at par, at the par value.
15 (b) If purchased above or below par, on the basis of the purchase
16 price adjusted so as to bring the value to par at maturity and so as to
17 yield in the meantime the effective rate of interest at which the
18 purchase was made ~~{ }~~ or , in lieu of ~~{such}~~ *that* method, according
19 to ~~{such}~~ *an* accepted method of valuation ~~{as}~~ *that* is approved by
20 the Commissioner.

21 2. The purchase price ~~{shall in no case}~~ *must not* be taken at a
22 higher figure than the actual market value at the time of purchase,
23 plus actual brokerage, transfer, postage or express charges paid in
24 the acquisition of such securities.

25 3. Unless otherwise provided by *a* valuation established or
26 approved by the Commissioner, ~~{no such security shall}~~ *the security*
27 *must not* be carried at above the call price for the entire issue during
28 any period within which the security may be so called.

29 4. The Commissioner ~~{shall have}~~ *has* full discretion in
30 determining the method of calculating values ~~{according to the rules~~
31 ~~set forth in}~~ *pursuant to* this section.

32 **5. 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. 16.** NRS 681B.170 is hereby amended to read as follows:

37 681B.170 1. ~~{Securities,}~~ *Except as otherwise provided in*
38 *subsection 4, securities,* other than those ~~{referred to}~~ *specified* in
39 NRS 681B.160, held by an insurer ~~{shall}~~ *must* be valued, in the
40 discretion of the Commissioner, at their market value, or at their
41 appraised value, or at prices determined by him as representing their
42 fair market value.

43 2. Preferred or guaranteed stocks or shares while paying full
44 dividends may be carried at a fixed value in lieu of market value, at
45 the discretion of the Commissioner and in accordance with ~~{such}~~ *a*



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1 method of computation ~~[as he may approve.]~~ *approved by the*
2 *Commissioner.*

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

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

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

12 682A.080 1. An insurer may invest any of its funds in
13 obligations other than those eligible for investment under NRS
14 682A.230 ~~[H , relating to~~ real property mortgages , ~~D-]~~ if they are
15 issued, assumed or guaranteed by any solvent institution ~~[created or~~
16 ~~existing under the laws of the United States of America, Canada or~~
17 ~~Mexico, or of any state, district, province or territory thereof.]~~ and
18 are qualified under any of the following:

19 (a) Obligations which are secured by adequate collateral security
20 and bear fixed interest if , during each of any 3, including the last 2,
21 of the 5 fiscal years next preceding the date of acquisition by the
22 insurer, the net earnings of the issuing, assuming or guaranteeing
23 institution available for its fixed charges, as defined in NRS
24 682A.090, have been not less than 1 1/2 times the total of its fixed
25 charges for ~~[such]~~ *that* year. In determining the adequacy of
26 collateral security , not more than one-third of the total value of
27 ~~[such]~~ *the* required collateral may consist of stock other than stock
28 meeting the requirements of NRS 682A.100 ~~[H , relating to~~
29 preferred or guaranteed stock . ~~D-]~~

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

38 (c) Adjustment, income or other contingent interest obligations
39 if the net earnings of the issuing, assuming or guaranteeing
40 institution available for its fixed charges for a period of 5 fiscal
41 years next preceding the date of acquisition by the insurer have
42 averaged per year not less than 1 1/2 times the sum of its average
43 annual fixed charges and its average annual maximum contingent
44 interest applicable to such period and if , during each of the last 2
45 years of ~~[such period such]~~ *that period, the* net earnings have not



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1 been less than 1 1/2 times the sum of its fixed charges and
2 maximum contingent interest for such year.

3 (d) Capital stock and other securities of:

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

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

10 2. No insurer may invest in any such bonds or evidences of
11 indebtedness in excess of 10 percent of any issue of such bonds or
12 evidences of indebtedness or, subject to subsection 1 of NRS
13 682A.050 ~~[(diversification)]~~, *relating to diversification*, more than
14 an amount equal to 10 percent of the insurer's admitted assets in any
15 issue.

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

17 682A.100 1. An insurer may invest in preferred or
18 guaranteed stocks or shares of any solvent institution ~~[existing under~~
19 ~~the laws of the United States of America, Canada or Mexico, or of~~
20 ~~any state or province thereof.]~~ if all of the prior obligations and prior
21 preferred stocks, if any, of the institution at the date of acquisition of
22 the investment by the insurer are eligible as investments under this
23 chapter and if the net earnings of the institution available for its
24 fixed charges during either of the last 2 years have been, and during
25 each of the last 5 years have averaged, not less than 1 1/2 times the
26 sum of its average annual fixed charges, if any, its average annual
27 maximum contingent interest, if any, and its average annual
28 preferred dividend requirements. For the purposes of this section,
29 the computation refers to the fiscal years immediately preceding the
30 date of acquisition of the investment by the insurer, and the term
31 "preferred dividend requirement" means cumulative or
32 noncumulative dividends, whether paid or not.

33 2. No insurer may invest in any such preferred or guaranteed
34 stocks in an amount in excess of 35 percent of the particular issue of
35 guaranteed or preferred stock or, subject to subsection 1 of NRS
36 682A.050, more than an amount equal to 10 percent of the insurer's
37 admitted assets in any one issue.

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

39 682A.110 1. An insurer may invest up to 35 percent of its
40 assets in nonassessable common stocks, other than insurance stocks,
41 of any solvent corporation, ~~[organized and existing under the laws~~
42 ~~of the United States of America, Canada or Mexico, or of any state~~
43 ~~or province thereof.]~~ except that bank or trust company stocks may
44 be assessable and any stocks may be assessable for taxes ~~[]~~ if the
45 corporation has had net earnings available for dividends on the stock



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1 in each of the 5 fiscal years next preceding acquisition by the
2 insurer. If the issuing corporation has not been in legal existence for
3 all of the 5 fiscal years but was formed as a consolidation or merger
4 of two or more businesses of which at least one was in operation on
5 a date 5 years before the investment, the test of eligibility of its
6 common stock under this section must be based upon consolidated
7 pro forma statements of the predecessor or constituent institutions.

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

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

13 683A.08524 1. Except as otherwise provided ~~by~~ *in*
14 subsection 2, the Commissioner shall issue a certificate of
15 registration as an administrator to an applicant who:

16 (a) Submits an application on a form prescribed by the
17 Commissioner;

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

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

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

25 (a) Is not competent to act as an administrator;

26 (b) Is not trustworthy or financially responsible;

27 (c) Does not have a good personal or business reputation;

28 (d) Has had a license or certificate to transact insurance denied
29 for cause, suspended or revoked in this state or any other state; ~~for~~

30 (e) Has failed to comply with any provision of this chapter ~~it~~;
31 *or*

32 *(f) Is financially unsound.*

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

35 683A.08528 1. Not later than ~~March~~ *July* 1 of each year,
36 each holder of a certificate of registration as an administrator shall
37 file ~~a financial statement~~ with the Commissioner ~~on a form~~
38 ~~approved by the Commissioner.~~ *an annual report for the most*
39 *recently completed fiscal year of the administrator. Each annual*
40 *report must be verified by at least two officers of the administrator.*

41 2. *Each annual report filed pursuant to this section must*
42 *include all the following:*

43 *(a) Except as otherwise provided in this paragraph, a financial*
44 *statement of the administrator that has been audited and prepared*
45 *by an independent certified public accountant. In lieu of a*



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1 *financial statement that has been audited and prepared by an*
2 *independent certified public accountant, the administrator may*
3 *include with the annual report a financial statement that has been*
4 *reviewed by an independent certified public accountant if:*
5 *(1) The total business assets of the administrator were less*
6 *than \$100,000 at the end of the most recently completed fiscal year*
7 *of the administrator; or*
8 *(2) The administrator did not have any agreements to act as*
9 *an administrator during the most recently completed fiscal year of*
10 *the administrator.*
11 *(b) The complete name and address of each person, if any, for*
12 *whom the administrator agreed to act as an administrator during*
13 *the most recently completed fiscal year of the administrator.*
14 *(c) Any other information required by the Commissioner.*
15 *3. In addition to the information required pursuant to*
16 *subsection 2, if an annual report is prepared on a consolidated*
17 *basis, the annual report must include a columnar or combining*
18 *worksheet that:*
19 *(a) Includes the amounts shown on the consolidated financial*
20 *statement accompanying the annual report;*
21 *(b) Separately sets forth the amounts for each entity included*
22 *in the worksheet; and*
23 *(c) Includes an explanation of each consolidating and*
24 *eliminating entry included in the worksheet.*
25 *4. Each administrator who files an annual report pursuant to*
26 *this section shall, at the time of filing the annual report, pay a*
27 *filing fee in an amount determined by the Commissioner.*
28 *5. On or before September 1 of each year, the Commissioner*
29 *shall, for each administrator, review the annual report that is most*
30 *recently filed by the administrator. As soon as practicable after*
31 *reviewing the report, the Commissioner shall:*
32 *(a) Issue a certificate to the administrator:*
33 *(1) Indicating that, based on the annual report and*
34 *accompanying financial statement, the administrator has a*
35 *positive net worth and is currently licensed and in good standing*
36 *in this state; or*
37 *(2) Setting forth any deficiency found by the Commissioner*
38 *in the annual report and accompanying financial statement; or*
39 *(b) Submit a statement to any electronic database maintained*
40 *by the National Association of Insurance Commissioners or any*
41 *affiliate or subsidiary of the Association:*
42 *(1) Indicating that, based on the annual report and*
43 *accompanying financial statement, the administrator has a*
44 *positive net worth and is in compliance with existing law; or*



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

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

5 683A.0892 **1.** The Commissioner:

6 ~~[(a)]~~ **(a)** Shall suspend or revoke the certificate of registration of
7 an administrator if the Commissioner has determined, after notice
8 and a hearing, that the administrator:

9 ~~[(a)]~~ **(1)** Is in an unsound financial condition;

10 ~~[(b)]~~ **(2)** Uses methods or practices in the conduct of his
11 business that are hazardous or injurious to insured persons or
12 members of the general public; or

13 ~~[(c)]~~ **(3)** Has failed to pay any judgment against him in this state
14 within 60 days after the judgment became final.

15 ~~[(2)]~~ **(b)** May suspend or revoke the certificate of registration of
16 an administrator if the Commissioner determines, after notice and a
17 hearing, that the administrator:

18 ~~[(a)]~~ **(1)** Has willfully violated or failed to comply with any
19 provision of this Code, any regulation adopted pursuant to this Code
20 or any order of the Commissioner;

21 ~~[(b)]~~ **(2)** Has refused to be examined by the Commissioner or
22 has refused to produce accounts, records or files for examination
23 upon the request of the Commissioner;

24 ~~[(c)]~~ **(3)** Has, without just cause, refused to pay claims or
25 perform services pursuant to his contracts or has, without just cause,
26 caused persons to accept less than the amount of money owed to
27 them pursuant to the contracts, or has caused persons to employ an
28 attorney or bring a civil action against him to receive full payment
29 or settlement of claims;

30 ~~[(d)]~~ **(4)** Is affiliated with, managed by or owned by another
31 administrator or an insurer who transacts insurance in this state
32 without a certificate of authority or certificate of registration;

33 ~~[(e)]~~ **(5)** Fails to comply with any of the requirements for a
34 certificate of registration;

35 ~~[(f)]~~ **(6)** Has been convicted of ~~[(f)]~~ or has entered a plea of guilty
36 or nolo contendere to a felony, whether or not adjudication was
37 withheld; ~~[(f)]~~

38 ~~[(g)]~~ **(7)** Has had his authority to act as an administrator in
39 another state limited, suspended or revoked ~~[(f)]~~

40 ~~—3.—May,]; or~~

41 **(8) *Has failed to file an annual report in accordance with***
42 ***NRS 683A.08528.***

43 ***(c) May suspend or revoke the certificate of registration of an***
44 ***administrator if the Commissioner determines, after notice and a***
45 ***hearing, that a responsible person:***



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1 (1) *Has refused to provide any information relating to the*
2 *administrator's affairs or refused to perform any other legal*
3 *obligation relating to an examination upon request by the*
4 *Commissioner; or*

5 (2) *Has been convicted of or has entered a plea of guilty or*
6 *nolo contendere to a felony committed on or after October 1, 2003,*
7 *whether or not adjudication was withheld.*

8 (d) *May*, upon notice to the administrator, suspend the
9 certificate of registration of the administrator pending a hearing if:

10 ~~[(a)]~~ (1) The administrator is impaired or insolvent;

11 ~~[(b)]~~ (2) A proceeding for receivership, conservatorship or
12 rehabilitation has been commenced against the administrator in any
13 state; or

14 ~~[(c)]~~ (3) The financial condition or the business practices of the
15 administrator represent an imminent threat to the public health,
16 safety or welfare of the residents of this state.

17 ~~[(4)]~~ (e) *May*, in addition to or in lieu of the suspension or
18 revocation of the certificate of registration of the administrator,
19 impose a fine of \$2,000 for each act or violation.

20 2. *As used in this section, "responsible person" means any*
21 *person who is responsible for or controls or is authorized to*
22 *control or advise the affairs of an administrator, including,*
23 *without limitation:*

24 (a) *A member of the board of directors, board of trustees,*
25 *executive committee or other governing board or committee of the*
26 *administrator;*

27 (b) *The president, vice president, chief executive officer, chief*
28 *operating officer or any other principal officer of an*
29 *administrator, if the administrator is a corporation;*

30 (c) *A partner or member of the administrator, if the*
31 *administrator is a partnership, association or limited-liability*
32 *company; and*

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

36 **Sec. 23.** NRS 683A.201 is hereby amended to read as follows:

37 683A.201 1. A person shall not sell, solicit or negotiate
38 insurance in this state for any class of insurance unless he is licensed
39 for that class of insurance.

40 2. An insurer is exempt from the requirement for licensure as a
41 producer of insurance, but this exemption does not extend to an
42 insurer's officers, directors, employees, subsidiaries or affiliates ~~[(1)]~~
43 *who sell, solicit or negotiate insurance.*



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

4 **Sec. 24.** NRS 683A.211 is hereby amended to read as follows:
5 683A.211 The following persons need not be licensed as
6 producers of insurance:

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

11 (a) The officer, director or employee's activities are executive,
12 administrative, managerial ~~or~~ *or* clerical, or a combination ~~of~~
13 ~~these,~~ *thereof,* and are only indirectly related to the sale,
14 solicitation or negotiation of insurance;

15 (b) The officer, director or employee's function relates to
16 underwriting, control of losses, inspection or the processing,
17 adjusting, investigating or settling of claims on contracts of
18 insurance; or

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

24 2. A person who secures and furnishes information for the
25 purpose of group life insurance, group property and casualty
26 insurance, group annuities, or group or blanket accident and health
27 insurance, or for the purpose of enrolling natural persons under
28 plans, issuing certificates under plans or otherwise assisting in
29 administering plans, or who performs administrative services related
30 to mass marketed property and casualty insurance, if no commission
31 is paid to him for the service ~~or~~ *and he does not sell, solicit or*
32 *negotiate insurance.* As used in this subsection, "blanket accident
33 and health insurance" has the meaning ascribed to it in
34 NRS 689B.070.

35 3. An employer or association or its officers, directors or
36 employees, or the trustees of an employees' trust plan, to the extent
37 that the employer, association, officers, directors, employees or
38 trustees are engaged in the administration or operation of a program
39 of employees' benefits for the employer's or association's own
40 employees or the employees of its subsidiaries or affiliates, if the
41 program involves the use of insurance issued by an insurer and the
42 employer, association, officers, directors, employees or trustees are
43 not compensated by the insurer issuing the contracts.

44 4. Employees of insurers or organizations employed by
45 insurers who are engaged in the inspection, rating or classification



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1 of risks or in the supervision of the training of producers of
2 insurance and are not individually engaged in the sale, solicitation or
3 negotiation of insurance.

4 5. A person whose activities in this state are limited to
5 advertising, without the intent to solicit insurance in this state,
6 through communications in printed publications or electronic mass
7 media whose distribution is not limited to residents of this state, if
8 he does not sell, solicit or negotiate insurance of risks residing,
9 located or to be performed in this state.

10 6. A salaried full-time employee who counsels or advises his
11 employer concerning the interests of the employer, or of the
12 subsidiaries or affiliates of the employer, in insurance, if the
13 employee does not sell or solicit insurance or receive a commission.

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

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

20 683A.251 1. The Commissioner shall prescribe the form of
21 application by a natural person for a license as a resident producer
22 of insurance. The applicant must declare, under penalty of refusal to
23 issue, or suspension or revocation of, the license, that the statements
24 made in the application are true, correct and complete to the best of
25 his knowledge and belief. Before approving the application, the
26 Commissioner must find that the applicant has:

27 (a) Attained the age of 18 years;

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

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

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

36 (e) Successfully passed the examinations for the lines of
37 authority for which application is made, unless the applicant is
38 exempt from this requirement.

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

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



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

5 3. A natural person who is a resident of this state applying for a
6 license must furnish a copy of a search concerning him conducted
7 by the Federal Bureau of Investigation in its national criminal
8 records ~~§~~ and of a search concerning him of the Central Repository
9 for Nevada Records of Criminal History. The Commissioner shall
10 adopt regulations concerning the procedures for obtaining this
11 information.

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

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

15 683A.261 1. Unless the Commissioner refuses to issue the
16 license under NRS 683A.451, he shall issue a license as a producer
17 of insurance to a person who has satisfied the requirements of NRS
18 683A.241 and 683A.251. A producer *of insurance* may qualify for
19 a license in one or more of the lines of authority permitted by statute
20 or regulation, including:

21 (a) Life insurance on human lives, which includes benefits from
22 endowments and annuities and may include additional benefits from
23 death by accident and benefits for dismemberment by accident and
24 for disability.

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

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

29 (d) Casualty insurance against legal liability, including liability
30 for death, injury or disability and damage to real or personal
31 property.

32 (e) Surety indemnifying financial institutions or providing bonds
33 for fidelity, performance of contracts ~~§~~ or financial guaranty.

34 (f) Variable annuities ~~§~~ *and variable life insurance*, including
35 coverage reflecting the results of a separate investment account.

36 (g) Credit insurance, including life, disability, property,
37 unemployment, involuntary unemployment, mortgage life, mortgage
38 guaranty, mortgage disability, guaranteed protection of assets, and
39 any other form of insurance offered in connection with an extension
40 of credit that is limited to wholly or partially extinguishing the
41 obligation which the Commissioner determines should be
42 considered as limited-line credit insurance.

43 (h) Personal lines, consisting of automobile and motorcycle
44 insurance and residential property insurance, including coverage for
45 flood, of personal watercraft and of excess liability, written over one



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1 or more underlying policies of automobile or residential property
2 insurance.

3 (i) Fixed annuities as a limited line.

4 (j) Travel and baggage as a limited line.

5 (k) Rental car agency as a limited line.

6 2. A license as a producer of insurance remains in effect unless
7 revoked, suspended ~~[, allowed to expire]~~ or otherwise terminated ~~[,~~
8 ~~if the license is renewed when due,]~~ *if a request for a renewal is*
9 *submitted on or before the date for the renewal specified on the*
10 *license*, the fee for renewal and a fee of \$15 for deposit in the
11 Insurance Recovery Account are paid for each license and each
12 affiliation with a business organization licensed pursuant to
13 subsection 2 of NRS 683A.251 , and any requirement for education
14 *or any other requirement to renew the license* is satisfied by the
15 ~~[due date.]~~ *date specified on the license for the renewal. A*
16 *producer of insurance may submit a request for a renewal of his*
17 *license within 30 days after the date specified on the license for the*
18 *renewal if the producer of insurance otherwise complies with the*
19 *provisions of this subsection and pays, in addition to any fee paid*
20 *pursuant to this subsection, a penalty of 50 percent of the renewal*
21 *fee. A license as a producer of insurance expires if the*
22 *Commissioner receives a request for a renewal of the license more*
23 *than 30 days after the date specified on the license for the renewal.*
24 *A fee paid pursuant to this subsection is nonrefundable.*

25 3. A natural person who allows his license as a producer of
26 insurance to expire may reapply for the same license within 12
27 months after the date *specified on the license for a renewal* ~~[was~~
28 ~~due]~~ without passing a written examination ~~[,]~~ *or completing a*
29 *course of study required by paragraph (c) of subsection 1 of NRS*
30 *683A.251*, but a penalty of twice the ~~[unpaid]~~ renewal fee is
31 required for any *request for a renewal* ~~[fee]~~ *of the license that is*
32 received after the ~~[due date.]~~ *date specified on the license for the*
33 *renewal.*

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

39 5. A license must state the licensee's name, address, personal
40 identification number, the date of issuance, the lines of authority and
41 the date of expiration and *must* contain any other information the
42 Commissioner considers necessary. A resident producer *of*
43 *insurance* shall maintain a place of business in this state which is
44 accessible to the public and where he principally conducts
45 transactions under his license. The place of business may be in his



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1 residence. The license must be conspicuously displayed in an area of
2 the place of business which is open to the public.

3 6. A licensee shall inform the Commissioner of ~~{a}~~ *each*
4 change of *location from which he conducts business as a producer*
5 *of insurance and each change of business or residence* address, in
6 writing or by other means acceptable to the Commissioner, within
7 30 days after the change. If a licensee changes ~~{his}~~ *the location*
8 *from which he conducts business as a producer of insurance or*
9 *his business or residence* address without giving written notice and
10 the Commissioner is unable to locate the licensee after diligent
11 effort, he may revoke the license without a hearing. The mailing of a
12 letter by certified mail, return receipt requested, addressed to the
13 licensee at his last mailing address appearing on the records of the
14 Division, and the return of the letter undelivered, constitutes a
15 diligent effort by the Commissioner.

16 **Sec. 27.** NRS 683A.301 is hereby amended to read as follows:
17 683A.301 1. An applicant for a license as a producer of
18 insurance *or a licensee* who desires to use a name other than his true
19 name as shown on the license shall *submit a request for approval of*
20 *the name and* file with the Commissioner a certified copy of the
21 certificate or any renewal certificate filed pursuant to chapter 602 of
22 NRS. An incorporated applicant or licensee shall file with the
23 Commissioner a document showing the corporation's true name and
24 all fictitious names under which it conducts or intends to conduct
25 business. A licensee shall file promptly with the Commissioner *a*
26 written notice of any change in or discontinuance of the use of a
27 fictitious name.

28 2. The Commissioner may disapprove in writing the use of a
29 true name, other than the true name of a natural person who is the
30 applicant or licensee, or a fictitious name of any applicant or
31 licensee, on any of the following grounds:

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

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

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

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

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



1 (2) A natural person licensed for property and casualty
2 insurance may use the designation “chartered property and casualty
3 underwriter” if entitled thereto; and

4 (3) An insurance agent or brokers’ trade association may use
5 a name containing the word “underwriter.”

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

9 3. A licensee shall not use a name after written notice from the
10 Commissioner *indicates* that its use violates the provisions of this
11 section. If the Commissioner determines that the use is justified by
12 mitigating circumstances, he may permit, in writing, the use of the
13 name to continue for a specified reasonable period upon conditions
14 imposed by him for the protection of the public consistent with this
15 section.

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

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

23 683A.351 1. Every producer of insurance shall keep
24 complete records of transactions under his license. The records must
25 show, for each insurance policy placed or countersigned by or
26 through the licensee, not less than the names of the insurer and
27 insured, the number and expiration date of, and premium payable as
28 to, the policy or contract, the names of all other persons from whom
29 business is accepted or to whom commissions are promised or paid,
30 all premiums collected, and such additional information as the
31 Commissioner may reasonably require.

32 2. The records must be open to examination of the
33 Commissioner at all times, and the Commissioner may at any time
34 require the licensee to furnish to him, in such *a* manner or form as
35 he requires, any information kept or required to be kept in those
36 records. *The records may be kept in an electronic format if, using*
37 *the electronic format, the records are retained in accordance with*
38 *this section.*

39 3. Records of a particular policy or contract may be destroyed
40 3 years after expiration of the policy or contract.

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

43 **Sec. 30.** *The provisions of chapters 679A and 679B of NRS*
44 *and NRS 683A.301, 683A.341 and 683A.351 apply to an insurance*
45 *consultant.*



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1 **Sec. 31.** *A licensee shall inform the Commissioner of all*
2 *locations from which business is conducted and of any change of*
3 *business or residence address, in writing or by any other means*
4 *acceptable to the Commissioner, within 30 days after the change.*
5 *If a licensee changes his address without giving written notice and*
6 *the Commissioner is unable to locate the licensee after making a*
7 *diligent effort, the Commissioner may revoke the license without a*
8 *hearing. The mailing of a letter by certified mail, return receipt*
9 *requested, addressed to the licensee at his last mailing address*
10 *appearing on the records of the Division, and the return of the*
11 *letter undelivered, constitutes a diligent effort by the*
12 *Commissioner.*

13 **Sec. 32.** NRS 683C.020 is hereby amended to read as follows:
14 683C.020 1. Except as otherwise provided in subsection 2,
15 no person may engage in the business of an insurance consultant
16 unless a license has been issued to him by the Commissioner.

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

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

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

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

23 (d) An actuary or a certified public accountant who provides
24 information, recommendations, advice or services in his
25 professional capacity.

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

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

31 683C.030 1. An application for a license to act as an
32 insurance consultant must be submitted to the Commissioner on
33 forms prescribed by the Commissioner and *must* be accompanied by
34 ~~{a}~~ *the applicable* license fee ~~{of \$78}~~ *set forth in NRS 680B.010*
35 and an additional fee of \$15 which must be deposited in the
36 Insurance Recovery Account created pursuant to NRS 679B.305.
37 *The license fee and the additional fee are not refundable.* If the
38 applicant is a natural person, the application must include the social
39 security number of the applicant.

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

43 3. Each license issued pursuant to this chapter is valid for 3
44 years from the date of issuance ~~{}~~ or until it is suspended, revoked
45 or otherwise terminated.



1 **Sec. 34.** NRS 683C.035 is hereby amended to read as follows:
2 683C.035 1. The Commissioner shall prescribe the form of
3 application by a natural person for a license as an insurance
4 consultant. The applicant must declare, under penalty of refusal to
5 issue, or suspension or revocation of, the license, that the statements
6 made in the application are true, correct and complete to the best of
7 his knowledge and belief. Before approving the application, the
8 Commissioner must find that the applicant has:

9 (a) Attained the age of 18 years.
10 (b) Not committed any act that is a ground for refusal to issue,
11 or suspension or revocation of, a license ~~§~~ *pursuant to*
12 *NRS 683A.451.*

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

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

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

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

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

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

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

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

40 **Sec. 35.** NRS 683C.040 is hereby amended to read as follows:

41 683C.040 1. A license may be renewed for additional 3-year
42 periods by submitting to the Commissioner an application for
43 renewal and:

44 ~~§~~ (a) If the application is made:



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

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

7 ~~[(2)]~~ (b) If the applicant is a natural person, the statement
8 required pursuant to NRS 683C.043; and

9 ~~[(3)]~~ (c) If the applicant is a resident, proof of the successful
10 completion of appropriate courses of study required for renewal, as
11 established by the Commissioner by regulation.

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

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

14 683C.070 ~~[(No)]~~ A person licensed pursuant to this chapter may
15 *not* concurrently hold ~~[(an insurance agent's license, broker's)]~~ a
16 license *as a producer of insurance* or a surplus lines broker's
17 license in any line.

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

19 683C.080 ~~[(No)]~~ A licensed insurance consultant ~~[(may)]~~ *shall not*
20 employ, be employed by or be in partnership with, or receive any
21 remuneration arising out of his activities as an insurance consultant
22 from, any licensed *producer of insurance* ~~[(agent, broker)]~~ or surplus
23 lines broker or insurer.

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

25 685A.070 1. A broker shall not knowingly place surplus lines
26 insurance with an insurer which is unsound financially or ineligible
27 pursuant to this section.

28 2. Except as otherwise provided in this section, ~~[(no)]~~ *an* insurer
29 is *not* eligible ~~[(for the acceptance of)]~~ *to accept* surplus lines risks
30 pursuant to this chapter unless it has surplus as to policyholders in
31 an amount of not less than ~~[(\$5,000,000)]~~ *\$15,000,000* and, if an alien
32 insurer, unless it has and maintains in a bank or trust company
33 which is a member of the United States Federal Reserve System a
34 trust fund established pursuant to terms *that are* reasonably
35 adequate ~~[(for the protection of)]~~ *to protect* all of its policyholders in
36 the United States . ~~[(in an amount of not less than \$1,500,000.)]~~ Such
37 a trust fund must not have an expiration date which is at any time
38 less than 5 years in the future, on a continuing basis. In the case of:

39 (a) A *single alien insurer, such a trust fund must not be less*
40 *than the greater of \$5,400,000 or 30 percent of the gross liabilities*
41 *of the alien insurer for surplus lines in the United States,*
42 *excluding any liabilities for aviation, wet marine and*
43 *transportation insurance, not to exceed \$60,000,000, to be*
44 *determined annually on the basis of accounting practices and*
45 *procedures that are substantially equivalent to the accounting*



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1 *practices and procedures applicable in this state as of*
2 *December 31 of the year immediately preceding the date of the*
3 *determination where:*

4 (1) *The liabilities are maintained in an irrevocable trust*
5 *account in a qualified financial institution in the United States, on*
6 *behalf of policyholders in the United States, consisting of cash,*
7 *securities, letters of credit or any other investments of substantially*
8 *the same character and quality as investments that are eligible*
9 *investments pursuant to chapter 682A of NRS for the capital and*
10 *statutory reserves of admitted insurers to write like kinds of*
11 *insurance in this state. The trust fund, which must be included in*
12 *any calculation of capital and surplus or its equivalent, must*
13 *comply with the requirements set forth in the Standard Trust*
14 *Agreement required for listing with the International Insurers*
15 *Department of the National Association of Insurance*
16 *Commissioners;*

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

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

30 (b) *A group of insurers which includes individual*
31 *unincorporated insurers, such a trust fund must not be less than*
32 *\$100,000,000.*

33 ~~[(b)]~~ (c) *A group of incorporated insurers under common*
34 *administration, such a trust fund must not be less than*
35 *\$100,000,000. Each insurer within the group must individually*
36 *maintain capital and surplus of not less than \$25,000,000. The*
37 *group of incorporated insurers must:*

38 (1) *Operate under the supervision of the Department of Trade*
39 *and Industry of the United Kingdom;*

40 (2) *Possess aggregate policyholders surplus of*
41 *\$10,000,000,000, which must consist of money in trust in an amount*
42 *not less than the assuming insurers' liabilities attributable to*
43 *insurance written in the United States; and*



1 (3) Maintain a joint trusted surplus of which \$100,000,000
2 must be held jointly for the benefit of United States ceding insurers
3 of any member of the group.

4 ~~[(e)]~~ (d) An insurance exchange created by the laws of a state,
5 the insurance exchange shall have and maintain a trust fund in an
6 amount of not less than ~~[\$50,000,000]~~ \$75,000,000 or have a
7 surplus as to policyholders in an amount of not less than
8 ~~[\$50,000,000.]~~ \$75,000,000. If an insurance exchange maintains
9 money for the protection of all policyholders, each syndicate shall
10 maintain minimum capital and surplus of not less than ~~[\$5,000,000]~~
11 \$15,000,000 and must qualify separately to be eligible for the
12 acceptance of surplus lines risks pursuant to this chapter.

13 The Commissioner may require larger trust funds or surplus as to
14 policyholders than those set forth in this section if, in his judgment,
15 the volume of business being transacted or proposed to be transacted
16 warrants larger amounts.

17 3. ~~[No]~~ An insurer is *not* eligible to write surplus lines of
18 insurance unless it has established a reputation for financial integrity
19 and satisfactory practices in underwriting and handling claims. In
20 addition, a foreign insurer must be authorized in the state of its
21 domicile to write the kinds of insurance which it intends to write in
22 Nevada.

23 4. The Commissioner may from time to time compile or
24 approve a list of all surplus lines insurers deemed by him to be
25 eligible currently, and may mail a copy of the list to each broker at
26 his office last of record with the Commissioner. To be placed on the
27 list, a surplus lines insurer must file an application with the
28 Commissioner. The application must be accompanied by a
29 nonrefundable fee of \$2,450. This subsection does not require the
30 Commissioner to determine the actual financial condition or claims
31 practices of any unauthorized insurer. The status of eligibility, if
32 granted by the Commissioner, indicates only that the insurer appears
33 to be sound financially and to have satisfactory claims practices, and
34 that the Commissioner has no credible evidence to the contrary.
35 While any such list is in effect, the broker shall restrict to the
36 insurers so listed all surplus lines business placed by him.

37 **Sec. 38.3.** NRS 685A.080 is hereby amended to read as
38 follows:

39 685A.080 1. Upon placing a surplus lines coverage, the
40 broker shall promptly issue and deliver to the insured evidence of
41 the insurance consisting either of the policy as issued by the insurer,
42 or, if such a policy is not then available, the surplus lines broker's
43 certificate executed by the broker or a cover note . ~~[endorsed by the~~
44 ~~broker.]~~ Such a certificate or ~~[endorsed]~~ cover note must show the
45 description and location of the subject of the insurance, coverage,



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1 conditions and term of the insurance, the premium and rate charged
2 and taxes collected from the insured, and the name and address of
3 the insured and insurer and must state that the broker has verified
4 that the insurance described has been granted or issued. If the direct
5 risk is assumed by more than one insurer, the certificate must state
6 the name and address and proportion of the entire direct risk
7 assumed by each such insurer.

8 2. A broker shall not issue any such certificate or any cover
9 note, or purport to insure or represent that insurance will be or has
10 been granted by any unauthorized insurer, unless he has prior
11 written authority from the insurer for the insurance, or has received
12 information from the insurer in the regular course of business that
13 the insurance has been granted, or an insurance policy providing the
14 insurance actually has been issued by the insurer and delivered to
15 the insured.

16 3. If after the issuance and delivery of any such certificate there
17 is any change as to the identity of the insurers, or the proportion of
18 the direct risk assumed by an insurer as stated in the broker's
19 original certificate, or in any other material respect as to the
20 insurance evidenced by the certificate, the broker shall promptly
21 issue and deliver to the insured a substitute certificate accurately
22 showing the current status of the coverage and the insurers
23 responsible thereunder.

24 4. If a policy issued by the insurer is not available upon
25 placement of the insurance and the broker has issued and delivered
26 his certificate as provided in this section, upon request therefor by
27 the insured the broker shall as soon as reasonably possible procure
28 from the insurer its policy evidencing the insurance and deliver the
29 policy to the insured in replacement of the broker's certificate
30 theretofore issued.

31 5. Any surplus lines broker who knowingly or negligently
32 issues a false certificate of insurance or who fails promptly to notify
33 the insured of any material change with respect to the insurance by
34 delivery to the insured of a substitute certificate as provided in
35 subsection 3 is subject to the penalty provided by NRS 679A.180 or
36 to any greater applicable penalty otherwise provided by law.

37 **Sec. 38.7.** NRS 685A.090 is hereby amended to read as
38 follows:

39 685A.090 ~~{Every}~~ *Each* insurance contract procured and
40 delivered as a surplus lines coverage pursuant to this chapter must
41 ~~{be countersigned by the broker who procured it, and must}~~ have
42 conspicuously stamped upon it:

43
44 This insurance contract is issued pursuant to the Nevada
45 insurance laws by an insurer neither licensed by nor under the



supervision of the Division of Insurance of the Department of Business and Industry of the State of Nevada. If the insurer is found insolvent, a claim under this contract is not covered by the Nevada Insurance Guaranty Association Act.

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

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

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

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

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

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

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

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

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

(a) *The* statement required pursuant to NRS 685A.127 ~~{, a}~~;

(b) *The applicable* fee for renewal ~~{of 150}~~;

(c) *A penalty in an amount that is equal to 50* percent of the *applicable* fee ~~{otherwise required and a}~~ *for renewal; and*



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

3 **Sec. 39.5.** NRS 685A.180 is hereby amended to read as
4 follows:

5 685A.180 1. On or before March 1 of each year each broker
6 shall pay to the Commissioner a tax on surplus lines coverages
7 written by him in unauthorized insurers during the preceding
8 calendar year at the same rate of tax as imposed by law on the
9 premiums of similar coverages written by authorized insurers. If a
10 broker has paid any taxes pursuant to NRS 685A.175, he shall
11 deduct the total paid from the tax due and pay the remainder, if any.

12 2. For the purposes of this section, the "premium" on surplus
13 lines coverages includes:

14 (a) The gross amount charged by the insurer for the insurance,
15 less any return premium;

16 (b) Any fee allowed by NRS 685A.155;

17 (c) Any policy fee;

18 (d) Any membership fee; ~~and~~

19 (e) Any *inspection fee; and*

20 (f) *Any* other fees or assessments charged by the insurer as
21 consideration for the insurance.

22 Premium does not include any additional amount charged for state
23 or federal tax, *or for* filing affidavits or reports of coverage . ~~for~~
24 ~~inspection fee or the communication expenses of the broker.~~

25 3. If a contract for surplus lines insurance covers risks or
26 exposures only partially in this state, the tax so payable must be
27 computed on that portion of the premium properly allocable to the
28 risks or exposures located in this state. The Commissioner may
29 adopt regulations which establish standards for allocating premiums
30 for risks located in this state in the same manner as premiums are
31 allocated pursuant to NRS 680B.030.

32 4. The Commissioner shall promptly deposit all taxes collected
33 by him pursuant to this section with the State Treasurer, to the credit
34 of the State General Fund.

35 5. A broker who receives a credit for tax paid shall refund to
36 each insured the amount of the credit attributable to the insured
37 when the insurer pays a return premium or within 30 days,
38 whichever is earlier.

39 **Sec. 40.** NRS 685B.080 is hereby amended to read as follows:

40 685B.080 1. Any unauthorized insurer who transacts any
41 unauthorized act of an insurance business as set forth in the
42 Unauthorized Insurers Act may be fined not more than \$10,000 for
43 each act or violation.

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



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

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

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

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

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

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

27 **Sec. 43.** *The provisions of NRS 81.130 and 81.510 do not*
28 *apply to the conversion of an essential insurance association to a*
29 *domestic mutual insurer or a domestic reciprocal insurer as*
30 *provided in sections 42 to 46, inclusive, of this act.*

31 **Sec. 44.** 1. *An essential insurance association shall, if*
32 *requested to do so by the Commissioner, file a notice of intent to*
33 *qualify as a domestic mutual insurer or a domestic reciprocal*
34 *insurer. In the absence of a request by the Commissioner, an*
35 *essential insurance association may file such a notice at such time*
36 *as the association determines appropriate.*

37 2. *The notice must be filed with the Commissioner at least 4*
38 *months before the date the association is to become a domestic*
39 *mutual insurer or a domestic reciprocal insurer and must include:*

40 (a) *An application prepared pursuant to chapter 680A of NRS*
41 *for a certificate of authority to transact business in Nevada as a*
42 *domestic mutual insurer or a domestic reciprocal insurer;*

43 (b) *A valuation of the policyholder’s surplus according to both*
44 *market and amortized value based on the association’s annual*
45 *financial statement for the previous year; and*



1 (c) A provision for the return of any unused portion of the
2 insured's capital stabilization charges.

3 **Sec. 45.** 1. At the time the association files a notice of
4 intent to qualify as a domestic mutual insurer or domestic
5 reciprocal insurer, it must give a notice of intent to all
6 participating insurers and all insureds on a form approved by the
7 Commissioner.

8 2. Any participating insurer or insured may, within 30 days
9 after the date of the notice, apply to the Division for a hearing
10 concerning the association's ability to qualify as a domestic
11 mutual insurer or domestic reciprocal insurer.

12 3. An association must comply with the provisions of:

13 (a) Chapter 692B of NRS, as applicable to mutual insurers, to
14 qualify as a domestic mutual insurer; or

15 (b) Chapter 694B of NRS, as applicable to reciprocal insurers,
16 to qualify as a domestic reciprocal insurer.

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



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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 *dividend 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 for a*
21 *policy of industrial insurance must 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*



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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.



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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



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. 55.2.** Chapter 687B of NRS is hereby amended by adding
22 thereto a new section to read as follows:

23 **1. No policy of industrial insurance that has been in effect for**
24 **at least 70 days or that has been renewed may be cancelled by the**
25 **insurer before the expiration of the agreed term or 1 year from the**
26 **effective date of the policy or renewal, whichever occurs first,**
27 **except on any one of the following grounds:**

28 **(a) A failure by the policyholder to pay a premium for the**
29 **policy of industrial insurance when due;**

30 **(b) A failure by the policyholder to:**

31 **(1) Report any payroll;**

32 **(2) Allow the insurer to audit any payroll in accordance**
33 **with the terms of the policy or any previous policy issued by the**
34 **insurer; or**

35 **(3) Pay any additional premium charged because of an**
36 **audit of any payroll as required by the terms of the policy or any**
37 **previous policy issued by the insurer;**

38 **(c) A material failure by the policyholder to comply with any**
39 **federal or state order concerning safety or any written**
40 **recommendation of the insurer's designated representative for loss**
41 **control;**

42 **(d) A material change in ownership of the policyholder or any**
43 **change in the policyholder's business or operations that:**

44 **(1) Materially increases the hazard for frequency or**
45 **severity of loss;**



1 (2) *Requires additional or different classifications for the*
2 *calculation of premiums; or*

3 (3) *Contemplates an activity that is excluded by any*
4 *reinsurance treaty of the insurer;*

5 (e) *A material misrepresentation made by the policyholder; or*

6 (f) *A failure by the policyholder to cooperate with the insurer*
7 *in conducting an investigation of a claim.*

8 2. *An insurer shall not cancel a policy of industrial insurance*
9 *pursuant to paragraph (a), (b), (e) or (f) of subsection 1 except*
10 *upon 10 days' written notice submitted by the insurer to the*
11 *policyholder.*

12 3. *Except as otherwise provided in this subsection, an insurer*
13 *shall not cancel a policy of industrial insurance pursuant to*
14 *paragraph (c) or (d) of subsection 1 except upon 30 days' written*
15 *notice by the insurer to the policyholder. An insurer is not*
16 *required to provide a written notice to a policyholder pursuant to*
17 *this subsection if the policyholder and the insurer consent to the*
18 *cancellation of the policy of industrial insurance and to the*
19 *reissuance of another policy of industrial insurance effective upon*
20 *a material change in the ownership or operations of the insured. If*
21 *the policyholder corrects the condition to the satisfaction of the*
22 *insurer within the period specified in the policy of insurance, the*
23 *insurer shall not cancel the policy.*

24 4. *Any written notice submitted to a policyholder pursuant to*
25 *this section must be given by first class mail addressed to the*
26 *policyholder at the address of the policyholder set forth in the*
27 *policy of industrial insurance. Evidence indicating that a written*
28 *notice specified in this section has been mailed is sufficient proof*
29 *of notice.*

30 5. *The provisions of this section do not prohibit, during any*
31 *period in which a policy of industrial insurance is in force, any*
32 *change in the premium rate required or authorized by any law,*
33 *regulation or order of the Commissioner, or otherwise agreed*
34 *upon by the policyholder and the insurer.*

35 6. *For the purposes of this section, any policy of industrial*
36 *insurance that is written for a term of more than 1 year, or any*
37 *policy of industrial insurance with no fixed date of expiration,*
38 *shall be deemed to be written for successive periods of 1 year.*

39 **Sec. 55.4.** NRS 687B.145 is hereby amended to read as
40 follows:

41 687B.145 1. Any policy of insurance or endorsement
42 providing coverage under the provisions of NRS 690B.020 or other
43 policy of casualty insurance may provide that if the insured has
44 coverage available to him under more than one policy or provision
45 of coverage, any recovery or benefits may equal but not exceed the



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1 higher of the applicable limits of the respective coverages, and the
2 recovery or benefits must be prorated between the applicable
3 coverages in the proportion that their respective limits bear to the
4 aggregate of their limits. Any provision which limits benefits
5 pursuant to this section must be in clear language and be
6 prominently displayed in the policy, binder or endorsement. Any
7 limiting provision is void if the named insured has purchased
8 separate coverage on the same risk and has paid a premium
9 calculated for full reimbursement under that coverage.

10 2. Except as otherwise provided in subsection 5, insurance
11 companies transacting motor vehicle insurance in this state must
12 offer, on a form approved by the Commissioner, uninsured and
13 underinsured vehicle coverage in an amount equal to the limits of
14 coverage for bodily injury sold to an insured under a policy of
15 insurance covering the use of a passenger car. The insurer is not
16 required to reoffer the coverage to the insured in any replacement,
17 reinstatement, substitute or amended policy, but the insured may
18 purchase the coverage by requesting it in writing from the insurer.
19 Each renewal must include a copy of the form offering such
20 coverage. Uninsured and underinsured vehicle coverage must
21 include a provision which enables the insured to recover up to the
22 limits of his own coverage any amount of damages for bodily injury
23 from his insurer which he is legally entitled to recover from the
24 owner or operator of the other vehicle to the extent that those
25 damages exceed the limits of the coverage for bodily injury carried
26 by that owner or operator. *If an insured suffers actual damages*
27 *subject to the limitation of liability provided pursuant to NRS*
28 *41.035, underinsured vehicle coverage must include a provision*
29 *which enables the insured to recover up to the limits of his own*
30 *coverage any amount of damages for bodily injury from his*
31 *insurer for the actual damages suffered by the insured that exceed*
32 *that limitation of liability.*

33 3. An insurance company transacting motor vehicle insurance
34 in this state must offer an insured under a policy covering the use of
35 a passenger car, the option of purchasing coverage in an amount of
36 at least \$1,000 for the payment of reasonable and necessary medical
37 expenses resulting from an accident. The offer must be made on a
38 form approved by the Commissioner. The insurer is not required to
39 reoffer the coverage to the insured in any replacement,
40 reinstatement, substitute or amended policy, but the insured may
41 purchase the coverage by requesting it in writing from the insurer.
42 Each renewal must include a copy of the form offering such
43 coverage.

44 4. An insurer who makes a payment to an injured person on
45 account of underinsured vehicle coverage as described in subsection



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1 2 is not entitled to subrogation against the underinsured motorist
2 who is liable for damages to the injured payee. This subsection does
3 not affect the right or remedy of an insurer under subsection 5 of
4 NRS 690B.020 with respect to uninsured vehicle coverage. As used
5 in this subsection, "damages" means the amount for which the
6 underinsured motorist is alleged to be liable to the claimant in
7 excess of the limits of bodily injury coverage set by the
8 underinsured motorist's policy of casualty insurance.

9 5. An insurer need not offer, provide or make available
10 uninsured or underinsured vehicle coverage in connection with a
11 general commercial liability policy, an excess policy, an umbrella
12 policy or other policy that does not provide primary motor vehicle
13 insurance for liabilities arising out of the ownership, maintenance,
14 operation or use of a specifically insured motor vehicle.

15 6. As used in this section:

16 (a) "Excess policy" means a policy that protects a person against
17 loss in excess of a stated amount or in excess of coverage provided
18 pursuant to another insurance contract.

19 (b) "Passenger car" has the meaning ascribed to it in NRS
20 482.087.

21 (c) "Umbrella policy" means a policy that protects a person
22 against losses in excess of the underlying amount required to be
23 covered by other policies.

24 **Sec. 55.6.** NRS 687B.310 is hereby amended to read as
25 follows:

26 687B.310 1. NRS 687B.310 to 687B.420, inclusive, *and*
27 *section 55.2 of this act* apply to all binders and all contracts of
28 insurance the general terms of which are required to be approved or
29 are subject to disapproval by the Commissioner, except as otherwise
30 provided by statute or by rule pursuant to subsection 3.

31 2. The contract may provide terms more favorable to
32 policyholders than are required by NRS 687B.310 to 687B.420,
33 inclusive ~~[-]~~, *and section 55.2 of this act*.

34 3. The Commissioner may by rule exempt from NRS 687B.310
35 to 687B.420, inclusive, *and section 55.2 of this act* classes of
36 insurance contracts where the policyholders do not need protection
37 against arbitrary termination.

38 4. The rights provided by NRS 687B.310 to 687B.420,
39 inclusive, *and section 55.2 of this act* are in addition to and do not
40 prejudice any other rights the policyholder may have at common
41 law or under other statutes.

42 5. NRS 687B.310 to 687B.420, inclusive, *and section 55.2 of*
43 *this act* do not prevent the rescission or reformation of any life or
44 health insurance contract not otherwise denied by the terms of the
45 contract or by any other statute.



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1 6. Any notice to an insured required pursuant to NRS
2 687B.320 to 687B.350, inclusive, *and section 55.2 of this act* must
3 be personally delivered to the insured or mailed first class or
4 certified to the insured at his address last known by the insurer. The
5 notice must state the effective date of the cancellation or nonrenewal
6 and be accompanied by a written explanation of the specific reasons
7 for the cancellation or nonrenewal.

8 **Sec. 55.8.** NRS 687B.320 is hereby amended to read as
9 follows:

10 687B.320 1. ~~[No]~~ *Except as otherwise provided in*
11 *subsection 3, no* insurance policy that has been in effect for at least
12 70 days or that has been renewed may be cancelled by the insurer
13 ~~[prior to]~~ *before* the expiration of the agreed term or 1 year from the
14 effective date of the policy or renewal, whichever ~~[is less;]~~ *occurs*
15 *first*, except on any one of the following grounds:

16 (a) Failure to pay a premium when due;
17 (b) Conviction of the insured of a crime arising out of acts
18 increasing the hazard insured against;

19 (c) Discovery of fraud or material misrepresentation in the
20 obtaining of the policy or in the presentation of a claim thereunder;

21 (d) Discovery of:

22 (1) An act or omission; or

23 (2) A violation of any condition of the policy,

24 which occurred after the first effective date of the current policy and
25 substantially and materially increases the hazard insured against;

26 (e) A material change in the nature or extent of the risk,
27 occurring after the first effective date of the current policy, which
28 causes the risk of loss to be substantially and materially increased
29 beyond that contemplated at the time the policy was issued or last
30 renewed;

31 (f) A determination by the Commissioner that continuation of
32 the insurer's present volume of premiums would jeopardize the
33 insurer's solvency or be hazardous to the interests of policyholders
34 of the insurer, its creditors or the public; or

35 (g) A determination by the Commissioner that the continuation
36 of the policy would violate, or place the insurer in violation of, any
37 provision of the Code.

38 2. No cancellation under subsection 1 is effective until in the
39 case of paragraph (a) of subsection 1 at least 10 days and in the case
40 of any other paragraph of subsection 1 at least 30 days after the
41 notice is delivered or mailed to the policyholder.

42 *3. The provisions of this section do not apply to a policy of*
43 *industrial insurance.*



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1 **Sec. 56.** NRS 687B.350 is hereby amended to read as follows:

2 687B.350 1. ~~{An}~~ *Except as otherwise provided in*
3 *subsection 2, an* insurer shall not renew a policy on different terms,
4 including different rates, unless the insurer notifies the insured in
5 writing of the different terms or rates at least 30 days before ~~{those~~
6 ~~terms or rates become effective.}~~ *the expiration of the policy.* If the
7 insurer ~~{offers or purports to}~~ *fails to provide adequate and timely*
8 *notice, the insurer shall* renew the policy ~~{but on different terms,~~
9 ~~including different rates, the policyholder may, for 30 days after he~~
10 ~~receives notice of the changes in the policy, cancel the policy. If he~~
11 ~~elects to cancel, the insurer shall refund to him the excess of the~~
12 ~~premium paid by him above the pro rata premium for the expired~~
13 ~~portion of the new term.}~~ *at the expiring terms and rates:*

14 (a) *For a period that is equal to the expiring term if the agreed*
15 *term is 1 year or less; or*

16 (b) *For 1 year if the agreed term is more than 1 year.*

17 2. *The provisions of this section do not apply to a policy of*
18 *industrial insurance.*

19 **Sec. 56.1.** NRS 687B.360 is hereby amended to read as
20 follows:

21 687B.360 If a notice of cancellation or nonrenewal under NRS
22 687B.310 to 687B.420, inclusive, *and section 55.2 of this act* does
23 not state with reasonable precision the facts on which the insurer's
24 decision is based, the insurer shall supply that information within 6
25 days after receipt of a written request by the policyholder. No notice
26 is effective unless it contains adequate information about the
27 policyholder's right to make such a request.

28 **Sec. 56.3.** NRS 687B.370 is hereby amended to read as
29 follows:

30 687B.370 Except for a notice of cancellation for the failure to
31 pay a premium when due, no notice required pursuant to NRS
32 687B.310 to 687B.420, inclusive, *and section 55.2 of this act* is
33 effective unless it contains adequate instructions enabling the
34 policyholder to apply for insurance through any voluntary or
35 mandatory risk-sharing plan established pursuant to NRS 686B.180
36 and 686B.200 existing at the time of the notice, for which the
37 policyholder may be eligible.

38 **Sec. 56.5.** NRS 687B.380 is hereby amended to read as
39 follows:

40 687B.380 There is no liability on the part of and no cause of
41 action of any nature may arise against any insurer, its authorized
42 representative, its agents, its employees, or any person furnishing to
43 the insurer information as to reasons for cancellation or nonrenewal,
44 for any statement made by them in complying with NRS 687B.310



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1 to 687B.420, inclusive, *and section 55.2 of this act* or for the
2 providing of information pertaining thereto.

3 **Sec. 56.7.** NRS 688A.361 is hereby amended to read as
4 follows:

5 688A.361 No contract of annuity may be delivered or issued
6 for delivery in this state unless it contains in substance the following
7 provisions, or corresponding provisions which in the opinion of the
8 Commissioner are at least as favorable to the contract holder:

9 1. A statement that upon cessation of payment of
10 considerations under a contract, *or upon receipt of a written request*
11 *submitted by an owner of a contract*, the company will grant a
12 paid-up annuity benefit on a plan stipulated in the contract of such
13 value as is specified in NRS 688A.3631 to 688A.3637, inclusive,
14 and 688A.366;

15 2. If a contract provides for a lump-sum settlement at maturity
16 or any other time, a statement that upon surrender of the contract at
17 or before the commencement of any annuity payments, the company
18 will pay in lieu of any paid-up annuity benefit a cash surrender
19 benefit of an amount specified in NRS 688A.3631, 688A.3633,
20 688A.3637 and 688A.366, and that the company ~~[reserves]~~ *may*
21 *reserve* the right to defer the payment of such cash surrender benefit
22 for a period of *not more than* 6 months after demand therefor with
23 surrender of the contract ~~[:]~~ *if the company submits a written*
24 *request to and receives written approval for the deferral from the*
25 *Commissioner. The request must address the necessity and*
26 *equitability to all policyholders of the deferral;*

27 3. A statement of the mortality table, if any, and interest rates
28 used in calculating any minimum paid-up annuity, cash surrender or
29 death benefits which are guaranteed under the contract, together
30 with sufficient information to determine the amounts of those
31 benefits; and

32 4. A statement that any paid-up annuity, cash surrender or
33 death benefits which may be available under the contract are not less
34 than the minimum benefits required by any statute of the state in
35 which the contract is delivered and an explanation of the manner in
36 which such benefits are altered by the existence of any additional
37 amounts credited by the company to the contract, any indebtedness
38 to the company on the contract or any prior withdrawals from or
39 partial surrenders of the contract,

40 except that any deferred annuity contract may provide that if no
41 considerations have been received under a contract for a period of 2
42 full years, and the portion of the paid-up annuity benefit at maturity
43 on the plan stipulated in the contract arising from considerations
44 paid before that period would be less than \$20 monthly, the
45 company may terminate the contract by payment in cash of the then



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1 present value of such portion of the paid-up annuity benefit,
2 calculated on the basis of the mortality table, if any, and interest rate
3 specified in the contract for determining the paid-up annuity benefit,
4 and by such payment shall be relieved of any further obligation
5 under the contract.

6 **Sec. 56.9.** NRS 688A.363 is hereby amended to read as
7 follows:

8 688A.363 **1.** The minimum values, specified in NRS
9 688A.3631 to 688A.3637, inclusive, and 688A.366, of any paid-up
10 annuity, cash surrender or death benefits available under an annuity
11 contract ~~[shall]~~ **must** be based upon minimum nonforfeiture
12 amounts as defined in this section.

13 ~~[1.]~~ **2.** With respect to contracts providing for flexible
14 considerations, the minimum nonforfeiture amount for any time at
15 or before the commencement of any annuity payments is equal to an
16 accumulation up to such time at a rate of interest ~~[of 3 percent per~~
17 ~~annum of percentages of the net considerations paid before such~~
18 ~~time.]~~ **calculated pursuant to subsection 3, which must be**
19 decreased by the sum of:

20 (a) Any prior withdrawals from or partial surrenders of the
21 contract, accumulated at a rate of interest ~~[of 3 percent per annum;~~
22 ~~and]~~ **calculated pursuant to subsection 3;**

23 (b) **An annual charge in the amount of \$50, accumulated at**
24 **rates of interest calculated pursuant to subsection 3;**

25 (c) **Any premium tax paid by the company for the contract,**
26 **accumulated at rates of interest calculated pursuant to subsection**
27 **3; and**

28 (d) The amount of any indebtedness to the company on the
29 contract, including interest due and accrued. ~~[, and increased by any~~
30 ~~existing additional amounts credited by the company to the~~
31 ~~contract.]~~

32 The net considerations for a given contract year used to define the
33 minimum nonforfeiture amount ~~[shall]~~ **must** be an amount ~~[not less~~
34 ~~than zero and shall be]~~ **that is** equal to **87.5 percent of** the
35 ~~[corresponding]~~ gross considerations credited to the contract during
36 that contract year. ~~[less an annual contract charge of \$30 and a~~
37 ~~collection charge of \$1.25 per consideration credited to the contract~~
38 ~~during that contract year. The percentages of net considerations~~
39 ~~shall be 65 percent of the net consideration for the first contract year~~
40 ~~and 87.5 percent of the net considerations for the second and later~~
41 ~~contract years, except that the percentage shall be 65 percent of the~~
42 ~~portion of the total net consideration for any renewal contract year~~
43 ~~which exceeds by not more than 2 times the sum of those portions of~~
44 ~~the net considerations in all prior contract years for which the~~
45 ~~percentage was 65 percent.~~



1 ~~2. With respect to contracts providing for fixed scheduled~~
2 ~~considerations, minimum nonforfeiture amounts shall be calculated~~
3 ~~on the assumption that considerations are paid annually in advance~~
4 ~~and shall be defined as for contracts with flexible considerations~~
5 ~~which are paid annually, with the following exceptions:~~

6 ~~(a) The portion of the net consideration for the first contract year~~
7 ~~to be accumulated shall be the sum of 65 percent of the net~~
8 ~~consideration for the first contract year plus 22.5 percent of the~~
9 ~~excess of the net consideration for the first contract year over the~~
10 ~~lesser of the net considerations for the second and third contract~~
11 ~~years.~~

12 ~~(b) The annual contract charge shall be the lesser of:~~

13 ~~(1) Thirty dollars; or~~

14 ~~(2) Ten percent of the gross annual consideration.~~

15 ~~3. With respect to contracts providing for a single~~
16 ~~consideration, minimum nonforfeiture amounts shall be defined as~~
17 ~~for contracts with flexible considerations except that the percentage~~
18 ~~of net consideration used to determine the minimum nonforfeiture~~
19 ~~amount shall be equal to 90 percent and the net consideration shall~~
20 ~~be the gross consideration less a contract charge of \$75.]~~

21 *3. For the purpose of this section, the rate of interest used to*
22 *determine the minimum nonforfeiture amounts must be an annual*
23 *rate of interest determined as the lesser of 3 percent per annum or*
24 *a rate specified in the contract if the rate is calculated in*
25 *accordance with regulations adopted by the Commissioner, except*
26 *that at no time may the resulting rate be less than 1 percent per*
27 *annum.*

28 **Sec. 57.** NRS 690B.050 is hereby amended to read as follows:

29 690B.050 1. Each insurer which issues a policy of insurance
30 covering the liability of a physician licensed under chapter 630 of
31 NRS or an osteopathic physician licensed under chapter 633 of NRS
32 for a breach of his professional duty toward a patient shall , *within*
33 *30 days after a claim is closed under the policy, submit a* report to
34 the Commissioner ~~[within 30 days each settlement or award made or~~
35 ~~judgment rendered by reason of a claim, giving the]~~ *concerning the*
36 *claim. The report must include, without limitation:*

37 *(a) The name and address of the claimant and [physician and]*
38 *the insured under the policy;*

39 *(b) A statement setting forth the circumstances of the case [*
40 ~~2.] ;~~

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

43 *(d) The information specified in subsection 2 of NRS*
44 *679B.144.*



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

4 3. The Commissioner shall , *within 30 days after receiving a*
5 *report from an insurer pursuant to this section, submit a* report to
6 the Board of Medical Examiners or the state board of osteopathic
7 medicine, as applicable, ~~[within 30 days after receiving the report of~~
8 ~~the insurer, each claim made and each settlement, award or~~
9 ~~judgment.]~~ *setting forth the information provided to the*
10 *Commissioner by the insurer pursuant to this section.*

11 **Sec. 57.5.** NRS 690B.100 is hereby amended to read as
12 follows:

13 690B.100 As used in NRS 690B.100 to 690B.180, inclusive,
14 unless the context otherwise requires:

15 1. “Home” means a structure used primarily for residential
16 purposes and includes, without limitation:

- 17 (a) A single-family dwelling;
18 (b) A unit in a multiple-family structure;
19 (c) A mobile home; and

20 (d) The common elements of a common-interest community, as
21 defined in NRS 116.110318, and any appurtenance to the common
22 elements.

23 2. “Insurance for home protection” means a contract of
24 insurance, which affords coverage over a specified term for a
25 predetermined fee, under which a person, other than the
26 manufacturer, builder, seller or lessor of the home, agrees to repair,
27 replace or indemnify from the cost of repair or replacement based
28 upon the failure of any structure, component, system or appliance of
29 the home. The term does not include ~~[a]~~ :

30 (a) A contract which insures against any consequential losses
31 caused by the defects or failures.

32 (b) *An annual home service agreement on household*
33 *appliances, systems and components if the agreement principally*
34 *provides for service, repair or replacement due to normal wear*
35 *and tear or inherent defect. Such agreements may include*
36 *provisions for incidental indemnity or for service or repair of roof*
37 *leaks.*

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

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

45 1. *The acquiring of a voting security;*



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- 1 2. *The acquiring of any asset;*
- 2 3. *Bulk reinsurance; and*
- 3 4. *A merger.*

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

- 5 1. *Acquires a person or is acquired by a person;*
- 6 2. *Is affiliated with an insurer that acquires a person or is*
7 *acquired by a person; or*
- 8 3. *Is the result of a merger.*

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

12 1. *An acquisition that is subject to approval or disapproval by*
13 *the Commissioner pursuant to NRS 692C.180 to 692C.250,*
14 *inclusive.*

15 2. *A purchase of securities solely for investment purposes if*
16 *the securities are not used for voting or not otherwise used to*
17 *cause or attempt to cause a substantial lessening of competition in*
18 *any insurance market in this state, except that, if a purchase of*
19 *securities creates a presumption of control of the insurer pursuant*
20 *to subsection 2 of NRS 692C.050, the purchase is not solely for*
21 *investment purposes unless the Commissioner of insurance of the*
22 *insurer’s state of domicile:*

23 (a) *Accepts a disclaimer of control or affirmatively finds that*
24 *control does not exist; and*

25 (b) *Submits the accepted disclaimer or a statement setting*
26 *forth the affirmative finding to the Commissioner.*

27 3. *An acquisition of a person by another person if:*

28 (a) *Each of those persons is not directly or through an affiliate*
29 *primarily engaged in the business of insurance; and*

30 (b) *At least 30 days before the effective date of the acquisition,*
31 *a notice is filed with the Commissioner in accordance with section*
32 *62 of this act, if required.*

33 4. *An acquisition by a person of an affiliate of that person.*

34 5. *An acquisition that does not immediately cause:*

35 (a) *The combined market share of the involved insurers to*
36 *exceed 5 percent of the total market;*

37 (b) *An increase in any market share; or*

38 (c) *For any market:*

39 (1) *The combined market share of the involved insurers to*
40 *exceed 12 percent of the total market; and*

41 (2) *The market share to increase by more than 2 percent of*
42 *the total market.*

43 *As used in this subsection, “market” means direct written*
44 *premiums in this state for a line of authority set forth in the*



1 *annual statement required to be filed by insurers authorized to do*
2 *business in this state.*

3 6. *An acquisition for which, solely because of the effect of the*
4 *acquisition on ocean marine insurance, a notification is required*
5 *pursuant to this section.*

6 7. *An acquisition of an insurer whose domiciliary*
7 *commissioner of insurance:*

8 (a) *Determines that:*

9 (1) *The insurer is in a failing condition;*

10 (2) *A feasible alternative for improving that condition does*
11 *not exist; and*

12 (3) *The public benefit received from improving that*
13 *condition through the acquisition of the insurer outweighs the*
14 *public benefit received from increasing competition; and*

15 (b) *Submits his determination made pursuant to paragraph (a)*
16 *to the Commissioner.*

17 **Sec. 62.** 1. *An acquisition to which the provisions of*
18 *section 61 of this act apply is subject to an order issued pursuant*
19 *to section 64 of this act unless:*

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

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

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

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

30 (b) *Any other material or information required by the*
31 *Commissioner to determine whether or not the proposed*
32 *acquisition, if consummated, would violate the provisions of*
33 *section 63 of this act.*

34 3. *The information required pursuant to subsection 2 may*
35 *include the opinion of an economist relating to the competitive*
36 *effect of the acquisition on the business of insurance in this state*
37 *if the opinion is accompanied by a summary of the education and*
38 *experience of the economist and a statement indicating his ability*
39 *to provide an informed opinion.*

40 4. *Except as otherwise provided in subsection 5, the waiting*
41 *period for an acquisition required pursuant to subsection 1 begins*
42 *on the date the Commissioner receives the notice filed pursuant to*
43 *subsection 1 and ends on the expiration of 30 days after that date*
44 *or on the expiration of a shorter period prescribed by the*
45 *Commissioner, whichever is earlier.*



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1 5. Before the expiration of the waiting period specified in
2 subsection 4, the Commissioner may, not more than once, require
3 a person to submit additional information relating to the proposed
4 acquisition. If the Commissioner requires the submission of
5 additional information, the waiting period for the acquisition ends
6 upon the expiration of 30 days after the Commissioner receives the
7 additional information or upon the expiration of a shorter period
8 prescribed by the Commissioner, whichever is earlier.

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

11 (a) The effect of the acquisition may substantially lessen
12 competition in any line of insurance in this state or tend to create
13 a monopoly; or

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

16 2. In determining whether to issue an order pursuant to
17 subsection 1, the Commissioner shall consider the standards set
18 forth in the Horizontal Merger Guidelines issued by the United
19 States Department of Justice and the Federal Trade Commission
20 and in effect at the time the Commissioner receives the notice
21 required pursuant to section 62 of this act.

22 3. The Commissioner shall not issue an order specified in
23 subsection 1:

24 (a) If:

25 (1) The acquisition creates substantial economies of scale
26 or economies in the use of resources that may not be created in
27 any other manner; and

28 (2) The public benefit received from those economies
29 exceeds the public benefit received from not lessening
30 competition; or

31 (b) If:

32 (1) The acquisition substantially increases the availability
33 of insurance; and

34 (2) The public benefit received by that increase exceeds the
35 public benefit received from not lessening competition.

36 4. The public benefits set forth in subparagraph 2 of
37 paragraphs (a) and (b) of subsection 3 may be considered
38 together, as applicable, in assessing whether the public benefits
39 received from the acquisition exceed any benefit to competition
40 that would arise from disapproving the acquisition.

41 5. The Commissioner has the burden of establishing a
42 violation of the competitive standard set forth in subsection 1.

43 **Sec. 64.** 1. Except as otherwise provided in this section, if
44 the Commissioner determines that an acquisition may



1 *substantially lessen competition in any line of insurance in this*
2 *state or tends to create a monopoly, he may issue an order:*

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

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

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

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

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

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

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

19 *4. An order issued pursuant to this section does not become*
20 *final until 30 days after it is issued, during which time the involved*
21 *insurer may submit to the Commissioner a plan to remedy, within*
22 *a reasonable period, the anticompetitive effect of the acquisition.*
23 *As soon as practicable after receiving the plan, the Commissioner*
24 *shall, based upon the plan and any information included in the*
25 *plan, issue a written determination setting forth:*

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

27 *(1) Eliminate the anticompetitive effect of the acquisition;*
28 *and*

29 *(2) Vacate or modify the order; and*

30 *(b) The period in which the conditions or actions specified in*
31 *paragraph (a) must be performed.*

32 *5. An order issued pursuant to subsection 1 does not apply to*
33 *an acquisition that is not consummated.*

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

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

39 *(b) The suspension or revocation of the person's license or*
40 *certificate of authority; or*

41 *(c) Both the imposition of a civil penalty pursuant to*
42 *paragraph (a) and the suspension or revocation of the person's*
43 *license or certificate of authority pursuant to paragraph (b).*

44 *7. In addition to any fine imposed pursuant to NRS*
45 *692C.480, any insurer or other person who fails to make any filing*



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1 *required by sections 61 to 64, inclusive, of this act and who fails to*
2 *make a good faith effort to comply with any such requirement is*
3 *subject to a fine of not more than \$50,000.*

4 *8. The provisions of NRS 692C.430, 692C.440 and 692C.460*
5 *do not apply to an acquisition to which the provisions of section 61*
6 *of this act apply.*

7 **Sec. 65. 1.** *A director or officer of an insurance holding*
8 *company system who knowingly violates, or knowingly participates*
9 *in or assents to a violation of, NRS 692C.350, 692C.360, 692C.363*
10 *or 692C.390, or who knowingly permits any officer or agent of the*
11 *insurance holding company to engage in a transaction in violation*
12 *of NRS 692C.360 or 692C.363 or to pay a dividend or make an*
13 *extraordinary distribution in violation of NRS 692C.390 shall pay,*
14 *after receiving notice and a hearing before the Commissioner, a*
15 *fine of not more than \$10,000 for each violation. In determining*
16 *the amount of the fine, the Commissioner shall consider the*
17 *appropriateness of the fine in relation to:*

18 *(a) The gravity of the violation;*
19 *(b) The history of any previous violations committed by the*
20 *director or officer; and*
21 *(c) Any other matters as justice may require.*

22 **2.** *Whenever it appears to the Commissioner that an insurer*
23 *or any director, officer, employee or agent of the insurer has*
24 *engaged in a transaction or entered into a contract to which the*
25 *provisions of NRS 692C.363 apply and for which the insurer has*
26 *not obtained the Commissioner's approval, the Commissioner may*
27 *order the insurer to cease and desist immediately from engaging in*
28 *any further activity relating to the transaction or contract. In*
29 *addition to issuing such an order, the Commissioner may order*
30 *the insurer to rescind the contract and return each party to the*
31 *contract to the position he was in before the execution of the*
32 *contract if the issuing of the order is in the best interest of:*

33 *(a) The policyholders or creditors of the insurer; or*
34 *(b) The members of the general public.*

35 **Sec. 66.** *NRS 692C.020 is hereby amended to read as follows:*
36 *692C.020 As used in this chapter, unless the context otherwise*
37 *requires, the words and terms defined in NRS 692C.030 to*
38 *692C.110, inclusive, and sections 59 and 60 of this act, have the*
39 *meanings ascribed to them in those sections.*

40 **Sec. 67.** *NRS 692C.080 is hereby amended to read as follows:*
41 *692C.080 "Person" includes an individual, corporation,*
42 *limited-liability company, partnership, association, joint stock*
43 *company, trust, unincorporated organization or any similar entity,*
44 *or any combination thereof acting in concert. The term* does not
45 *include [any]:*



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

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

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

7 692C.140 In addition to making investments in common stock,
8 preferred stock, debt obligations and other securities permitted
9 under chapter 682A of NRS, a domestic insurer may invest:

10 1. In common stock, preferred stock, debt obligations and other
11 securities of one or more subsidiaries, amounts which do not exceed
12 the lesser of 10 percent of the insurer's assets or 50 percent of its
13 surplus as regards policyholders, if the insurer's surplus as regards
14 policyholders remains at a reasonable level in relation to the
15 insurer's outstanding liabilities and adequate to its financial needs.
16 In calculating the amount of such investments, the following must
17 be included:

18 (a) Total money or other consideration expended and obligations
19 assumed in the acquisition or formation of a subsidiary, including all
20 organizational expenses and contributions to capital and surplus of
21 the subsidiary whether or not represented by the purchase of capital
22 stock or issuance of other securities; and

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

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

35 ~~3. Any amount in common stock, preferred stock, debt~~
36 ~~obligations and other securities of one or more subsidiaries if~~ each
37 subsidiary agrees to limit its investments in any asset so that those
38 investments will not cause the amount of the total investment of the
39 insurer to exceed any of the investment limitations specified in
40 subsection 1 or in chapter 682A of NRS. For the purpose of this
41 subsection, "total investment of the insurer" includes any direct
42 investment by the insurer in an asset and the insurer's proportionate
43 share of any investment in an asset by any subsidiary of the insurer,
44 which must be calculated by multiplying the amount of the



1 subsidiary's investment by the percentage of the insurer's ownership
2 of the subsidiary.

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

8 ~~[5. Any amount in the common stock, preferred stock, debt~~
9 ~~obligations or other securities of any subsidiary exclusively engaged~~
10 ~~in holding title to or holding title to and managing or developing~~
11 ~~real or personal property, if after considering as a disallowed asset~~
12 ~~so much of the investment as is represented by subsidiary assets~~
13 ~~which if held directly by the insurer would be considered as a~~
14 ~~disallowed asset, the insurer's surplus as regards policyholders will~~
15 ~~remain at a reasonable level in relation to the insurer's outstanding~~
16 ~~liabilities and adequate to its financial needs, and if after the~~
17 ~~investment all voting securities of the subsidiary are owned by the~~
18 ~~insurer.]~~

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

20 692C.180 1. No person other than the issuer may make a
21 tender for or a request or invitation for tenders of, or enter into any
22 agreement to exchange securities for, seek to acquire or acquire in
23 the open market or otherwise, any voting security of a domestic
24 insurer if, after the consummation thereof, he would directly or
25 indirectly, or by conversion or by exercise of any right to acquire, be
26 in control of the insurer , nor may any person enter into an
27 agreement to merge with or otherwise acquire control of a domestic
28 insurer, unless, at the time any such offer, request or invitation is
29 made or any such agreement is entered into, or before the
30 acquisition of those securities if no offer or agreement is involved,
31 he has filed with the Commissioner and has sent to the insurer, and
32 the insurer has sent to its shareholders, a statement containing the
33 information required by NRS 692C.180 to 692C.250, inclusive, and
34 the offer, request, invitation, agreement or acquisition has been
35 approved by the Commissioner in the manner prescribed in this
36 chapter.

37 2. For purposes of this section, a domestic insurer includes any
38 other person controlling a domestic insurer unless the other person
39 is ~~[either]~~ directly or through ~~[its]~~ *his* affiliates primarily engaged in
40 *a* business other than the business of insurance. ~~[However,]~~ *If* a
41 person *is directly or through his affiliates* primarily engaged in
42 ~~[another]~~ *a business other than the business of insurance, he* shall,
43 *at least 60 days before the proposed effective date of the*
44 *acquisition,* file a notice of intent to acquire ~~[, on a form prescribed~~
45 ~~by]~~ *with* the Commissioner ~~[, at least 60 days before the proposed~~



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1 ~~effective date of the acquisition.]~~ *setting forth the information*
2 *required by section 62 of this act.*

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

4 692C.210 1. ~~[The]~~ *Except as otherwise provided in*
5 *subsection 5, the* Commissioner shall approve any merger or other
6 acquisition of control referred to in NRS 692C.180 unless, after a
7 public hearing thereon, he finds that:

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

12 (b) The effect of the merger or other acquisition of control
13 would be substantially to lessen competition in insurance in this
14 state or tend to create a monopoly; ~~[therein:]~~

15 (c) The financial condition of any acquiring party ~~[is such as~~
16 ~~might]~~ *may* jeopardize the financial stability of the insurer, or
17 prejudice the interest of its policyholders or the interests of any
18 remaining security holders who are unaffiliated with the acquiring
19 party;

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

23 (e) The plans or proposals which the acquiring party has to
24 liquidate the insurer, sell its assets or consolidate or merge it with
25 any person, or to make any other material change in its business or
26 corporate structure or management, are unfair and unreasonable to
27 policyholders of the insurer and not in the public interest; ~~[or]~~

28 (f) The competence, experience and integrity of those persons
29 who would control the operation of the insurer are such that it would
30 not be in the interest of policyholders of the insurer and of the public
31 to permit the merger or other acquisition of control ~~[:]~~; *or*

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

35 2. The public hearing ~~[referred to]~~ *specified* in subsection 1
36 must be held within 30 days after the statement required by NRS
37 692C.180 has been filed, and at least 20 days' notice thereof must
38 be given by the Commissioner to the person filing the statement.
39 Not less than 7 days' notice of the public hearing must be given by
40 the person filing the statement to the insurer and to ~~[such other~~
41 ~~persons as may be]~~ *any other person* designated by the
42 Commissioner. The insurer shall give such notice to its security
43 holders. The Commissioner shall make a determination within 30
44 days after the conclusion of the hearing. If he determines that an
45 infusion of capital to restore capital in connection with the change in



1 control is required, the requirement must be met within 60 days after
2 notification is given of the determination. At the hearing, the person
3 filing the statement, the insurer, any person to whom notice of
4 hearing was sent ~~§~~ and any other person whose interests may be
5 affected thereby may present evidence, examine and cross-examine
6 witnesses, and offer oral and written arguments and , in connection
7 therewith , may conduct discovery proceedings in the same manner
8 as is presently allowed in the district court of this state. All
9 discovery proceedings must be concluded not later than 3 days
10 before the commencement of the public hearing.

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

15 4. The period for review by the Commissioner must not exceed
16 the 60 days allowed between the filing of the notice of intent to
17 acquire *required pursuant to subsection 2 of NRS 692C.180* and
18 the date of *the* proposed acquisition if the proposed affiliation or
19 change of control involves a financial institution, or an affiliate of a
20 financial institution, and an insured.

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

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

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

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

31 6. *If, in connection with a change of control of a domestic*
32 *insurer, the Commissioner determines that the person who is*
33 *acquiring control of the domestic insurer must maintain or restore*
34 *the capital of the domestic insurer in an amount that is required*
35 *by the laws and regulations of this state, the Commissioner shall*
36 *make the determination not later than 60 days after the notice of*
37 *intent to acquire required pursuant to subsection 2 of NRS*
38 *692C.180 is filed with the Commissioner.*

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

40 692C.260 1. Every insurer which is authorized to do business
41 in this state and which is a member of an insurance holding
42 company system shall register with the Commissioner, except a
43 foreign insurer subject to disclosure requirements and standards
44 adopted by *a* statute or regulation in the jurisdiction of its domicile



1 which are substantially similar to those contained in NRS 692C.260
2 to 692C.350, inclusive.

3 2. Any insurer which is subject to registration under NRS
4 692C.260 to 692C.350, inclusive, shall register ~~no~~ *not* later than
5 September 1, 1973, or 15 days after it becomes subject to
6 registration, whichever is later, unless the Commissioner for good
7 cause shown extends the time for registration. The Commissioner
8 may require any authorized insurer which is a member of a holding
9 company system which is not subject to registration under this
10 section to furnish a copy of the registration statement or other
11 information filed by ~~such~~ *the* insurance company with the
12 insurance regulatory authority of domiciliary jurisdiction.

13 *3. Any person within an insurance holding company system*
14 *subject to registration shall, upon request by an insurer, provide*
15 *complete and accurate information to the insurer if the*
16 *information is reasonably necessary to enable the insurer to*
17 *comply with the provisions of this section.*

18 **Sec. 72.** NRS 692C.270 is hereby amended to read as follows:

19 692C.270 Every insurer subject to registration shall file a
20 registration statement on a form provided by the Commissioner,
21 which ~~shall~~ *must* contain current information about:

22 1. The capital structure, general financial condition, ownership
23 and management of the insurer and any person controlling the
24 insurer.

25 2. The identity of every member of the insurance holding
26 company system.

27 3. The following agreements in force, relationships subsisting
28 and transactions currently outstanding between ~~such~~ *the* insurer
29 and its affiliates:

30 (a) Loans, other investments or purchases, sales or exchanges of
31 securities of the affiliates by the insurer or of the insurer by its
32 affiliates.

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

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

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

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

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

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

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



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1 4. ~~[Other]~~ *Any pledge of the insurer's stock, including the*
2 *stock of any subsidiary or controlling affiliate of the insurer, for a*
3 *loan made to any member of the insurance holding company*
4 *system.*

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

9 **Sec. 73.** NRS 692C.330 is hereby amended to read as follows:
10 692C.330 1. Any person may file with the Commissioner
11 ~~[a]~~ :

12 (a) A disclaimer of affiliation with any authorized insurer
13 *specified in the disclaimer;* or ~~[such a]~~

14 (b) *A request for a termination of registration on the basis that*
15 *the person does not, or will not after taking an action specified in*
16 *the request for termination, control another person specified in the*
17 *request.*

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

24 (a) *A statement indicating the number of authorized, issued*
25 *and outstanding voting securities of the person specified in the*
26 *disclaimer of affiliation or request for a termination of*
27 *registration;*

28 (b) *A statement indicating the number and percentage of*
29 *shares of the person specified in the disclaimer of affiliation or*
30 *request for a termination of registration that are owned or*
31 *beneficially owned by the person disclaiming control, and the*
32 *number of those shares for which the person disclaiming control*
33 *has a direct or indirect right to acquire;*

34 (c) *A statement setting forth* all material relationships and bases
35 for affiliation between ~~[such person and such insurer as well as the~~
36 ~~basis for disclaiming such affiliation.~~

37 ~~—2.]~~ *the person specified in the disclaimer of affiliation or*
38 *request for a termination of registration and the person and any*
39 *affiliate of the person who is disclaiming control of the person*
40 *specified in the disclaimer of affiliation or request for a*
41 *termination of registration; and*

42 (d) *An explanation of why the person who is disclaiming*
43 *control does not control the person specified in the disclaimer of*
44 *affiliation or request for a termination of registration.*



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

7 4. After a disclaimer *of affiliation* has been filed, the insurer
8 ~~[shall be]~~ *is* relieved of any duty to register or report under NRS
9 692C.260 to 692C.350, inclusive, which may arise out of the
10 insurer's relationship with ~~[such]~~ *the* person unless the
11 Commissioner disallows ~~[such a]~~ *the* disclaimer. The Commissioner
12 ~~[shall disallow such a]~~ *may disallow the* disclaimer only after
13 furnishing all parties in interest with *a* notice and opportunity to be
14 heard and after making specific findings of fact to support ~~[such]~~ *the*
15 disallowance.

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

17 692C.350 1. The failure to file a registration statement or any
18 amendment thereto required by NRS 692C.260 to 692C.350,
19 inclusive, within the time specified for ~~[such filing, shall be]~~ *the*
20 *filing is* a violation of NRS 692C.260 to 692C.350, inclusive.

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

29 3. *The maximum civil penalty that may be imposed pursuant*
30 *to subsection 2 is \$20,000. The Commissioner may reduce the*
31 *amount of the civil penalty if the insurer demonstrates to the*
32 *satisfaction of the Commissioner that the payment of the civil*
33 *penalty would impose a financial hardship on the insurer.*

34 4. *Any officer, director or employee of an insurance holding*
35 *company system who willfully and knowingly subscribes to or*
36 *makes or causes to be made any false statement, false report or*
37 *false filing with the intent to deceive the Commissioner in the*
38 *performance of his duties pursuant to NRS 692C.260 to 692C.350,*
39 *inclusive, is guilty of a category D felony and shall be punished as*
40 *provided in NRS 193.130. The officer, director or employee is*
41 *personally liable for any fine imposed against him pursuant to that*
42 *section.*

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

44 692C.363 1. A domestic insurer shall not enter into any of
45 the following transactions with an affiliate unless the insurer has



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1 notified the Commissioner in writing of its intention to enter into the
2 transaction at least 60 days previously, or such shorter period as the
3 Commissioner may permit, and the Commissioner has not
4 disapproved it within that period:

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

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

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

13 (b) A loan or extension of credit to any person who is not an
14 affiliate, if the insurer makes the loan or extension of credit with the
15 agreement or understanding that the proceeds of the transaction, in
16 whole or in substantial part, are to be used to make loans or
17 extensions of credit to, to purchase assets of, or to make investments
18 in, any affiliate of the insurer if the transaction equals at least:

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

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

25 (c) An agreement for reinsurance or a modification thereto in
26 which the premium for reinsurance or a change in the insurer's
27 liabilities equals at least 5 percent of the insurer's surplus as regards
28 policyholders as of December 31 next preceding the transaction,
29 including an agreement which requires as consideration the transfer
30 of assets from an insurer to a nonaffiliate, if an agreement or
31 understanding exists between the insurer and nonaffiliate that any
32 portion of those assets will be transferred to an affiliate of the
33 insurer.

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

36 (e) *A guaranty made by a domestic insurer, except that a*
37 *guaranty that is quantifiable as to amount is not subject to*
38 *the provisions of this subsection unless the guaranty exceeds the*
39 *lesser of one-half of 1 percent of the admitted assets of the*
40 *domestic insurer or 10 percent of its surplus as regards*
41 *policyholders as of December 31 next preceding the guaranty.*

42 (f) *Except as otherwise provided in subsection 3, a direct or*
43 *indirect acquisition of or investment in a person who controls the*
44 *domestic insurer or an affiliate of the domestic insurer in an*



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1 *amount that, when added to its present holdings, exceeds 2.5*
2 *percent of the domestic insurer's surplus to policyholders.*

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

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

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

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

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

15 **Sec. 76.** (Deleted by amendment.)

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

17 692C.390 ~~[No]~~

18 1. An insurer subject to registration under NRS 692C.260 to
19 692C.350, inclusive, shall *not* pay any extraordinary dividend or
20 make any other extraordinary distribution to its shareholders until:

21 ~~[(1)]~~ (a) Thirty days after the Commissioner has received notice
22 of the declaration thereof and has not within ~~[such]~~ *that* period
23 disapproved ~~[such]~~ *the* payment; or

24 ~~[(2)]~~ (b) The Commissioner ~~[shall have approved such]~~ *approves*
25 *the* payment within ~~[such]~~ *the* 30-day period.

26 2. *A request for approval of an extraordinary dividend or any*
27 *other extraordinary distribution pursuant to subsection 1 must*
28 *include:*

29 (a) *A statement indicating the amount of the proposed*
30 *dividend or distribution;*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



1 the interests of policyholders, shareholders or the public will be
2 served by the publication thereof, in which event he may publish all
3 or any part thereof in ~~{such}~~ *any* manner as he may deem
4 appropriate.

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

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

16 **Sec. 78.3.** NRS 693A.495 is hereby amended to read as
17 follows:

18 693A.495 1. No director, officer, employee or agent of the
19 converting mutual, or any other person, may receive any fee,
20 commission or other valuable consideration, other than his usual
21 regular salary and compensation, for aiding, promoting or assisting
22 in a plan of conversion except as set forth in the plan of conversion
23 approved by the Commissioner.

24 2. Subsection 1 does not prohibit a management *or employee*
25 incentive compensation program that is contained in the plan of
26 conversion and approved by the Commissioner to be adopted upon
27 conversion to the new stock insurer or prohibit such a program to be
28 adopted later by the new stock insurer.

29 3. Subsection 1 does not prohibit the payment of reasonable
30 fees and compensation to attorneys, accountants, actuaries and
31 investment bankers for services performed in the independent
32 practice of their professions if the person is also a member of the
33 board of directors of the converting mutual.

34 **Sec. 78.5.** NRS 693A.625 is hereby amended to read as
35 follows:

36 693A.625 1. All the initial shares of the capital stock of a
37 reorganized stock insurer must be issued to the mutual insurance
38 holding company or to ~~{a single}~~ *one or more* intermediate stock
39 holding ~~{company.}~~ *companies.*

40 2. Policyholders of a domestic mutual insurer that has been
41 reorganized are members of the mutual insurance holding company,
42 and their voting rights must be determined in accordance with the
43 articles of incorporation and bylaws of the mutual insurance holding
44 company. The mutual insurance holding company shall provide its
45 members with the same membership rights as were provided to



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1 policyholders of the mutual insurer immediately before
2 reorganization. The reorganization must not reduce, limit or
3 otherwise affect the number or identity of the policyholders who
4 may become members of the mutual insurance holding company or
5 secure for managerial personnel any unfair advantage through or
6 connected with the reorganization.

7 3. A mutual insurance holding company or an intermediate
8 stock holding company formed pursuant to NRS 693A.550 to
9 693A.665, inclusive:

10 (a) Must not be authorized to transact the business of insurance;

11 (b) Is subject to the jurisdiction of the Commissioner, who shall
12 ensure that policyholder interests are protected; and

13 (c) Shall be deemed to be an insurer for the purposes of chapter
14 696B of NRS.

15 4. An intermediate stock holding company formed pursuant to
16 NRS 693A.550 to 693A.665, inclusive, shall be deemed to be a
17 mutual insurance holding company subject to the provisions of NRS
18 693A.400 to 693A.540, inclusive.

19 5. A mutual insurance holding company formed pursuant to
20 NRS 693A.550 to 693A.665, inclusive:

21 (a) Shall not issue stock.

22 (b) Shall invest in insurers not less than 50 percent of its net
23 worth as determined by generally accepted accounting practices.

24 6. The aggregate pledges and encumbrances of the assets of a
25 mutual insurance holding company must not affect more than 49
26 percent of the mutual insurance holding company's stock in an
27 intermediate stock holding company or a reorganized stock insurer.

28 7. If any proceeding under chapter 696B of NRS is brought
29 against a reorganized stock insurer, the mutual insurance holding
30 company and *each* intermediate stock holding company must be
31 named parties to the proceeding. All the assets of the mutual
32 insurance holding company and ~~the~~ *each* intermediate stock
33 holding company shall be deemed assets of the estate of the
34 reorganized stock insurer to the extent necessary to satisfy claims
35 against the reorganized stock insurer.

36 8. No distribution to members of a mutual insurance holding
37 company may occur without the prior written approval of the
38 Commissioner. The Commissioner may give such approval only if
39 he is satisfied that the distribution is fair and equitable to
40 policyholders as members of the mutual insurance holding
41 company.

42 9. No solicitation for the sale of the stock of an intermediate
43 stock holding company or a reorganized stock insurer may be made
44 without the prior written approval of the Commissioner.



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1 10. A mutual insurance holding company or an intermediate
2 stock holding company may not voluntarily dissolve without the
3 approval of the Commissioner.

4 **Sec. 78.7.** NRS 693A.640 is hereby amended to read as
5 follows:

6 693A.640 1. No director, officer, employee or agent of the
7 mutual insurer, or any other person, may receive any fee,
8 commission or other valuable consideration, other than his usual
9 regular salary and compensation, for aiding, promoting or assisting
10 in a plan of reorganization except as set forth in the plan of
11 reorganization approved by the Commissioner.

12 2. Subsection 1 does not prohibit a management *or employee*
13 incentive compensation program that is contained in the plan of
14 reorganization and approved by the Commissioner to be adopted
15 upon reorganization to the reorganized stock insurer or prohibit such
16 a program to be adopted later by the reorganized stock insurer.

17 3. Subsection 1 does not prohibit the payment of reasonable
18 fees and compensation to attorneys, accountants, actuaries and
19 investment bankers for services performed in the independent
20 practice of their professions if the person is also a member of the
21 board of directors of the mutual insurer.

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

23 694C.050 "Association captive insurer" means a captive
24 insurer that only insures risks of the member organizations of an
25 association and the affiliated companies of those members,
26 including groups formed pursuant to the Product Liability Risk
27 Retention Act of 1981, as amended, 15 U.S.C. §§ 3901 et seq., *if:*

28 *1. The association or the member organizations of the*
29 *association:*

30 *(a) Own, control or hold with the power to vote all the*
31 *outstanding voting securities of the association captive insurer, if*
32 *the association captive insurer is incorporated as a stock insurer;*
33 *or*

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

36 *2. The member organizations of the association collectively*
37 *constitute all the subscribers of the captive insurer, if the captive*
38 *insurer is formed as a reciprocal insurer.*

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

40 694C.450 1. Except as otherwise provided in this section, a
41 captive insurer shall pay to the Division, not later than March 1 of
42 each year, a tax at the rate of:

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



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

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

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

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

10 (b) One hundred fifty thousandths of 1 percent on the next
11 \$20,000,000 of revenue from assumed reinsurance premiums; and

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

14 The tax on reinsurance premiums pursuant to this subsection must
15 not be levied on premiums for risks or portions of risks which are
16 subject to taxation on a direct basis pursuant to subsection 1. A
17 captive insurer is not required to pay any reinsurance premium tax
18 pursuant to this subsection on revenue related to the receipt of assets
19 by the captive insurer in exchange for the assumption of loss
20 reserves and other liabilities of another insurer that is under
21 common ownership and control with the captive insurer, if the
22 transaction is part of a plan to discontinue the operation of the other
23 insurer and the intent of the parties to the transaction is to renew or
24 maintain such business with the captive insurer.

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

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

31 5. Notwithstanding any specific statute to the contrary and
32 except as otherwise provided in this subsection, the tax provided for
33 by this section constitutes all the taxes collectible pursuant to the
34 laws of this state from a captive insurer, and no occupation tax or
35 other taxes may be levied or collected from a captive insurer by this
36 state or by any county, city or municipality within this state, except
37 for ad valorem taxes on real or personal property located in this state
38 used in the production of income by the captive insurer.

39 6. Ten percent of the revenues collected from the tax imposed
40 pursuant to this section must be deposited with the State Treasurer
41 for credit to the Account for the Regulation and Supervision of
42 Captive Insurers created pursuant to NRS 694C.460. The remaining
43 90 percent of the revenues collected must be deposited with the
44 State Treasurer for credit to the State General Fund.



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

9 8. As used in this section, unless the context otherwise
10 requires:

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

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

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

18 (b) "Net direct premiums" means the direct premiums collected
19 or contracted for on policies or contracts of insurance written by a
20 captive insurer during the preceding calendar year, less the amounts
21 paid to policyholders as return premiums, including dividends on
22 unabsorbed premiums or premium deposits returned or credited to
23 policyholders.

24 **Sec. 80.5.** NRS 695C.055 is hereby amended to read as
25 follows:

26 695C.055 1. The provisions of NRS 449.465, 679B.700,
27 subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS ~~680B.025~~
28 **680B.020** to 680B.060, inclusive, and chapter 695G of NRS apply
29 to a health maintenance organization.

30 2. For the purposes of subsection 1, unless the context requires
31 that a provision apply only to insurers, any reference in those
32 sections to "insurer" must be replaced by "health maintenance
33 organization."

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

35 696B.415 1. Upon the issuance of an order of liquidation
36 with a finding of insolvency against a domestic insurer, the
37 Commissioner shall apply to the district court for authority to
38 disburse money to the Nevada Insurance Guaranty Association or
39 the Nevada Life and Health Insurance Guaranty Association out of
40 the marshaled assets of the insurer, as money becomes available, in
41 amounts equal to disbursements made or to be made by the
42 Association for claims-handling expense and covered-claims
43 obligations upon the presentation of evidence that disbursements
44 have been made by the Association. The Commissioner shall apply
45 to the district court for authority to make similar disbursements to



1 insurance guaranty associations in other jurisdictions if one of the
2 Nevada Associations is entitled to like payment pursuant to the laws
3 relating to insolvent insurers in the jurisdiction in which the
4 organization is domiciled.

5 2. The Commissioner, in determining the amounts available for
6 disbursement to the Nevada Insurance Guaranty Association, the
7 Nevada Life and Health Insurance Guaranty Association ~~and~~ and
8 similar organizations in other jurisdictions, shall reserve sufficient
9 assets for the payment of the expenses of administration.

10 3. The Commissioner shall establish procedures for the ratable
11 allocation of disbursements to the Nevada Insurance Guaranty
12 Association, the Nevada Life and Health Insurance Guaranty
13 Association ~~and~~ and similar organizations in other jurisdictions, and
14 shall secure from each organization to which money is paid as a
15 condition to advances in reimbursement of covered-claims
16 obligations an agreement to return to the Commissioner, on demand,
17 amounts previously advanced which are required to pay claims of
18 secured creditors and claims falling within the priorities established
19 in paragraph (a) or (b) of subsection 1 of NRS 696B.420.

20 *4. The Commissioner, as receiver for an insolvent insurer,*
21 *may file a claim on behalf of all insureds for any unearned*
22 *premiums. The Nevada Insurance Guaranty Association, the*
23 *Nevada Life and Health Insurance Guaranty Association and*
24 *similar organizations in other jurisdictions shall accept the claim*
25 *in lieu of requiring each insured to file a claim for the unearned*
26 *premium.*

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

28 696B.420 1. The order of distribution of claims from the
29 estate of the insurer on liquidation of the insurer must be as set forth
30 in this section. Each claim in each class must be paid in full or
31 adequate money retained for the payment before the members of the
32 next class receive any payment. No subclasses may be established
33 within any class. Except as otherwise provided in subsection 2, the
34 order of distribution and of priority must be as follows:

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

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

39 (2) Compensation for any services rendered in the
40 liquidation;

41 (3) Any necessary filing fees;

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

43 (5) Reasonable attorney's fees.

44 (b) ~~[Loss claims, including any]~~ *All* claims under policies, ~~[for~~
45 ~~losses incurred, including third-party claims.]~~ any claims against



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1 ~~{the insurer}~~ *an insured* for liability for bodily injury or for injury to
2 or destruction of tangible property which are ~~{not}~~ *covered claims*
3 under policies, *including any such claims of the Federal*
4 *Government or any state or local government*, and any claims of
5 the Nevada Insurance Guaranty Association, the Nevada Life and
6 Health Insurance Guaranty Association ~~{}~~ and other similar
7 statutory organizations in other jurisdictions. Any claims under life
8 insurance and annuity policies, whether for death proceeds, annuity
9 proceeds or investment values, must be treated as loss claims. That
10 portion of any loss for which indemnification is provided by other
11 benefits or advantages recovered or recoverable by the claimant may
12 not be included in this class, other than benefits or advantages
13 recovered or recoverable in discharge of familial obligations of
14 support or because of succession at death or as proceeds of life
15 insurance, or as gratuities. No payment made by an employer to his
16 employee may be treated as a gratuity.

17 (c) Unearned premiums and small loss claims, including claims
18 under nonassessable policies for unearned premiums or other
19 premium refunds.

20 (d) ~~{Claims}~~ *Except as otherwise provided in paragraph (b),*
21 *claims* of the Federal Government.

22 (e) ~~{Claims}~~ *Except as otherwise provided in paragraph (b),*
23 *claims* of any state or local government, including, but not limited
24 to, a claim of a state or local government for a penalty or forfeiture.

25 (f) Wage debts due employees for services performed, not to
26 exceed ~~[\$1,000 to]~~ *an amount equal to 2 months of monetary*
27 *compensation for* each employee ~~[, that have been earned]~~ *for*
28 *services performed within 6 months before the filing of the petition*
29 *for liquidation or, if rehabilitation preceded liquidation,* within 1
30 year before the filing of the petition for ~~{liquidation-}~~ *rehabilitation*.
31 Officers of the insurer are not entitled to the benefit of this priority.
32 The priority set forth in this paragraph must be in lieu of any other
33 similar priority authorized by law as to wages or compensation of
34 employees.

35 (g) Residual classification, including any other claims not
36 falling within other classes pursuant to the provisions of this section.
37 Claims for a penalty or forfeiture must be allowed in this class only
38 to the extent of the pecuniary loss sustained from the act, transaction
39 or proceeding out of which the penalty or forfeiture arose, with
40 reasonable and actual costs occasioned thereby. The remainder of
41 the claims must be postponed to the class of claims specified in
42 paragraph (j).

43 (h) Judgment claims based solely on judgments. If a claimant
44 files a claim and bases the claim on the judgment and on the
45 underlying facts, the claim must be considered by the liquidator,



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1 who shall give the judgment such weight as he deems appropriate.
2 The claim as allowed must receive the priority it would receive in
3 the absence of the judgment. If the judgment is larger than the
4 allowance on the underlying claim, the remaining portion of the
5 judgment must be treated as if it were a claim based solely on a
6 judgment.

7 (i) Interest on claims already paid, which must be calculated at
8 the legal rate compounded annually on any claims in the classes
9 specified in paragraphs (a) to (h), inclusive, from the date of the
10 petition for liquidation or the date on which the claim becomes due,
11 whichever is later, until the date on which the dividend is declared.
12 The liquidator, with the approval of the court, may:

13 (1) Make reasonable classifications of claims for purposes of
14 computing interest;

15 (2) Make approximate computations; and

16 (3) Ignore certain classifications and periods as de minimis.

17 (j) Miscellaneous subordinated claims, with interest as provided
18 in paragraph (i):

19 (1) Claims subordinated by NRS 696B.430;

20 (2) Claims filed late;

21 (3) Portions of claims subordinated pursuant to the
22 provisions of paragraph (g);

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

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

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

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

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

38 **Sec. 82.5.** NRS 697.270 is hereby amended to read as follows:

39 697.270 A bail agent shall not ~~become a surety~~ *act as an*
40 *attorney-in-fact for an insurer* on an undertaking unless he has
41 registered in the office of the sheriff and with the clerk of the district
42 court in which the agent resides, and he may register in the same
43 manner in any other county. Any bail agent shall file a certified
44 copy of his appointment by power of attorney from each insurer
45 which he represents as agent with each of such officers. The bail



1 agent shall register and file a certified copy of renewed power of
2 attorney annually on July 1. The clerk of the district court and the
3 sheriff shall not permit the registration of a bail agent unless the
4 agent is licensed by the Commissioner.

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

6 697.290 Every bail agent must maintain in his office such
7 records of bail bonds, and such additional information as the
8 Commissioner may reasonably require, executed or countersigned
9 by him to enable the public to obtain all necessary information
10 concerning the bail bonds for at least ~~[1-year]~~ **3 years** after the
11 liability of the surety has been terminated. The records must be open
12 to examination by the Commissioner or his representatives at all
13 times, and the Commissioner at any time may require the licensee to
14 furnish to him, in such manner or form as he requires, any
15 information kept or required to be kept in the records.

16 **Sec. 83.5.** NRS 697.300 is hereby amended to read as follows:

17 697.300 1. A bail agent shall not, in any bail transaction or in
18 connection therewith, directly or indirectly, charge or collect money
19 or other valuable consideration from any person except for the
20 following purposes:

21 (a) To pay the premium at the rates established by the insurer, in
22 accordance with chapter 686B of NRS, or to pay the charges for the
23 bail bond filed in connection with the transaction at the rates filed in
24 accordance with the provisions of this Code. The rates must be ~~[not~~
25 ~~less than 10 percent or more than]~~ 15 percent of the amount of the
26 bond or \$50, whichever is greater.

27 (b) To provide collateral.

28 (c) To reimburse himself for actual expenses incurred in
29 connection with the transaction. Such expenses are limited to:

30 (1) Guard fees.

31 (2) Notary public fees, recording fees, expenses incurred for
32 necessary long distance telephone calls and charges for telegrams.

33 (3) Travel expenses incurred more than 25 miles from the
34 agent's principal place of business. Such expenses:

35 (I) May be billed at the rate provided for state officers and
36 employees generally; and

37 (II) May not be charged in areas where bail agents
38 advertise a local telephone number.

39 (4) Expenses incurred to verify underwriting information.

40 (5) Any other actual expenditure necessary to the transaction
41 which is not usually and customarily incurred in connection with
42 bail transactions.

43 (d) To reimburse himself, or have a right of action against the
44 principal or any indemnitor, for actual expenses incurred in good
45 faith, by reason of breach by the defendant of any of the terms of the



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1 written agreement under which and pursuant to which the
2 undertaking of bail or bail bond was written. If there is no written
3 agreement, or an incomplete writing, the surety may, at law, enforce
4 its equitable rights against the principal and his indemnitors, in
5 exoneration. Such reimbursement or right of action must not exceed
6 the principal sum of the bond or undertaking, plus any reasonable
7 expenses that may be verified by receipt in a total amount of not
8 more than the principal sum of the bond or undertaking, incurred in
9 good faith by the surety, its agents, licensees and employees by
10 reason of the principal's breach.

11 2. This section does not prevent the full and unlimited right of
12 a bail agent to execute undertaking of bail on behalf of a nonresident
13 agent of the surety he represents. The licensed resident bail agent is
14 entitled to a minimum countersignature fee of \$5, with a maximum
15 countersignature fee of \$100, plus expenses incurred in accordance
16 with paragraphs (c) and (d) of subsection 1. Such countersignature
17 fees may be charged in addition to the premium of the undertaking.

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

19 697.320 1. A bail agent may accept collateral security in
20 connection with a bail transaction if the collateral security is
21 reasonable in relation to the face amount of the bond. *The bail agent*
22 *shall not transfer the collateral to any person other than a bail*
23 *agent licensed pursuant to this chapter or a surety insurer holding*
24 *a valid certificate of authority issued by the Commissioner. The*
25 *collateral must not be transported or otherwise removed from this*
26 *state. Any person who receives the collateral:*

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

29 (b) *Shall retain, return and otherwise possess the collateral in*
30 *accordance with the provisions of this chapter.*

31 2. The collateral security must be received by the bail agent in
32 his fiduciary capacity, and before any forfeiture of bail must be kept
33 separate and apart from any other funds or assets of the licensee.
34 Any collateral received must be returned to the person who
35 deposited it with the bail agent or any assignee other than the bail
36 agent as soon as the obligation, the satisfaction of which was
37 secured by the collateral, is discharged and all fees owed to the bail
38 agent have been paid. *The bail agent or any surety insurer having*
39 *custody of the collateral shall, immediately after the bail agent or*
40 *surety insurer receives a request for return of the collateral from*
41 *the person who deposited the collateral, determine whether the*
42 *bail agent or surety insurer has received notice that the obligation*
43 *is discharged.* If the collateral is deposited to secure the obligation
44 of a bond, it must be returned ~~[within 30 days]~~ *immediately* after
45 *receipt of the request for return of the collateral and notice of the*



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1 entry of any order by an authorized official by virtue of which
2 liability under the bond is terminated or upon payment of all fees
3 owed to the bail agent, whichever is later. A certified copy of the
4 minute order from the court wherein the bail or undertaking was
5 ordered exonerated shall be deemed prima facie evidence of
6 exoneration or termination of liability.

7 3. If a bail agent *receives as collateral in a bail transaction,*
8 *whether on his or another person's behalf, any document*
9 *conveying title to real property, the bail agent shall not accept the*
10 *document unless it indicates on its face that it is executed as part*
11 *of a security transaction. If the document is recorded, the bail*
12 *agent or any surety insurer having possession of the document*
13 *shall, immediately after the bail agent or surety insurer receives a*
14 *request for return of the collateral from the person who executed*
15 *the document:*

16 (a) *Determine whether the bail agent or surety insurer has*
17 *received notice that the obligation for which the document was*
18 *accepted is discharged; and*

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

24 4. *If the amount of any collateral received in a bail*
25 *transaction exceeds the amount of any bail forfeited by the*
26 *defendant for whom the collateral was accepted, the bail agent or*
27 *any surety insurer having custody of the collateral shall,*
28 *immediately after the bail is forfeited, return to the person who*
29 *deposited the collateral the amount by which the collateral exceeds*
30 *the amount of the bail forfeited. Any collateral returned to a*
31 *person pursuant to this subsection is subject to a claim for fees, if*
32 *any, owed to the bail agent returning the collateral.*

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

36 **Sec. 85.** NRS 697.360 is hereby amended to read as follows:

37 697.360 Licensed bail agents, bail solicitors and *bail*
38 *enforcement agents, and* general agents are also subject to the
39 following provisions of this Code, to the extent reasonably
40 applicable:

41 1. Chapter 679A of NRS.

42 2. Chapter 679B of NRS.

43 3. NRS **683A.261.**

44 **4. NRS** 683A.301.

45 ~~**[4.]**~~ **5.** NRS 683A.311.



- 1 ~~[5-]~~ 6. NRS 683A.341.
2 ~~[6-]~~ 7. NRS 683A.361.
3 ~~[7-]~~ 8. NRS 683A.400.
4 ~~[8-]~~ 9. NRS 683A.451.
5 ~~[9-]~~ 10. NRS 683A.461.
6 ~~[10-]~~ 11. NRS 683A.480.
7 ~~[11-]~~ 12. NRS **683A.500.**
8 **13. NRS** 683A.520.
9 ~~[12-]~~ 14. NRS 686A.010 to 686A.310, inclusive.
10 **Sec. 85.5.** NRS 178.512 is hereby amended to read as follows:
11 178.512 The court shall not set aside a forfeiture unless:
12 1. The surety submits an application to set it aside on the
13 ground that the defendant:
14 (a) Has appeared before the court since the date of the forfeiture
15 and has presented ~~[a]~~ :
16 *(1) A satisfactory excuse for his absence; or*
17 *(2) Satisfactory evidence that the surety did not in any way*
18 *cause or aid the absence of the defendant;*
19 (b) Was dead before the date of the forfeiture but the surety did
20 not know and could not reasonably have known of his death before
21 that date;
22 (c) Was unable to appear before the court before the date of the
23 forfeiture because of his illness or his insanity, but the surety did not
24 know and could not reasonably have known of his illness or insanity
25 before that date;
26 (d) Was unable to appear before the court before the date of the
27 forfeiture because he was being detained by civil or military
28 authorities, but the surety did not know and could not reasonably
29 have known of his detention before that date; or
30 (e) Was unable to appear before the court before the date of the
31 forfeiture because he was deported, but the surety did not know and
32 could not reasonably have known of his deportation before that
33 date,
34 and the court, upon hearing the matter, determines that one or more
35 of the grounds described in this subsection exist and that the surety
36 did not in any way cause or aid the absence of the defendant; and
37 2. The court determines that justice does not require the
38 enforcement of the forfeiture.
39 **Sec. 86.** NRS 616B.318 is hereby amended to read as follows:
40 616B.318 1. The Commissioner shall impose an
41 administrative fine, not to exceed \$1,000 for each violation, and:
42 (a) Shall withdraw the certification of a self-insured employer if:
43 (1) The deposit required pursuant to NRS 616B.300 is not
44 sufficient and the employer fails to increase the deposit after he has
45 been ordered to do so by the Commissioner;



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

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

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

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

13 (2) The employer violates the provisions of subsection 2 of
14 NRS 616B.500 or any regulation adopted by the Commissioner or
15 the Administrator concerning the administration of the employer's
16 plan of self-insurance; or

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

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

23 3. The Commissioner may, upon the written request of an
24 employer whose certification as a self-insured employer is
25 withdrawn pursuant to subparagraph (3) of paragraph (a) of
26 subsection 1, reinstate the employer's certificate for a reasonable
27 period to allow the employer sufficient time to provide industrial
28 insurance for his employees.

29 *4. The Commissioner may authorize an employer to retain his*
30 *certification as a self-insured employer during the pendency of a*
31 *proceeding specified in subparagraph (3) of paragraph (a) of*
32 *subsection 1 if the employer establishes to the satisfaction of the*
33 *Commissioner that the employer is able to pay all claims for*
34 *compensation during the pendency of the proceeding.*

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

36 616B.336 1. Each self-insured employer shall furnish audited
37 financial statements, certified by an auditor licensed to do business
38 in this state, to the Commissioner ~~[of Insurance annually.]~~ *annually*
39 *within 120 days after the expiration of the self-insured employer's*
40 *fiscal year.*

41 2. The Commissioner ~~[of Insurance]~~ may examine the records
42 and interview the employees of each self-insured employer as often
43 as he deems advisable to determine the adequacy of the deposit
44 which the employer has made with the Commissioner, the
45 sufficiency of reserves and the reporting, handling and processing of



1 injuries or claims. The Commissioner shall examine the records for
2 that purpose at least once every 3 years. The self-insured employer
3 shall reimburse the Commissioner for the cost of the examination.

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

5 616B.359 1. The Commissioner shall grant or deny an
6 application for certification as an association of self-insured public
7 or private employers within 60 days after receiving the application.
8 If the application is materially incomplete or does not comply with
9 the applicable provisions of the law, the Commissioner shall notify
10 the applicant of the additional information or changes required.
11 Under such circumstances, if the Commissioner is unable to act
12 upon the application within this 60-day period, he may extend the
13 period for granting or denying the application, but for not longer
14 than an additional 90 days.

15 2. Upon determining that an association is qualified as an
16 association of self-insured public or private employers, the
17 Commissioner shall issue a certificate to that effect to the
18 association and the Administrator. No certificate may be issued to
19 an association that, within the 2 years immediately preceding its
20 application, has had its certification as an association of self-insured
21 public or private employers involuntarily withdrawn by the
22 Commissioner.

23 3. A certificate issued pursuant to this section must include,
24 without limitation:

- 25 (a) The name of the association;
26 (b) The name of each employer who the Commissioner
27 determines is a member of the association at the time of the issuance
28 of the certificate;
29 (c) An identification number assigned to the association by the
30 Commissioner; and
31 (d) The date on which the certificate was issued.

32 4. A certificate issued pursuant to this section remains in effect
33 until withdrawn by the Commissioner or cancelled at the request of
34 the association. Coverage for an association granted a certificate
35 becomes effective on the date of certification or the date specified in
36 the certificate.

37 5. The Commissioner shall not grant a request to cancel a
38 certificate unless the association has insured or reinsured all
39 incurred obligations with an insurer authorized to do business in this
40 state pursuant to an agreement filed with and approved by the
41 Commissioner. The agreement must include coverage for actual
42 claims and claims ~~filed with the association~~ *incurred* but not
43 reported, and the expenses associated with those claims.



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1 **Sec. 89.** NRS 616B.386 is hereby amended to read as follows:
2 616B.386 1. If an employer wishes to become a member of
3 an association of self-insured public or private employers, the
4 employer must:
5 (a) Submit an application for membership to the board of
6 trustees or third-party administrator of the association; and
7 (b) Enter into an indemnity agreement as required by
8 NRS 616B.353.
9 2. The membership of the applicant becomes effective when
10 each member of the association approves the application or on a
11 later date specified by the association. The application for
12 membership and the action taken on the application must be
13 maintained as permanent records of the board of trustees.
14 3. Each member who is a member of an association during the
15 12 months immediately following the formation of the association
16 must:
17 (a) Have a tangible net worth of at least \$500,000; or
18 (b) Have had a reported payroll for the previous 12 months
19 which would have resulted in a manual premium of at least \$15,000,
20 calculated in accordance with a manual prepared pursuant to
21 subsection 4 of NRS 686B.1765.
22 4. An employer who seeks to become a member of the
23 association after the 12 months immediately following the formation
24 of the association must meet the requirement set forth in paragraph
25 (a) or (b) of subsection 3 unless the Commissioner adjusts the
26 requirement for membership in the association after conducting an
27 annual review of the actuarial solvency of the association pursuant
28 to subsection 1 of NRS 616B.353.
29 5. An association of self-insured private employers may apply
30 to the Commissioner for authority to determine the amount of
31 tangible net worth and manual premium that an employer must have
32 to become a member of the association. The Commissioner shall
33 approve the application if the association:
34 (a) Has been certified to act as an association for at least the 3
35 consecutive years immediately preceding the date on which the
36 association filed the application with the Commissioner;
37 (b) Has a combined tangible net worth of all members in the
38 association of at least \$5,000,000;
39 (c) Has at least 15 members; and
40 (d) Has not been required to meet informally with the
41 Commissioner pursuant to subsection 1 of NRS 616B.431 during
42 the 18-month period immediately preceding the date on which the
43 association filed the application with the Commissioner or, if the
44 association has been required to attend such a meeting during that



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1 period, has not had its certificate withdrawn before the date on
2 which the association filed the application.

3 6. An association of self-insured private employers may apply
4 to the Commissioner for authority to determine the documentation
5 demonstrating solvency that an employer must provide to become a
6 member of the association. The Commissioner shall approve the
7 application if the association:

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

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

13 (c) Has at least 15 members.

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

18 8. A member of an association may terminate his membership
19 at any time. To terminate his membership, a member must submit to
20 the association's administrator a notice of intent to withdraw from
21 the association at least 120 days before the effective date of
22 withdrawal. The ~~[association's administrator shall, within 10 days~~
23 ~~after receipt of the notice, notify the Commissioner of the~~
24 ~~employer's] notice of~~ intent to withdraw ~~[from the association.]~~
25 *must include a statement indicating that the member has:*

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

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

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

31 9. The members of an association may cancel the membership
32 of any member of the association in accordance with the bylaws of
33 the association.

34 10. The association shall:

35 (a) Within 30 days after the addition of an employer to the
36 membership of the association, notify the Commissioner of the
37 addition and:

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

43 (2) If the association has received authority from the
44 Commissioner pursuant to subsection 5 or 6, as applicable, provide
45 to the Commissioner evidence that is satisfactory to the



1 Commissioner that the new member is a member or associate
2 member of the bona fide trade association as required pursuant to
3 paragraph (a) of subsection 2 of NRS 616B.350, a copy of the
4 indemnity agreement that jointly and severally binds the new
5 member, the other members of the association and the association
6 that is required to be executed pursuant to paragraph (a) of
7 subsection 1 of NRS 616B.353 and any other information the
8 Commissioner may reasonably require to determine whether the
9 amount of security deposited with the Commissioner pursuant to
10 paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient,
11 but such information must not exceed the information required to be
12 provided to the Commissioner pursuant to subparagraph (1);

13 (b) Notify the Commissioner and the Administrator of the
14 termination or cancellation of the membership of any member of the
15 association within 10 days after the termination or cancellation; and

16 (c) At the expense of the member whose membership is
17 terminated or cancelled, maintain coverage for that member for 30
18 days after **a** notice is given pursuant to paragraph (b), unless the
19 association first receives notice from the Administrator that the
20 member has:

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

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

25 (3) Become insured by a private carrier.

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

30 12. An association is liable for the payment of any
31 compensation required to be paid by a member of the association
32 pursuant to chapters 616A to 616D, inclusive, or chapter 617 of
33 NRS during his period of membership. The insolvency or
34 bankruptcy of a member does not relieve the association of liability
35 for the payment of the compensation.

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

37 616B.404 1. An association of self-insured public or private
38 employers shall file with the Commissioner an audited statement of
39 financial condition prepared by an independent certified public
40 accountant. The statement must be filed on or before ~~{April}~~ **May** 1
41 of each year or within ~~{90}~~ **120** days after the conclusion of the
42 association's fiscal year ~~{}~~ and **must** contain information for the
43 previous fiscal year.

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



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- 1 (a) A statement of the reserves for:
2 (1) Actual claims and expenses;
3 (2) Claims ~~{filed with the association}~~ *incurred* but not
4 reported, and the expenses associated with those claims;
5 (3) Assessments that are due, but not paid; and
6 (4) Unpaid debts, which must be shown as liabilities.
7 (b) An actuarial opinion regarding reserves that is prepared by a
8 member of the American Academy of Actuaries or another
9 specialist in loss reserves identified in the annual statement adopted
10 by the National Association of Insurance Commissioners. The
11 actuarial opinion must include a statement of:
12 (1) Actual claims and the expenses associated with those
13 claims; and
14 (2) Claims ~~{filed with the association}~~ *incurred* but not
15 reported, and the expenses associated with those claims.
16 3. The Commissioner may adopt a uniform financial reporting
17 system for associations of self-insured public and private employers
18 to ensure the accurate and complete reporting of financial
19 information.
20 4. The Commissioner may require the filing of such other
21 reports as he deems necessary to carry out the provisions of this
22 section, including, without limitation:
23 (a) Audits of the payrolls of the members of an association of
24 self-insured public or private employers;
25 (b) Reports of losses; and
26 (c) Quarterly financial statements.
27 **Sec. 91.** NRS 616B.413 is hereby amended to read as follows:
28 616B.413 1. If the assets of an association of self-insured
29 public or private employers exceed the amount necessary for the
30 association to:
31 (a) Pay its obligations and administrative expenses;
32 (b) Carry reasonable reserves; and
33 (c) Provide for contingencies,
34 the board of trustees of the association may, after obtaining the
35 approval of the Commissioner, declare and distribute dividends to
36 the members of the association.
37 2. Any dividend declared pursuant to subsection 1 must be
38 distributed not less than 12 months after the end of the ~~{fiscal}~~ *fund*
39 year.
40 3. A dividend may be paid only to those members who are
41 members of the association for the entire ~~{fiscal}~~ *fund* year. The
42 payment of a dividend must not be conditioned upon the member
43 continuing his membership in the association after the ~~{fiscal}~~ *fund*
44 year.



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1 4. An association shall give to each prospective member of the
2 association a written description of its plan for distributing
3 dividends when he applies for membership in the association.

4 **Sec. 92.** (Deleted by amendment.)

5 **Sec. 93.** NRS 616B.419 is hereby amended to read as follows:

6 616B.419 Each association of self-insured public or private
7 employers shall maintain:

8 1. Actuarially appropriate loss reserves. Such reserves must
9 include reserves for:

10 (a) Actual claims and the expenses associated with those claims;
11 and

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

14 2. Reserves for uncollected debts based on the experience of
15 the association or other associations.

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

17 616B.422 1. If the assets of an association of self-insured
18 public or private employers are insufficient to make certain the
19 prompt payment of all compensation under chapters 616A to 617,
20 inclusive, of NRS and to maintain the reserves required by NRS
21 616B.419, the association shall immediately notify the
22 Commissioner of the deficiency and:

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

25 (b) Transfer money from its administrative account to its claims
26 account;

27 (c) Collect an additional assessment from its members in an
28 amount required to make up the deficiency; or

29 (d) Take any other action to make up the deficiency which is
30 approved by the Commissioner.

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

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

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

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

42 **Sec. 95.** The amendatory provisions of sections 56.7 and 56.9
43 of this act:

44 1. Do not apply to any contract of annuity that is delivered or
45 issued for delivery in this state before October 1, 2003.



1 2. Do not apply to any contract of annuity that is delivered or
2 issued for delivery in this state on or after October 1, 2003, and
3 before October 1, 2005, unless the company elects to incorporate the
4 substance of those amendatory provisions into the contract.

5 3. Apply to any contract of annuity that is delivered or issued
6 for delivery in this state on or after October 1, 2005.

7 **Sec. 96.** 1. The Governor or his designee shall conduct a
8 study of the feasibility and potential benefits of consolidating the
9 powers and duties of the Division of Insurance of the Department of
10 Business and Industry and the Division of Industrial Relations of the
11 Department of Business and Industry into a single division within
12 the Department of Business and Industry.

13 2. The study must include, without limitation:

14 (a) An assessment of whether such a consolidation would
15 increase administrative efficiency, improve regulation and result in
16 cost savings.

17 (b) An assessment of whether such a consolidation would
18 benefit the businesses and industries regulated by the Division of
19 Insurance and the Division of Industrial Relations.

20 3. Not later than October 1, 2004, the Governor or his designee
21 shall prepare a report that contains the findings of the study and
22 submit the report and any recommendations for legislation to the
23 Director of the Legislative Counsel Bureau for transmittal to:

24 (a) The Senators who served as members of the Senate Standing
25 Committee on Commerce and Labor during the 72nd Session of the
26 Nevada Legislature;

27 (b) The Assemblymen who served as members of the Assembly
28 Standing Committee on Commerce and Labor during the 72nd
29 Session of the Nevada Legislature; and

30 (c) Any other Senators or Assemblymen upon request.

31 **Sec. 97.** 1. This section and section 96 of this act become
32 effective upon passage and approval.

33 2. Sections 3.3 and 3.7 of this act become effective:

34 (a) Upon passage and approval of this act, if Assembly Bill No.
35 79 of this session is enacted into law before passage and approval of
36 this act; or

37 (b) Upon passage and approval of Assembly Bill No. 79 of this
38 session, if Assembly Bill No. 79 of this session is enacted into law
39 after passage and approval of this act.

40 3. Sections 56.7 and 56.9 of this act become effective on
41 July 1, 2003, for the purpose of adopting regulations and on
42 October 1, 2003, for all other purposes.



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1 4. Sections 1, 2, 3, 4 to 56.5, inclusive, and 57 to 95, inclusive,
2 of this act become effective on October 1, 2003.

