SENATE BILL NO. 176–SENATORS BEERS, RHOADS, HARDY, CEGAVSKE, RAGGIO, AMODEI, CARE, HECK, MCGINNESS, TIFFANY AND WASHINGTON

MARCH 10, 2005

JOINT SPONSORS: ASSEMBLYMEN CONKLIN, SHERER, CARPENTER, CHRISTENSEN, GANSERT, GRADY, HARDY, MARVEL AND SIBLEY

Referred to Committee on Commerce and Labor

SUMMARY—Eliminates premium tax on annuities. (BDR 57-1010)

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; eliminating the premium tax on annuities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an annual 3.5 percent general premium tax on an insurer based upon its net direct premiums and net direct considerations written. (NRS 680B.027) Existing law provides for an exemption from the tax for premiums written and considerations received from certain annuity contracts issued in connection with the funding of certain pensions, annuities or profit-sharing plans. (NRS 680B.025)

This bill expands the exemption to include premiums written or considerations received from any other annuity contract. As a result, this bill eliminates the premium tax on annuities.

* S B 1 7 6 *

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

Section 1. NRS 680A.070 is hereby amended to read as follows:

680A.070 A certificate of authority is not required of an insurer with respect to any of the following:

1. Investigation, settlement or litigation of claims under its policies lawfully written in this State, or liquidation of assets and liabilities of the insurer, other than collection of new premiums, all as resulting from its former authorized operations in this State.

2. Except as otherwise provided in subsection 2 of NRS 680A.060, transactions thereunder after issuance of a policy covering only subjects of insurance that are not resident, located or expressly to be performed in this State at the time of issuance, and lawfully solicited, written and delivered outside this State.

3. Prosecution or defense of suits at law, except that no insurer unlawfully transacting insurance in this State without a certificate of authority may institute or maintain, other than defend, any action at law or in equity in any court of this State, either directly or through an assignee or successor in interest, to enforce any right, claim or demand arising out of such an insurance transaction until the insurer, assignee or successor has obtained a certificate of authority. This provision does not apply to any suit or action by the receiver, rehabilitator or liquidator of such an insurer, assignee or successor under laws similar to those contained in chapter 696B of NRS.

4. Transactions pursuant to surplus lines coverages lawfully written under chapter 685A of NRS.

5. A suit, action or proceeding for the enforcement or defense of its rights relative to its investments in this State.

6. Reinsurance, except as to a domestic reinsurer or the reinsurance of a domestic insurer, unless the reinsurance is authorized pursuant to subsection 1 of NRS 681A.110.

7. Transactions in this State involving group life insurance, group health or blanket health insurance, or group annuities where the master policy or contract of such groups was lawfully solicited, issued and delivered pursuant to the laws of a state in which the insurer was authorized to transact insurance, to a group organized for purposes other than the procurement of insurance or to a group approved pursuant to NRS 688B.030 or 689B.026, and where the policyholder is domiciled or otherwise has a bona fide situs.

8. The issuance of annuities by an affiliate of an authorized insurer if the affiliate:

(a) Is approved by the Commissioner;

(b) Is organized as a nonprofit educational corporation; ***and***

(c) Issues annuities only to nonprofit institutions of education and research ***.*** ~~[; and~~

~~(d) Reports and pays any premium tax on the annuities required pursuant to chapter 680B of NRS.]~~

9. Transactions, other than for workers' compensation insurance or for industrial insurance provided pursuant to chapters 616A to 617, inclusive, of NRS, involving the procurement of excess liability insurance above underlying liability coverage or self-insured retention of at least $25,000,000, if procured from an unauthorized alien or foreign insurer who does not solicit, negotiate or enter into such transactions in this State by any means, and if procured by a person:

(a) Whose total annual premiums for property and casualty insurance, not including workers' compensation or industrial insurance, is $1,000,000 or more; and

(b) Who employs 250 or more full-time employees.

➥ A person who procures insurance in accordance with this subsection shall report and pay any premium tax on the insurance required pursuant to NRS 680B.040.

Sec. 2. NRS 680B.025 is hereby amended to read as follows:

680B.025 For the purposes of NRS 680B.025 to 680B.039, inclusive ~~[:~~

~~1. "Total]~~ ***, "total*** income derived from direct premiums written":

~~[(a)]~~ ***1.*** Does not include premiums written or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a pension, annuity or profit-sharing plan qualified or exempt pursuant to sections 401, 403, 404, 408, 457 or 501 of the United States Internal Revenue Code as renumbered from time to time.

~~[(b)]~~ ***2. Does not include premiums written or considerations received from any other annuity contract, including, without limitation, money accepted by a life insurer pursuant to an agreement which provides for an accumulation of money to purchase annuities at future dates.***

3. Does not include payments received by an insurer from the Secretary of Health and Human Services pursuant to a contract entered into pursuant to section 1876 of the Social Security Act, 42 U.S.C. § 1395mm.

~~[(c)]~~ ***4.*** As to title insurance, consists of the total amount charged by the company for the sale of policies of title insurance.

~~[2. Money accepted by a life insurer pursuant to an agreement which provides for an accumulation of money to purchase annuities at future dates may be considered as "total income derived from direct premiums written" either upon receipt or upon the actual~~

~~application of the money to the purchase of annuities, but any interest credited to money accumulated while under the latter alternative must also be included in "total income derived from direct premiums written," and any money taxed upon receipt, including any interest later credited thereto, is not subject to taxation upon the purchase of annuities. Each life insurer shall signify on its return covering premiums for the calendar year 1971 or for the first calendar year it transacts business in this State, whichever is later, its election between those two alternatives. Thereafter an insurer shall not change his election without the consent of the Commissioner. Any such money taxed as "total income derived from direct premiums written" is, in the event of withdrawal of the money before its actual application to the purchase of annuities, eligible to be included as "return premiums" pursuant to the provisions of NRS 680B.030.]~~

Sec. 3. NRS 680B.030 is hereby amended to read as follows:

680B.030 1. Each insurer and each formerly authorized insurer with respect to insurance transacted while an authorized insurer and property bondsman shall, on or before March 15 of each year, or within any reasonable extension of time therefor which the Executive Director of the Department of Taxation may for good cause have granted on or before that date, file with the Department of Taxation a report in such form as prescribed by the Executive Director of the Department of Taxation in cooperation with the Commissioner, showing total income derived from direct premiums written, including policy, membership and other fees and assessments, and all other considerations for insurance ~~[, bail or annuity]~~ ***or bail*** contracts written during the next preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this State, with proper proportionate allocation of premiums as to such persons, property, subjects or risks in this State insured under policies and contracts covering persons, property, subjects or risks located or resident in more than one state, after deducting from the total income derived from direct premiums written:

(a) The amount of return premiums; and

(b) Dividends, savings and unabsorbed premium deposits returned to policyholders in cash or credited to their accounts.

2. The report must be:

(a) Accompanied by a payment made payable to the Department of Taxation in an amount equal to all of the tax required to be paid on net direct premiums and net direct considerations written during the preceding calendar year, less any quarterly payments made for the same period pursuant to NRS 680B.032; and

(b) Verified by the oath or affirmation of the insurer's president, vice president, secretary, treasurer or manager.

Sec. 4. This act becomes effective on July 1, 2005.