

CHAPTER.....

AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; revising various provisions governing industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) **Sections 1.3 and 2** of this bill require such a business organization to report to the Commissioner of Insurance when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) **Section 7** of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) **Section 16** of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250, 694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. **Section 19** of this bill increases the required levels of such capital and surplus. **Section 23** of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an



insurer to claimants against the insurer. (NRS 696B.420) **Section 27** of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines "tangible net worth" for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) **Section 29** of this bill removes most of the exceptions.

Existing law provides that an employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans. (NRS 616B.691) **Section 30.8** of this bill clarifies that such a company shall be deemed to be the employer for the purposes of the Employee Retirement Income Security Act of 1974 (ERISA). **Section 30.8** also clarifies the prohibition against such a company offering a self-funded industrial insurance program.

Existing law authorizes the Commissioner to appoint two deputies. **Section 31** of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) **Section 32** of this bill repeals that requirement.

Chapter 616B of NRS governs providers of industrial insurance. Under existing law, certain employers and associations of employers may qualify as self-insurers. (NRS 616B.300, 616B.353, 616B.386) **Section 29.5** of this bill requires associations of self-insured public and private employees to provide to members certain information regarding claims at the request of the member. **Sections 29.7, 29.8 and 30** of this bill provide specific fiscal requirements for qualification as a self-insured employer or an association of self-insured public or private employers.

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

Section 1. (Deleted by amendment.)

Sec. 1.03. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those



regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~[The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.~~

~~—4.]~~ The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as *otherwise* provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders, ~~and~~ other than a parent corporation, ~~and~~ the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~[policy]~~:

(1) *Policy* loans authorized under NRS 682A.170 ~~and~~; or

(2) *Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the*



board of directors of the insurer and which conform to the standards set forth in NRS 682A.230.

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. *1. A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.*

2. A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.

3. If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.

Sec. 1.5. *1. If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:*

(a) Any fee to include the name of the provider of health care on the panel; or



(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.

3. A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.

4. In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, *and section 1.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

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

(a) ~~[Except as otherwise provided in this paragraph, a]~~ A financial statement of the administrator that has been ~~[audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been]~~ reviewed by an independent certified public accountant. ~~[if:~~

~~—— (1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~



~~— (2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.]~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

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

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

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

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

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

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

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

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

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

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

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

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to



issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

- (a) Attained the age of 18 years;
- (b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;
- (c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;
- (d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and
- (e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

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

- (a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~{and}~~

- (b) Designated a natural person who is licensed as a producer of insurance and who is ~~{affiliated with}~~ *authorized to transact business on behalf of* the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~{-}; and~~

- (c) *If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.*

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.



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

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the



Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~{affiliation with}~~ *authorization to transact business on behalf of* a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

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

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

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or



residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

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

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

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

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

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing



of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

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

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

2. The provisions of this section do not apply to *a change in the rate for a policy of industrial insurance* ~~[-]~~ *which is based on:*

(a) *A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or*

(b) *A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.*

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[-, a person]~~ *or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or*



otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. *Except as otherwise provided in subsection 2:*

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~(2)~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~(3)~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) *To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and*

(b) *Not to collect any money from the purchaser of a prepaid contract.*

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~(2)~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.



~~[3-]~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~[4-]~~ (d) Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[, a person]~~ *or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or* promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. *Except as otherwise provided in subsection 2:*



(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~(2)~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~(3)~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. The Commissioner may waive the requirements of subsection 1 if the seller agrees:

(a) To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and

(b) Not to collect any money from the purchaser of a prepaid contract.

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~(2)~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~(3)~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their



money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~[4.—Except]~~

(d) The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~[the trustees shall]~~ maintain the trust fund intact and unimpaired and ~~[shall]~~ not make any payment or disbursement from the trust fund.

2. The requirements of subsection 1 do not apply if:

(a) The prepaid contract is payable solely from the proceeds of a policy of life insurance; and

(b) The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. “Health benefit plan” means a policy ~~for certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.~~, *contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services.* Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~[.]~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers’ compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;



(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

(a) Limited-scope dental or vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

(a) Coverage that is only for a specified disease or illness; and

(b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~or~~ *or the product offered.*



2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall, within 45 days after ~~[a claim is closed under the policy,]~~ *the end of a calendar quarter*, submit a report to the Commissioner concerning ~~[the claim.]~~ *each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter.* The report must include, without limitation:

(a) The name and address of the claimant and the insured under ~~[the]~~ *each* policy;

(b) A statement setting forth the circumstances of ~~[the]~~ *that* case;

(c) Information indicating whether any payment was made on ~~[the]~~ *a* claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144 ~~[.]~~ *for each claim.*

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

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.



Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 **1.** “Service contract” means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~1-1~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~1-2~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS **683A.321, 683A.331, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520** apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 **1.** A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital **or surplus** required to be maintained pursuant to subsection 3, unimpaired paid-in capital **and unencumbered surplus** of:

(a) For a pure captive insurer, not less than ~~[\$100,000;]~~ **\$200,000;**

(b) For an association captive insurer, ~~[incorporated as a stock insurer;]~~ not less than ~~[\$200,000;]~~ **\$500,000;**

(c) For an agency captive insurer, not less than ~~[\$300,000;]~~ **\$600,000;**

(d) For a rental captive insurer, not less than ~~[\$400,000;]~~ **\$800,000;** and

(e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ **\$500,000.**



2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital *and surplus* required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital *or surplus* based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~H~~ *and surplus*, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital *and surplus* required pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

(1) Is insolvent or has impaired its required capital or surplus;

(2) Has failed to meet a requirement of NRS 694C.250, ~~{694C.260,}~~ 694C.320 or 694C.330;

(3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;

(4) Has failed to comply with the provisions of its charter or bylaws;

(5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the laws of this State; and



(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(a) Is first approved in writing by the Commissioner;

(b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~for subsection 1 of NRS 694C.260.~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~and 694C.260.~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its



reinsurer to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, ~~for~~ rental captive insurer *or sponsored captive insurer* shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once:~~
~~—(a) Every 6 months for the first~~ *not less frequently than once every* 3 years, ~~[after an organization for dental care receives its certificate of authority; and~~
~~—(b) Each year thereafter,~~
~~↪]~~ conduct an examination of ~~[the]~~ *an* organization *for dental care* pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting



business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~2~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.



5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ *commenced must be filed in the manner and form established by the receiver and* set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ *that* amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims ~~shall~~ *must* be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~shall~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~shall~~ *must* be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~[-]~~ *or as directed by the court.*

3. ~~[Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

~~4. At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.]~~
Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:



(a) *Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and*

(b) *If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.*

4. *The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.*

5. *The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.*

6. *The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.*

7. *Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.*

8. *If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:*

(a) *Be sent to the claimant by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and*

(b) *Specify the time and place of the hearing.*

9. *A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.*

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the



following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS 683A.261.
4. NRS 683A.301.
5. NRS 683A.311.
6. *NRS 683A.331.*
7. NRS 683A.341.
- ~~[7.]~~ 8. NRS 683A.361.
- ~~[8.]~~ 9. NRS 683A.400.
- ~~[9.]~~ 10. NRS 683A.451.
- ~~[10.]~~ 11. NRS 683A.461.
- ~~[11.]~~ 12. NRS 683A.480.
- ~~[12.]~~ 13. NRS 683A.500.
- ~~[13.]~~ 14. NRS 683A.520.
- ~~[14.]~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 “Association of self-insured private employers” means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~[1]~~, *and section 29.5 of this act.*

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 “Association of self-insured public employers” means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~[1]~~, *and section 29.5 of this act.*

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 “Tangible net worth” means *the value of* all ~~[of]~~ the assets, *minus the value of all the liabilities*, of an association of self-insured private employers or of a member of such an association except:

1. ~~[Accounts receivable, if they are factored or collateralized.]~~
- ~~— 2. An inventory, except one held for resale and not collateralized.~~
- ~~— 3. A prepaid expense.~~
- ~~— 4. An unqualified investment.~~
- ~~— 5. An allocated bond fund.~~
- ~~— 6. An investment in an affiliate.~~



- ~~7. A restricted fund.~~
- ~~8. A reserve.~~
- ~~9. A security cost, such as a capitalized bond cost.~~
- ~~10. A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.~~
- ~~11. A contingency or commitment, including any estimated cost.~~
- ~~12. Any book adjustment caused by a change in an accounting policy or a restatement.~~
- ~~13.]~~ Goodwill or excess cost over the fair market value of assets.

~~[14.]~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify *and remain qualified* as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. *For the purposes of this subsection, an employer has sufficient financial resources if:*

(a) At the time of initial qualification and until the employer has operated successfully as a qualified self-insured employer for 3 years, as determined by the Commissioner, the employer has a tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) After 3 years of successful operation as a qualified self-insured employer, as determined by the Commissioner, the employer has net cash flows from operating activities plus net cash



flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured



Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

- (1) The number of members in the association;
- (2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;
- (3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;
- (4) The number of years the association has been in existence; and
- (5) Such other information as the Commissioner deems necessary.

➡ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond



must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall : ~~maintain a~~

(a) At the time of initial qualification and until the association has operated successfully as a qualified association of self-insured private employers for 3 years, as determined by the Commissioner, have a combined tangible net worth of all members in the association of at least \$2,500,000 ~~[-]~~, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) After 3 years of successful operation as a qualified association of self-insured private employers, as determined by the Commissioner, have combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least \$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.



6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

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

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

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

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

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

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

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

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



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

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

(b) Has ~~at least~~, *as determined by the Commissioner, either:*

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

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

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

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

(b) Has ~~at least~~, *as determined by the Commissioner, either:*

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

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



8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

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

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

(c) Become insured by a private carrier.

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

10. The association shall:

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

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

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

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

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~30~~



60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

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

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

(3) Become insured by a private carrier.

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

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

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, *and section 29.5 of this act*, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, *and section 29.5 of this act*, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

(a) The association's certificate was obtained by fraud;



(b) The application for certification contained a material misrepresentation;

(c) The association is found to be insolvent;

(d) The association fails to have five or more members;

(e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;

(g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or

(h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~[]~~, *and section 29.5 of this act.*

Sec. 30.8. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive, of NRS, an employee leasing company which complies with the provisions of NRS 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the employees it leases to a client company.

2. ~~[Aa]~~ *If an employee leasing company complies with the provisions of subsection 3, the* employee leasing company shall be deemed to be the employer of its leased employees for the purposes of sponsoring and maintaining any benefit plans ~~[]~~, *including, without limitation, for the purposes of the Employee Retirement Income Security Act of 1974.*



3. An employee leasing company shall not offer its employees any self-funded **industrial** insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS . ~~for pursuant to title 57 of NRS.~~

4. If an employee leasing company fails to:

- (a) Pay any contributions, premiums, forfeits or interest due; or
- (b) Submit any reports or other information required,

↳ pursuant to this chapter or chapter 612, 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 31. NRS 232.825 is hereby amended to read as follows:
232.825 The Commissioner:

1. May appoint ~~two~~ **three** deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

