

Amendment No. 524

Senate Amendment to Senate Bill No. 388

(BDR 57-1131)

Proposed by: Senate Committee on Finance**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will ADD a 2/3s majority vote requirement for final passage of S.B. 388 (§ 0.4).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

AM/BJE



Date: 4/20/2009

S.B. No. 388—Revises provisions relating to insurance. (BDR 57-1131)



SENATE BILL NO. 388—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to insurance. (BDR 57-1131)

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; creating the Fund for Insurance Administration and Enforcement; providing for new fees related to the Nevada Insurance Code; revising provisions relating to the Division of Insurance of the Department of Business and Industry, insurers, contracts or policies of insurance, viatical settlements, health insurance and employee leasing companies; revising provisions related to the Federal Deposit Insurance Corporation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 0.2-0.6 of this bill create: (1) the Fund for Insurance Administration and Enforcement as an enterprise fund to carry out the provisions of the Nevada Insurance Code; and (2) new fees to provide money for the Fund.

Section 3 of this bill eliminates certain restrictions on out-of-state insurers. (NRS 680A.300)

Sections 7-9 of this bill require certain insurers to comply with newly enacted federal acts.

Section 10 of this bill authorizes insurers to include certain statements in policies of insurance.

Sections 12-58 and 72-77 of this bill revise provisions relating to viatical settlements.

Sections 61-64 of this bill make mandatory the provision of coverage for certain conditions by group health insurance for small employers.

Sections 59, 65 and 70 of this bill revise provisions relating to reviews and examinations by the Commissioner of Insurance.

Section 78 of this bill revises provisions relating to employee leasing companies.

Sections 78.3 and 78.7 of this bill revise provisions related to the Federal Deposit Insurance Corporation.

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

Sec. 0.2. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 0.4 and 0.6 of this act.

Sec. 0.4. 1. The Fund for Insurance Administration and Enforcement is hereby created in the State Treasury as an enterprise fund.

2. The Fund must be used solely to carry out the provisions of this Code.

3. The State Treasurer shall invest the money in the Fund in the same manner and in the same securities in which he is authorized to invest state general funds which are in his custody. Income realized from the investment of the assets of the Fund must be credited to the Fund.

Sec. 0.6. 1. In addition to any other fee or charge provided for pursuant to this Code, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) Paid on a date to be determined by the Commissioner;

(b) Prorated by the Commissioner as appropriate; and

(c) Deposited in the Fund for Insurance Administration and Enforcement created by section 0.4 of this act.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons, as regulated by this Code, to the Commissioner:

(a) Insurers not otherwise provided for in this subsection:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(b) Reinsurers, as defined in NRS 681A.370, and accredited reinsurers, as provided for in NRS 681A.160:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(c) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee \$60

(2) Triennial fee \$60

(d) Eligible surplus line insurers, as provided for in NRS 685A.070:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(e) Companies, as defined in NRS 686A.330:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(f) Rate service organizations, as defined in NRS 686B.020:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(g) Providers, as defined in NRS 690C.070:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(h) Fraternal benefit societies, as defined in NRS 695A.010:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(i) Nonprofit corporations for medical services subject to the provisions of chapter 695B of NRS:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

1	<u>(j) Health maintenance organizations, as defined in NRS 695C.030:</u>	
2	(1) Initial fee	\$1,300
3	(2) Annual fee	\$1,300
4	<u>(k) Organizations for dental care, as defined in NRS 695D.060:</u>	
5	(1) Initial fee	\$1,300
6	(2) Annual fee	\$1,300
7	<u>(l) Purchasing groups, as defined in NRS 695E.100:</u>	
8	(1) Initial fee	\$250
9	(2) Annual fee	\$250
10	<u>(m) Prepaid limited health service organizations, as defined</u>	
11	<u>in NRS 695F.050:</u>	
12	(1) Initial fee	\$1,300
13	(2) Annual fee	\$1,300
14	<u>(n) Medical discount plans, as defined in NRS 695H.050:</u>	
15	(1) Initial fee	\$1,300
16	(2) Annual fee	\$1,300
17	<u>(o) Motor clubs, as defined in NRS 696A.050:</u>	
18	(1) Initial fee	\$1,300
19	(2) Annual fee	\$1,300
20	<u>(p) Risk retention groups, as defined in NRS 695E.110:</u>	
21	(1) Initial fee	\$250
22	(2) Annual fee	\$250
23	<u>(q) Captive insurers, as defined in NRS 694C.060:</u>	
24	(1) Initial fee	\$250
25	(2) Annual fee	\$250
26	<u>(r) Sellers of prepaid funeral contracts subject to the provisions</u>	
27	<u>of chapter 689 of NRS:</u>	
28	(1) Initial fee	\$60
29	(2) Triennial fee	\$60
30	<u>(s) Bail agents, as defined in NRS 697.040:</u>	
31	(1) Initial fee	\$60
32	(2) Triennial fee	\$60
33	<u>(t) Bail enforcement agents, as defined in NRS 697.055:</u>	
34	(1) Initial fee	\$60
35	(2) Triennial fee	\$60
36	<u>(u) General agents, as defined in NRS 697.070:</u>	
37	(1) Initial fee	\$60
38	(2) Triennial fee	\$60
39	<u>(v) Bail solicitors, as defined in NRS 697.060:</u>	
40	(1) Initial fee	\$60
41	(2) Triennial fee	\$60
42	<u>(w) Brokers, as defined in NRS 685A.030:</u>	
43	(1) Initial fee	\$60
44	(2) Triennial fee	\$60
45	<u>(x) Managing general agents, as defined in NRS 683A.060:</u>	
46	(1) Initial fee	\$60
47	(2) Triennial fee	\$60
48	<u>(y) Independent and public adjusters, as defined in NRS 684A.030:</u>	
49	(1) Initial fee	\$60
50	(2) Triennial fee	\$60
51	<u>(z) Associate adjusters, as defined in NRS 684A.030:</u>	
52	(1) Initial fee	\$60
53	(2) Triennial fee	\$60

1	<u>(aa) Motor vehicle physical damage appraisers, as defined in</u>	
2	<u>NRS 684B.010:</u>	
3	(1) Initial fee	\$60
4	(2) Triennial fee	\$60
5	<u>(bb) Administrators, as defined in NRS 683A.025:</u>	
6	(1) Initial fee	\$60
7	(2) Triennial fee	\$60
8	<u>(cc) Title agents, as defined in NRS 692A.060:</u>	
9	(1) Initial fee	\$60
10	(2) Triennial fee	\$60
11	<u>(dd) Escrow officers, as defined in NRS 692A.028:</u>	
12	(1) Initial fee	\$60
13	(2) Triennial fee	\$60
14	<u>(ee) Agents for prepaid funeral contracts subject to the provisions</u>	
15	<u>of chapter 689 of NRS:</u>	
16	(1) Initial fee	\$60
17	(2) Triennial fee	\$60
18	<u>(ff) Insurance agents for societies, as provided for in NRS 695A.330:</u>	
19	(1) Initial fee	\$60
20	(2) Triennial fee	\$60
21	<u>(gg) Intermediaries, as defined in NRS 681A.330:</u>	
22	(1) Initial fee	\$60
23	(2) Triennial fee	\$60
24	<u>(hh) Agents for prepaid burial contracts subject to the provisions</u>	
25	<u>of chapter 689 of NRS:</u>	
26	(1) Initial fee	\$60
27	(2) Triennial fee	\$60
28	<u>(ii) Sellers of prepaid burial contracts subject to the provisions</u>	
29	<u>of chapter 689 of NRS:</u>	
30	(1) Initial fee	\$60
31	(2) Triennial fee	\$60
32	<u>(jj) Providers of viatical settlements, as defined in NRS 688C.080:</u>	
33	(1) Initial fee	\$60
34	(2) Annual fee	\$60
35	<u>(kk) Brokers of viatical settlements, as defined in NRS 688C.030:</u>	
36	(1) Initial fee	\$60
37	(2) Annual fee	\$60
38	<u>(ll) Insurance consultants, as defined in NRS 683C.010:</u>	
39	(1) Initial fee	\$60
40	(2) Triennial fee	\$60
41	<u>(mm) Club agents, as defined in NRS 696A.040:</u>	
42	(1) Initial fee	\$60
43	(2) Triennial fee	\$60
44	<u>(nn) External review organizations, as provided for in NRS 683A.371:</u>	
45	(1) Initial fee	\$60
46	(2) Annual fee	\$60
47	<u>(oo) Agents who perform utilization reviews, as defined in</u>	
48	<u>NRS 683A.376:</u>	
49	(1) Initial fee	\$60
50	(2) Annual fee	\$60

Sec. 0.8. NRS 679B.380 is hereby amended to read as follows:

679B.380 1. Except as otherwise expressly provided in this Code, funds with which to carry out the administration and enforcement by the Commissioner of

1 this Code shall be provided by ~~Legislative appropriation from the General Fund~~
2 the Fund for Insurance Administration and Enforcement created by section 0.4
3 of this act and shall be paid out on claims as other claims against the State are paid.

4 2. No such claim shall be paid unless approved by the commissioner.

5 **Section 1.** NRS 679B.410 is hereby amended to read as follows:

6 679B.410 The Commissioner shall:

7 1. Determine the relationship of premiums and related income of insurers to
8 costs and expenses of insurers, provide this information to the Legislature and make
9 this information available to the general public.

10 2. Respond to requests by governmental agencies of this state and by the
11 Legislature for special studies and analysis of information collected pursuant to
12 NRS 679B.400 to 679B.460, inclusive.

13 3. Report to each regular session of the Legislature concerning his duties and
14 findings pursuant to this section no later than the first Monday in February. ~~{-}~~

15 **Sec. 2.** NRS 680A.265 is hereby amended to read as follows:

16 680A.265 1. Except as otherwise provided in subsection 5, every:

17 (a) Domestic insurer;

18 (b) Fraternal benefit society authorized to do business in this State pursuant to
19 chapter 695A of NRS; and

20 (c) Corporation subject to the provisions of chapter 695B of NRS,

21 ~~➤~~ shall file with the Commissioner, on or before June 1 of each year, a financial
22 statement as of December 31 of the preceding calendar year that is certified by a
23 certified public accountant who is not an employee of the insurer. The
24 Commissioner may request a financial statement from a foreign or alien insurer.

25 2. If a certified public accountant finds any violation of the laws of this State
26 during any audit he conducts pursuant to subsection 1, he shall, if the
27 Commissioner has adopted regulations pursuant to subsection 6 pertaining to the
28 reporting of a violation found during an audit, report the violation in accordance
29 with those regulations.

30 3. An insurer who does not file a report pursuant to subsection 1 on or before
31 June 1 of each year is subject to the penalty imposed pursuant to NRS 680A.280.

32 4. A statement filed with the Commissioner must not be a consolidated report
33 with any other subsidiary, affiliate or parent company.

34 5. The provisions of this section do not apply to a domestic insurer who:

35 (a) Is not licensed or authorized to do business in any state other than Nevada;
36 ~~{-}~~ and

37 (b) Is exempted from the requirements of this section by order of the
38 Commissioner for good cause shown.

39 6. The Commissioner may adopt reasonable regulations relating to annual
40 audited financial reports to administer the provisions of this section.

41 **Sec. 3.** NRS 680A.300 is hereby amended to read as follows:

42 680A.300 1. Except as provided in NRS 680A.310, no authorized insurer
43 may make, write, place, renew or cause to be made, placed or renewed, any policy
44 or duplicate policy , endorsement or contract of insurance of any kind upon
45 persons, property or risks resident, located or to be performed in this State, except
46 through its duly appointed and licensed agents , ~~resident in this State,~~ any one of
47 whom shall countersign the policy ~~{-}~~ , endorsement or contract.

48 2. Where two or more insurers jointly issue a single policy, the policy may be
49 countersigned, on behalf of all insurers appearing thereon, by a duly appointed and
50 licensed agent ~~resident in this State~~ of any one insurer.

51 3. In any case where it is necessary to execute an emergency bond and a
52 commissioned agent authorized to execute the bond is not present, a manager or
53 other employee of the insurer having authority under a power of attorney may

1 execute the bond in order to produce a valid contract between the insurer and the
2 obligee. The bond must subsequently be countersigned by a ~~{resident}~~
3 commissioned agent ~~{}~~ who *is authorized to execute the bond. The commissioned*
4 *agent who executes the bond* shall make and retain an adequate office record of the
5 transaction.

6 ~~4. [Nothing contained in this section prevents exercise of the free and~~
7 ~~unlimited right to negotiate contracts by licensed nonresident agents or brokers~~
8 ~~outside this State, if the policies, endorsements or evidence of those contracts~~
9 ~~covering properties or insurable interests in this State are countersigned by a~~
10 ~~registered agent of this State. Every such policy or contract must be countersigned~~
11 ~~by a registered agent.~~

12 ~~—5. On business produced by a licensed nonresident agent or broker, which is~~
13 ~~countersigned by a resident commissioned agent of this State, there must be a~~
14 ~~division of the usual commission between the licensed nonresident producing agent~~
15 ~~or broker and the resident countersigning commissioned agent which must produce~~
16 ~~for the latter a commission of at least 5 percent of the premium. No commission or~~
17 ~~fee is required as to policies with an annual premium of \$250 or less. The insurer~~
18 ~~issuing any policy or bond is responsible for payment to the countersigning agent of~~
19 ~~the fee or commission for the countersignature. Where the licensed nonresident~~
20 ~~agent or broker or the insurer assuming the risk desires the resident commissioned~~
21 ~~agent to render additional services during the life of a policy, the compensation to~~
22 ~~the countersigning commissioned registered agent is a matter of contract between~~
23 ~~the parties in interest.~~

24 ~~—6.}~~ An insurer may use an endorsement to the policy for the sole purpose of
25 countersigning the policy, as required in this section, only if:

26 (a) The endorsement is attached to the policy to which it applies; and

27 (b) The policy insures persons or property in this State and one or more other
28 states.

29 **Sec. 3.5. NRS 680B.060 is hereby amended to read as follows:**

30 680B.060 1. The taxes imposed under NRS 680B.027 must be collected by
31 the Department of Taxation and promptly deposited with the State Treasurer for
32 credit to the State General Fund.

33 2. If the tax is not paid by the insurer on or before the date required for
34 payment, the tax then becomes delinquent, and payment thereof may be enforced
35 by court action instituted on behalf of the State by the Attorney General. The
36 Attorney General may employ additional counsel in the city where the home office
37 of the insurer is located, subject to the approval of compensation for such services
38 by the State Board of Examiners. The administrative and substantive enforcement
39 provisions of chapters 360 and 372 of NRS apply to the enforcement of the taxes
40 imposed under NRS 680B.027.

41 3. Upon the tax becoming delinquent, the Executive Director of the
42 Department of Taxation shall notify the Commissioner, who shall suspend or
43 revoke the insurer's certificate of authority pursuant to NRS 680A.190.

44 4. If a dispute arises between an insurer and the State as to the amount of tax,
45 if any, payable, the insurer is entitled to pay under protest the tax in the amount
46 assessed by the Department of Taxation, without waiving or otherwise affecting
47 any right of the insurer to recover any amount determined, through appropriate
48 legal action taken by the insurer against the Department of Taxation, to have been
49 in excess of the amount of tax lawfully payable.

50 5. ~~{All}~~ *Except as otherwise provided in section 0.6 of this act, all* taxes,
51 fees, licenses, fines and charges collected under this Code, including the general
52 premium tax provided for under NRS 680B.027 and as increased in any instances

pursuant to NRS 680A.330, must be promptly deposited with the State Treasurer for credit to the State General Fund.

Sec. 4. NRS 685B.120 is hereby amended to read as follows:

685B.120 1. ~~Any~~ *Except as otherwise provided in subsection 2, a person* who provides coverage in this State for the cost of:

- (a) Medical care;
- (b) Surgery;
- (c) Chiropractic;
- (d) Physical therapy;
- (e) Speech pathology;
- (f) Audiology;
- (g) Professional care of mental health;
- (h) Dental care;
- (i) Hospital care;
- (j) Ophthalmic care; or
- (k) Ambulance services,

whether the coverage provides for direct payment, reimbursement or any other method of payment, is subject to regulation by the Division and to the provisions of this Code. ~~unless he~~

2. A person who provides coverage pursuant to subsection 1 is not subject to regulation by the Division and to the provisions of this Code if:

(a) He shows that while providing such coverage he is subject to regulation by the Federal Government ~~;~~

~~—2.1~~ *pursuant to the provisions of NRS 685B.130; and*

(b) Regulation by the Division and the provisions of this Code conflict with the provisions of 29 U.S.C. § 1144(b)(6)(A).

3. A nonprofit corporation that provides prepaid ambulance services is not subject to regulation by the Division or to the provisions of this Code if the corporation presents evidence satisfactory to the Commissioner that the corporation is subject to regulation by a political subdivision of this State pursuant to an exclusive franchise which limits the number of times any such prepaid services may be used to a defined number that are medically necessary.

Sec. 5. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 10, inclusive, of this act.

Sec. 6. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B or 695C of NRS is not subrogated to the rights of the insured until after the insured is reimbursed in full for the costs of covered health care services paid by the insured.*

Sec. 7. *An insurer or other organization providing health coverage pursuant to chapter 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS shall comply with the provisions of the Genetic Information Nondiscrimination Act of 2008, Public Law No. 110-233, and any federal regulations issued pursuant thereto.*

Sec. 8. *An insurer or other organization providing health coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, Public Law No. 110-343, Division C, Title V, Subtitle B, and any federal regulations issued pursuant thereto.*

Sec. 9. *An insurer or other organization providing health coverage pursuant to chapter 689B, 689C, 695A, 695B, 695C or 695F of NRS shall comply with the provisions of Michelle's Law, Public Law No. 110-381, and any federal regulations issued pursuant thereto.*

1 **Sec. 10. 1. An insurer may include in a policy of group life, dental or**
2 **health insurance:**

3 **(a) An informational statement that informs an employer of the notice**
4 **requirements established pursuant to subsection 2 of NRS 608.1577; and**

5 **(b) Any other provisions not inconsistent with the laws of this State and**
6 **regulations adopted pursuant thereto.**

7 **2. Nothing in subsection 1 shall be construed to grant an insurer the**
8 **authority to waive the notice requirements established pursuant to subsection 2 of**
9 **NRS 608.1577. The failure of an insurer to include in a policy of group life,**
10 **dental or health insurance an informational statement described in paragraph (a)**
11 **of subsection 1 shall not be construed as a waiver of the notice requirements**
12 **established pursuant to subsection 2 of NRS 608.1577.**

13 **Sec. 11.** NRS 687B.120 is hereby amended to read as follows:

14 687B.120 1. **Except as otherwise provided in subsection 2:**

15 **(a)** No life or health insurance policy or contract, annuity contract form, policy
16 form, health care plan or plan for dental care, whether individual, group or blanket,
17 including those to be issued by a health maintenance organization, organization for
18 dental care or prepaid limited health service organization, or application form
19 where a written application is required and is to be made a part of the policy or
20 contract, or printed rider or endorsement form or form of renewal certificate, or
21 form of individual certificate or statement of coverage to be issued under group or
22 blanket contracts, or by a health maintenance organization, organization for dental
23 care or prepaid limited health service organization, may be delivered or issued for
24 delivery in this state, unless the form has been filed with and approved by the
25 Commissioner. ~~[This subsection does not apply to any special rider or endorsement~~
26 ~~which relates to the manner of distribution of benefits or to the reservation of rights~~
27 ~~and benefits under life or health insurance policies, which special riders or~~
28 ~~endorsements are used at the request of the individual policyholder, contract holder~~
29 ~~or certificate holder.]~~

30 **(b)** As to group insurance policies effectuated and delivered outside this state
31 but covering persons resident in this state, the group certificates to be delivered or
32 issued for delivery in this state must be filed, for informational purposes only, with
33 the Commissioner at his request.

34 **2. As to group insurance policies to be issued to a group which was formed**
35 **for the purpose of purchasing one or more policies of group insurance pursuant**
36 **to NRS 688B.030 or 689B.026, no policy of group insurance may be marketed to**
37 **a resident or employer of this State unless the policy and any form of certificate**
38 **to be issued pursuant to the policy has been filed with and approved by the**
39 **Commissioner.**

40 **3. Every [such] filing made pursuant to the provisions of subsection 1 or 2**
41 **must be made not less than 45 days in advance of any [such] delivery [.] pursuant**
42 **to subsection 1 or any marketing pursuant to subsection 2.** At the expiration of 45
43 days the form so filed shall be deemed approved unless prior thereto it has been
44 affirmatively approved or disapproved by order of the Commissioner. Approval of
45 any such form by the Commissioner constitutes a waiver of any unexpired portion
46 of such waiting period. The Commissioner may extend by not more than an
47 additional 30 days the period within which he may so affirmatively approve or
48 disapprove any such form, by giving notice to the insurer of the extension before
49 expiration of the initial 45-day period. At the expiration of any such period as so
50 extended, and in the absence of prior affirmative approval or disapproval, any such
51 form shall be deemed approved. The Commissioner may at any time, after notice
52 and for cause shown, withdraw any such approval.

~~3-4~~ 4. Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

~~4-4~~ 5. The Commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

~~5-5~~ 6. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 12. Chapter 688C of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 28, inclusive, of this act.

Sec. 13. *“Rescission period” means the shorter period of 60 days after the date on which a viatical settlement is signed by all parties thereto or 30 days after the viator receives the proceeds from that viatical settlement.*

Sec. 14. *“Viatical settlement investment” has the meaning ascribed to it in section 74 of this act.*

Sec. 15. *“Viatical settlement investment agent” or “investment agent of viatical settlements” means a person who is appointed by or contracts with a licensed provider of viatical settlements to solicit or arrange for the funding for the purchase of a viatical settlement by a purchaser of viatical settlements on behalf of the provider of viatical settlements.*

Sec. 16. *“Viatical settlement purchase agreement” means a contract or agreement to which the viator is not a party, and which is entered into by a purchaser of viatical settlements to purchase a life insurance policy or an interest in a life insurance policy for the purpose of deriving an economic benefit.*

Sec. 17. *A financial planner, as defined in subsection 3 of NRS 628A.010, who, on behalf of a viator and for a fee, commission or other valuable consideration not paid by a provider or purchaser of viatical settlements, offers or attempts to negotiate a viatical settlement between the viator and one or more providers or brokers of viatical settlements must be licensed as an insurance consultant pursuant to NRS 683C.020.*

Sec. 18. 1. *Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:*

(a) *NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.*

(b) *NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.*

(c) *Chapter 680A of NRS.*

(d) *Chapter 683A of NRS.*

(e) *NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.*

2. *Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator’s designee acting pursuant to the authority granted by chapter 90 of NRS.*

3. *Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.*

Sec. 19. *A viatical settlement investment agent is deemed to represent the provider of viatical settlements who appointed or contracted with the viatical settlement investment agent.*

Sec. 20. *A viatical settlement investment agent shall not:*

1. *Have knowledge of the identity of;* or

2. *Communicate either directly or indirectly with,*

↪ *a viator or an insured whose policy of insurance is the object of a viatical settlement for which the viatical settlement investment agent solicits or arranges for the funding for the purchase.*

Sec. 21. *1. Before the date on which an agreement to purchase a viatical settlement is signed by all parties thereto, the provider of viatical settlements or a viatical settlement investment agent who contracted with or was appointed by the provider of viatical settlements shall provide the purchaser of viatical settlements with the following disclosures:*

(a) *A statement that the purchaser will receive no return on the viatical settlement investment, including dividends and interest, until the insured has died and a claim for a death benefit is made pursuant to the viaticated policy.*

(b) *A statement that the actual annual rate of return on a viatical settlement is dependent upon an accurate projection of the life expectancy of the insured and that a guaranteed annual rate of return is not determinable.*

(c) *A statement that a viaticated policy is not a liquid asset.*

(d) *A statement that the purchaser may lose all, or a substantial portion, of the benefits of the viaticated policy if the insurer who issued the policy goes out of business during the term of the viatical settlement investment.*

(e) *A statement that the purchaser is responsible for the payment of premiums and other costs related to the viaticated policy and that those payments may reduce the purchaser's return on the viatical settlement investment.*

(f) *A statement as to whether the purchaser is entitled to a refund of all or a part of his payment pursuant to the viatical settlement investment if the viaticated policy is later determined to be void.*

(g) *A statement that a group insurance policy may contain provisions:*

(1) *Limiting or negating rights of conversion if the policy is terminated and replaced by another policy; and*

(2) *Requiring the payment of additional premiums if the policy is converted. If the group insurance policy requires a payment of additional premiums if the policy is converted, a disclosure statement pursuant to this subparagraph must also identify the name of the party responsible for the payment of the additional premiums.*

(h) *The cost of the premium to be paid by the purchaser.*

(i) *The costs of any fees or other expenses to be paid by the purchaser.*

(j) *The name, business address and telephone number of the designated independent escrow agent.*

(k) *The relationship between the designated independent escrow agent and the broker of viatical settlements.*

(l) *The risks associated with contestability of the policy, including, without limitation, the risk that the purchaser will have no claim or a limited claim to death benefits if the insurer rescinds the policy during the period of contestability.*

(m) *A statement as to whether the purchaser will be the owner of the policy in addition to being the beneficiary and, if the purchaser is the beneficiary only*

1 *and not also the owner, the additional risks associated with that status, including,*
2 *without limitation, the risk that the beneficiary may be changed or the premium*
3 *may not be paid.*

4 *(n) A description of the experience and qualifications of the person who*
5 *projects the life expectancy of the insured, the information on which the*
6 *projection is based and the relationship, if any, between the person who makes*
7 *the projection and the provider of viatical settlements.*

8 *2. The provider of viatical settlements or the viatical settlement investment*
9 *agent shall also provide to the purchaser of viatical settlements a brochure that*
10 *describes the process of investment in viatical settlements. The form of the*
11 *brochure created by the National Association of Insurance Commissioners must*
12 *be used unless an alternate is developed by the Commissioner.*

13 **Sec. 22.** *Not later than the date of assignment, transfer or sale of all or a*
14 *portion of a viaticated policy, a provider of viatical settlements or a viatical*
15 *settlement investment agent who contracted with or was appointed by the provider*
16 *of viatical settlements shall provide a purchaser of a viatical settlement with the*
17 *following disclosures:*

18 *1. All certifications relating to the life expectancy of the viator that were*
19 *obtained by the provider of viatical settlements in the process of determining the*
20 *price that was paid to the viator.*

21 *2. A statement as to whether premium payments or money for the payment*
22 *of other costs related to the policy has been deposited in an escrow account.*

23 *3. If payments or money has been deposited in an escrow account, a*
24 *statement of the date that the escrow account will be depleted and as to whether*
25 *the purchaser of viatical settlements will be responsible for payment of premiums*
26 *thereafter and, if so, a statement of the amount of the premiums.*

27 *4. A statement as to whether premiums or other costs related to the policy*
28 *have been waived.*

29 *5. If premiums or other costs have been waived, a statement as to whether*
30 *the purchaser will be responsible for payment of the premiums if the insurer that*
31 *issued the policy terminates the waiver after the purchase, and a statement of the*
32 *amount of the premiums.*

33 *6. The type of policy offered or sold, any additional benefits included with*
34 *the policy and the status of the policy.*

35 *7. If the policy is term insurance, a statement of the additional risks*
36 *associated with term insurance, including, without limitation, the purchaser's*
37 *responsibility for additional premiums if the viator renews the policy at the end of*
38 *the term which is effective at the time of the purchase.*

39 *8. The period of contestability, if any, remaining under the policy.*

40 *9. A statement of rights held by the insurer that could negatively affect or*
41 *extinguish the rights of the purchaser of viatical settlements and the conditions*
42 *under which the rights can be exercised.*

43 **Sec. 23.** *Disclosures made pursuant to sections 21 and 22 of this act must*
44 *be printed conspicuously in at least 12-point type in any contract or in a separate*
45 *document signed by the purchaser of viatical settlements and:*

46 *1. The provider of viatical settlements; or*

47 *2. The viatical settlement investment agent who contracted with or was*
48 *appointed by the provider of viatical settlements.*

49 **Sec. 24.** *If a broker or provider of viatical settlements is a party to a plan, a*
50 *transaction or a series of transactions to originate, renew or continue a policy of*
51 *life insurance for the purpose of engaging in the business of viatical settlements*
52 *before or during the first 5 years after the issuance of the policy, the broker or*

1 *provider shall fully disclose the plan, transaction or transactions to the issuer of*
2 *the policy.*

3 **Sec. 25.** *With respect to a viatical settlement or a policy of insurance:*

4 1. *A broker of viatical settlements shall not knowingly solicit an offer from,*
5 *effectuate a viatical settlement with or make a sale to any provider, purchaser or*
6 *investment agent of viatical settlements.*

7 2. *A provider of viatical settlements shall not knowingly enter into a viatical*
8 *settlement with a viator if, in connection with that viatical settlement, anything of*
9 *value will be paid to a broker of viatical settlements who controls, is controlled by*
10 *or is under common control with a provider, purchaser or investment agent of*
11 *viatical settlements who is involved in the viatical settlement.*

12 **Sec. 26.** *An insurer shall not, as a condition of responding to a request for*
13 *verification of coverage or of effecting the transfer of a policy pursuant to a*
14 *viatical settlement, require that the viator, insured, provider or broker of viatical*
15 *settlements sign a form or disclosure that has not been expressly approved by the*
16 *Commissioner for use in connection with a viatical settlement in this State.*

17 **Sec. 27.** *The Commissioner may place a broker or investment agent of*
18 *viatical settlements on probation if the Commissioner finds that the broker or*
19 *investment agent of viatical settlements has acted in bad faith with regard to a*
20 *viator.*

21 **Sec. 28.** 1. *If the Commissioner finds that a producer of life insurance*
22 *has violated a provision of this chapter or other applicable provisions or has*
23 *acted in bad faith with regard to a viator, the Commissioner may:*

24 (a) *Refuse to:*

25 (1) *Issue a certificate of authority to the producer of life insurance; or*

26 (2) *Renew a certificate of authority of the producer of life insurance;*

27 (b) *Suspend the producer of life insurance for a period not to exceed 12*
28 *months; or*

29 (c) *Place the producer of life insurance on probation.*

30 2. *If the Commissioner takes action as described in paragraphs (a), (b) and*
31 *(c) of subsection 1, the producer of life insurance may apply in writing for a*
32 *hearing before the Commissioner to determine the reasonableness of the action*
33 *taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to*
34 *679B.370, inclusive.*

35 **Sec. 29.** NRS 688C.010 is hereby amended to read as follows:

36 688C.010 As used in this chapter, unless the context otherwise requires, the
37 words and terms defined in NRS 688C.020 to 688C.150, inclusive, *and sections 13*
38 *to 16, inclusive, of this act* have the meanings ascribed to them in those sections.

39 **Sec. 30.** NRS 688C.020 is hereby amended to read as follows:

40 688C.020 "Advertising" means a written, electronic or printed
41 communication or a communication by recorded telephone message, radio,
42 television, the Internet or a similar medium of communication, including a film
43 strip, motion picture or videotape, published, communicated or otherwise placed
44 before the public to create an interest in, or induce a person to *purchase or* sell a
45 policy of life insurance pursuant to, a viatical settlement.

46 **Sec. 31.** NRS 688C.030 is hereby amended to read as follows:

47 688C.030 "Broker of viatical settlements" means a person who on behalf of a
48 viator and for a fee, commission or other valuable consideration offers or attempts
49 to negotiate a viatical settlement between the viator and one or more providers *or*
50 *brokers* of viatical settlements. The term does not include an attorney at law,
51 certified public accountant or financial planner accredited by a nationally
52 recognized accrediting agency who is retained by the viator and whose
53 compensation is not paid by a provider or purchaser of viatical settlements.

Sec. 32. NRS 688C.080 is hereby amended to read as follows:

688C.080 "Provider of viatical settlements" means a person other than a viator who enters into or effectuates a viatical settlement. The term does not include:

1. A bank, savings and loan association, thrift company, credit union or other licensed lender that takes an assignment of a policy as security for a loan;

2. The issuer of a policy that provides accelerated benefits pursuant to the contract;

3. An authorized or eligible insurer that provides stop-loss coverage to a provider or purchaser of viatical settlements;

4. A natural person who enters into no more than one agreement in a calendar year for the transfer of policies for a value less than the expected death benefit;

5. A financing agent;

6. A special organization; *or*

~~7. A trust for a related provider; or~~

~~8. A purchaser of viatical settlements.~~

Sec. 33. NRS 688C.090 is hereby amended to read as follows:

688C.090 "Purchaser of viatical settlements" means a person who gives a sum of money as consideration for a policy or an interest in the death benefits of a policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. The term does not include:

1. A person licensed pursuant to this chapter;

2. An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501 or Rule 144A of the Federal Securities Act of 1933, as amended;

3. A financing agent; *or*

4. A special organization. ~~or~~

~~5. A trust for a related provider.~~

Sec. 34. NRS 688C.130 is hereby amended to read as follows:

688C.130 "Viatical settlement" means a written agreement *between a viator and a provider of viatical settlements or an affiliate thereof* for the payment of money, or anything else of value, which is less than the expected death benefit of a policy, in exchange for the viator's assignment, sale, transfer or devise of the death benefit or ownership of any portion of the policy. The term includes ~~the~~

~~1. An agreement for a loan or other financing secured primarily by a policy, other than a loan by an insurer pursuant to or secured by the cash value of a policy; and~~

~~2. An~~ *an* agreement to transfer ownership or change the beneficiary, in the future, regardless of the date of payment to the viator.

Sec. 35. NRS 688C.150 is hereby amended to read as follows:

688C.150 *1. "Viator" means the owner of a policy or the holder of a certificate of insurance under a policy of group insurance who resides in this State and who enters or seeks to enter into a viatical settlement.* The term is not limited to an owner who is terminally or chronically ill except where that limitation is expressly provided.

2. The term does not include:

(a) A producer of life insurance acting as a broker of viatical settlements pursuant to this chapter;

(b) A qualified institutional buyer as defined in Rule 144A of the federal Securities Act of 1933, 15 U.S.C. §§ 77a et seq., as amended;

(c) A financing agent; or

(d) A special organization.

Sec. 36. NRS 688C.160 is hereby amended to read as follows:

688C.160 If there is more than one viator *or purchaser of viatical settlements* with respect to a single policy and they are residents of different states, *one of whom resides in this State and enters or seeks to enter into a viatical settlement or an agreement to purchase a viatical settlement*, the legal effect of ~~the~~ viatical settlement *or agreement to purchase a viatical settlement, as applicable*, is governed by the law of the state in which the viator *or purchaser* having the largest fractional ownership resides. If the viators *or purchasers of viatical settlements* own equal fractions, they may agree in writing to choose ~~the~~ *which* state, *among the states in which ~~one resides~~ the viators or purchasers of viatical settlements reside, will be the state whose law will govern.*

Sec. 37. NRS 688C.190 is hereby amended to read as follows:

688C.190 1. Except as otherwise provided in NRS 688C.215, a person shall not, without first obtaining a license from the Commissioner, operate in or from this State as *an investment agent or* a provider or broker of viatical settlements.

2. Application for a license must be made to the Commissioner on a form prescribed by him, accompanied by the prescribed fee. A license may be renewed from year to year on its anniversary by payment of the prescribed fee. The license expires if the fee is not paid by that date.

3. An applicant shall provide information on forms required by the Commissioner, who may at any time require the applicant to disclose the identity of all stockholders, partners, members, officers and employees. The Commissioner may refuse to issue a license to an organization if he is not satisfied that a stockholder, partner, member or officer who may materially influence the applicant's conduct satisfies the requirements of this chapter.

4. A license issued to an organization authorizes all partners, members, officers and designated employees to act as *investment agents or* providers or brokers of viatical settlements. Those persons must be named in the application or a supplement to it.

Sec. 38. NRS 688C.200 is hereby amended to read as follows:

688C.200 1. Upon the filing of an application and payment of the fee, the Commissioner shall investigate the applicant, and issue a license if he finds that the applicant:

(a) If a provider of viatical settlements, has set forth a detailed plan of operation;

(b) Is competent and trustworthy and intends to act in good faith in the capacity for which the license is sought;

(c) Has a good reputation in business and, if a natural person, has had experience, training or education which qualifies him in that capacity;

(d) If an organization, provides a certificate of good standing from the state of its domicile; and

(e) If a provider or broker of viatical settlements ~~has~~ :

(1) *Has* included a plan to prevent fraud which satisfies the requirements of NRS 688C.490 ~~has~~; and

(2) *Has demonstrated evidence of financial responsibility through either:*
(I) *A surety bond executed and issued by an authorized surety in favor of the State of Nevada, continuous in form and in an amount as determined by the Commissioner, of not less than \$250,000; or*

(II) *A deposit of cash, certificates of deposit, securities or any combination thereof in the amount of \$250,000.*

2. The Commissioner shall not issue a license to a nonresident unless a written designation of an agent for service of process, or an irrevocable written

consent to the commencement of an action against the applicant by service of process upon the Commissioner, accompanies the application.

3. A provider or broker of viatical settlements shall furnish to the Commissioner new or revised information concerning partners, members, officers, holders of more than 10 percent of its stock, and designated employees within 30 days after a change occurs.

4. Notwithstanding any provision of this section to the contrary, the Commissioner shall accept as evidence of financial responsibility proof that financial instruments complying with the requirements of this section have been filed with a state where the applicant is licensed as a broker of viatical settlements.

5. A surety bond issued for the purposes of this section must specifically authorize recovery by the Commissioner on behalf of any person in this State who sustained damages as a result of:

(a) Erroneous acts;

(b) Failure to act; or

(c) Conviction of:

(1) Fraud; or

(2) Unfair practices,

↪ by the provider or broker of viatical settlements.

6. The Commissioner may request evidence of financial responsibility as described in subparagraph (2) of paragraph (e) of subsection 1 at any time he deems necessary.

Sec. 39. NRS 688C.210 is hereby amended to read as follows:

688C.210 **1.** After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

~~(1.)~~ **(a)** There was material misrepresentation in the application for the license;

~~(2.)~~ **(b)** The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

~~(3.)~~ **(c)** A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

~~(4.)~~ **(d)** The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

~~(5.)~~ **(e)** A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

~~(6.)~~ **(f)** A provider of viatical settlements has failed to honor obligations of a viatical settlement ~~;~~

~~—7.)~~ **or an agreement to purchase a viatical settlement;**

(g) The licensee no longer meets a requirement for initial licensure;

~~(8.)~~ **(h)** A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement ~~;~~ **or** a special organization ~~for a trust for a related provider;~~

~~—9.)~~ **;**

(i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

~~(j)~~ (j) The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~(k)~~

~~(k)~~ (k) The applicant or licensee has violated a provision of this chapter ~~(j)~~ or other applicable provisions; or

(l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.

3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 40. NRS 688C.215 is hereby amended to read as follows:

688C.215 1. A natural person who has been licensed for at least 1 year and who is in good standing as a resident or nonresident producer of insurance with a life insurance qualification is not required to be licensed as *an investment agent or* a broker of viatical settlements.

2. A licensed producer of insurance specified in subsection 1 must register with the Division not more than 30 days after first operating as *an investment agent or* a broker of viatical settlements, on a form prescribed by the Commissioner, and pay the fee for registration pursuant to NRS 680B.010. Failure to register within the required period or late payment of or failure to pay the fee may result in the imposition of an administrative fine of not more than \$500.

3. A producer of insurance who acts as *an investment agent or* a broker of viatical settlements pursuant to subsection 1 shall comply with the provisions of NRS 688C.220 to 688C.250, inclusive, and 688C.310.

Sec. 41. NRS 688C.230 is hereby amended to read as follows:

688C.230 1. Each licensee under this chapter shall file with the Commissioner on or before March 1 of each year an annual statement containing such information as the Commissioner prescribes by regulation. *Pursuant to subsection 7 of NRS 679B.190, the Commissioner shall classify as confidential any information received pursuant to this subsection that is:*

(a) *Data of individual transactions in the business of viatical settlements; or*

(b) *Data that could compromise the privacy of personal, financial or health information of a viator or insured.*

2. Except as allowed or required by a statute other than this chapter, a provider or broker of viatical settlements, *an investment agent*, an insurer, a producer of insurance, an information bureau, a rating agency or any other person knowing the identity of an insured shall not disclose that identity as an insured to any other person unless the disclosure is:

(a) Necessary to effect a viatical settlement between the viator and a provider of viatical settlements and the viator and the insured have given prior written consent to the disclosure;

(b) *Necessary to effect an agreement for the purchase of a viatical settlement between the purchaser and a provider of viatical settlements, and the viator and the insured have given prior written consent to the disclosure;*

(c) Furnished in response to an investigation or examination by the Commissioner or another governmental officer or agency;

~~(d)~~ (d) A term of or condition to the transfer of a policy by one provider of viatical settlements to another provider; or

~~(e)~~ (e) Necessary to permit a financing agent to finance the purchase of a policy by a provider of viatical settlements and the insured has given prior written consent to the disclosure.

1 **Sec. 42.** NRS 688C.250 is hereby amended to read as follows:

2 688C.250 1. With each application for a viatical settlement, a provider or
3 broker of viatical settlements shall furnish to the viator at least the following
4 disclosures , *in at least 12-point type*, no later than the time the application for the
5 settlement is signed by all the parties, in a separate document signed by the viator
6 and the provider or broker:

7 (a) *A broker of viatical settlements represents the viator exclusively, and not*
8 *the insurer or the provider of viatical settlements, and owes a fiduciary duty to the*
9 *viator, including a duty to act according to the instructions of the viator and in*
10 *the best interest of the viator.*

11 (b) The possible alternatives to viatical settlement, including any accelerated
12 death benefits or *policy* loans offered under the viator's *life insurance* policy.

13 ~~(b)~~ (c) Some or all of the proceeds of the viatical settlement may be taxable
14 under the federal income tax or a state franchise or income tax, and assistance
15 should be sought from a professional tax adviser.

16 ~~(c)~~ (d) Proceeds of the viatical settlement may be subject to the claims of
17 creditors.

18 ~~(d)~~ (e) Receipt of proceeds of a viatical settlement may adversely affect the
19 viator's eligibility for Medicaid or other governmental benefits, and advice should
20 be sought from the appropriate governmental agencies.

21 ~~(e)~~ (f) The viator has a right to ~~terminate~~ *rescind* a viatical settlement
22 within ~~15 days after his receipt of the proceeds,~~ *the rescission period*, as provided
23 in NRS 688C.300, and if the insured dies during ~~that~~ *the rescission* period, the
24 settlement is ~~terminated~~ *deemed rescinded*, and all proceeds must be repaid to the
25 provider ~~15~~

26 ~~(f)~~ *within 60 days after the death of the insured. Rescission, if exercised by*
27 *the viator, is effective only if the viator:*

28 (1) *Gives notice of the rescission to the provider or broker of viatical*
29 *settlements; and*

30 (2) *Repay to the provider of viatical settlements all proceeds and any*
31 *premiums, loans and loan interest paid on account of the viatical settlement or on*
32 *behalf of the provider of viatical settlements,*
33 *within the rescission period.*

34 (g) Money will be sent to the viator within 3 business days after the provider
35 has received the insurer's or group administrator's *written* acknowledgment that
36 ownership of or interest in the policy has been transferred and the beneficiary has
37 been designated.

38 ~~(g)~~ (h) Entering into a viatical settlement may cause other rights, including
39 conversion and waiver of premium, that may exist under the policy to be forfeited
40 by the viator, and assistance should be sought from a financial adviser.

41 ~~(h)~~ (i) A brochure is provided which describes the process of viatical
42 settlement, in the form prescribed by the National Association of Insurance
43 Commissioners unless the Commissioner prescribes a different form.

44 (j) *The name and address of the person responsible for monitoring the*
45 *condition of the insured, the frequency of monitoring, the means of determining*
46 *date of death and the means and time by which the date of death will be*
47 *transmitted to the purchaser.*

48 2. The document in which the disclosures required by paragraphs (a) to ~~(g)~~
49 (j), inclusive, of subsection 1 are made must also contain the following:

50
51 All medical, financial and personal information solicited or obtained by a
52 provider or broker of viatical settlements about an insured, including his
53 identity and that of members of his family, a spouse or other relationship,

may be disclosed as necessary to effect the viatical settlement between the viator and the provider. If you are asked to provide this information, you will be asked to consent to the disclosure. Failure to consent may affect your ability to viaticate your policy. The information may be furnished to someone who buys the policy or provides money for the purchase.

Sec. 43. NRS 688C.260 is hereby amended to read as follows:

688C.260 A provider of viatical settlements shall furnish to the viator, no later than the date the viatical settlement is signed by all parties, at least the following disclosures, *in at least 12-point type*, conspicuously displayed in the viatical settlement or in a separate document signed by the viator and the provider or broker of viatical settlements:

1. The affiliation, if any, between the provider *of viatical settlements* and the issuer of the policy to be viaticated.

2. The name, *business* address and telephone number of the provider ~~of~~ *of viatical settlements*.

3. ~~[The amount and method of calculating the broker's commission, including anything of value paid or given to the broker for placing the policy.]~~ *The name, business address and telephone number of the broker of viatical settlements.*

4. *Any affiliations or contractual agreements between the provider and purchaser of viatical settlements.*

5. *Any affiliations or contractual agreements between the broker of viatical settlements and any person making an offer in connection with the proposed viatical settlement.*

6. If the policy to be viaticated was issued as a joint policy, contains family riders or covers a life other than that of the insured under it, any possible loss of coverage on the other lives under the policy, and that the viator should consult the producer of the insurance or the issuer of the policy for advice concerning the settlement.

~~7.~~ 7. The monetary amount of the current death benefit payable to the provider under the policy and, if known, the availability of any other guaranteed benefit, the monetary amount of any benefit for accidental death or dismemberment, and the ~~provider's~~ *extent to which the viator's* interest in those benefits ~~is~~.

~~6.~~ *will be transferred as a result of the viatical settlement.*

8. The name, business address and telephone number of the escrow agent, and the right of the viator or owner to inspect or receive copies of the relevant escrow or trust agreements or related documents.

9. *A complete and accurate description of all offers, counteroffers, acceptances and rejections relating to the proposed viatical settlement.*

10. *The amount and method of calculation of compensation of the broker of viatical settlements, including, without limitation, anything of value paid or given to the broker of viatical settlements for the placement of the policy.*

11. *A statement indicating the source of any compensation of the broker of viatical settlements from a proposed offer for the viatical settlement, the total amount of the offer for the viatical settlement and the compensation of the broker of viatical settlements expressed as a percentage of the offer for the viatical settlement.*

Sec. 44. NRS 688C.270 is hereby amended to read as follows:

688C.270 1. A viator may not enter into a viatical settlement within ~~24~~ *5* years after the issuance of the policy to which the settlement relates unless one or more of the following conditions is or has been satisfied:

(a) The policy was issued upon the owner's exercise of a right of conversion arising out of a group policy ~~is~~.

~~(b) The owner of the policy is a charitable organization exempt from taxation under 26 U.S.C. § 501(c)(3).~~

~~(c) The owner of the policy is a business organization.~~

~~(d) if the total of the time covered under the policy plus the time covered under the group policy is at least 60 months. The time covered under the group policy must be calculated without regard to a change in insurance carriers if the coverage has been continuous.~~

(b) The viator or owner submits to the provider of viatical settlements independent evidence that within the ~~(2-year)~~ 5-year period:

(1) *The owner or insured has been diagnosed as terminally ill;*

(2) The owner or insured has been diagnosed ~~(to have)~~ *as chronically ill or has* an illness or condition that is life-threatening or requires a course of treatment for at least 2 years, long-term care or health care at home, or any combination of these;

~~((2))~~ (3) The spouse of the owner or insured has died;

~~((3))~~ (4) The owner or insured has divorced his spouse;

~~((4))~~ (5) The owner or insured has retired from full-time employment;

~~((5))~~ (6) The owner or insured has become physically or mentally disabled and a physician determines that the disability precludes him from maintaining full-time employment;

~~((6) The owner of the policy was the employer of the insured and that relationship has terminated.)~~

(7) A final judgment or order has been entered or issued by a court of competent jurisdiction, on the application of a creditor or owner of the insured, adjudging the owner or insured bankrupt or insolvent, or approving a petition for reorganization of the owner or insured or appointing a receiver, trustee or liquidator for all or a substantial part of the assets of the owner or insured; *or*

(8) The owner of the policy experiences a significant decrease in income which is unexpected by him and impairs his reasonable ability to pay the premium on the policy. ~~(or)~~

~~((9) The owner or insured disposes of his ownership in a closely held corporation.)~~

2. The independent evidence must be submitted to the insurer when the provider of viatical settlements submits a request to the insurer to effect transfer of the policy to him. The insurer shall respond timely to the request. This section does not prohibit an insurer from exercising its right to contest a policy on the ground of fraud.

3. If a provider of viatical settlements submits to an insurer a copy of the owner's or insured's certification that one of the events described in paragraph ~~((d))~~ (b) of subsection 1 has occurred, the certification conclusively establishes that the viatical settlement is valid, and the insurer shall timely respond to the provider's request to effect a transfer of the policy.

Sec. 45. NRS 688C.280 is hereby amended to read as follows:

688C.280 1. A provider of viatical settlements who enters into a settlement shall first obtain:

(a) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a settlement;

(b) A witnessed document in which the viator ~~(represents)~~ :

(1) *Consents to the viatical settlement;*

(2) *Represents* that he has a full and complete understanding of the settlement and of the benefits of the policy ~~(, acknowledges)~~ ;

(3) *Acknowledges* that he has entered into the settlement freely and voluntarily; and ~~[-; if]~~

(4) *If* applicable to determine a payment to a person terminally or chronically ill, acknowledges that he is terminally or chronically ill and that the illness was diagnosed after the policy was issued; and

(c) A document in which the insured consents to the release of his medical records to a provider or broker of viatical settlements and the insurer that issued the policy covering him.

2. Within 20 days after a viator executes documents necessary to transfer rights under a policy, or enters into an agreement in any form, express or implied, to viaticate the policy, the provider of viatical settlements shall give written notice to the issuer of the policy that the policy has or will become viaticated. The notice must be accompanied by: ~~[-;]~~

(a) A copy of the release of medical records ~~[-and the-];~~

(b) *The* application for the viatical settlement ~~[-;]~~; and

(c) *A request for verification of coverage.*

3. *Any of the acts described in subsections 1 and 2, if performed by a broker of viatical settlements, will be deemed to have been performed by the provider of viatical settlements for the purposes of fulfilling the requirements of subsections 1 and 2.*

4. *Within 30 days after receiving a request for verification of coverage from a provider or broker of viatical settlements, an insurer shall respond by:*

(a) *Verifying coverage; and*

(b) *Indicating whether, on the basis of the medical evidence and documents provided, the insurer intends to pursue an investigation regarding the validity of the insurance or possible fraud.*

Sec. 46. NRS 688C.290 is hereby amended to read as follows:

688C.290 1. A provider of viatical settlements shall instruct the viator to send the executed documents required to effect the change in ownership or assignment or change of beneficiary of the affected policy to a designated independent escrow agent. Within 3 business days after the date the escrow agent receives the documents, or within 3 business days after the provider receives the documents if by mistake they are sent directly to him, the escrow agent shall deposit the proceeds of the settlement into an escrow or trust account maintained in a regulated financial institution whose deposits are insured by the Federal Deposit Insurance Corporation.

2. Upon deposit of the proceeds in that account, the escrow agent shall deliver to the provider the original documents executed by the viator. Upon the provider's receipt from the insurer of an acknowledgment of the change in ownership or assignment or change of beneficiary of the affected policy, he shall instruct the escrow agent to pay the proceeds of the settlement to the viator.

3. Payment to the viator must be made within 3 business days after the date the provider received the acknowledgment from the insurer. Failure to make the payment within that time makes the viatical settlement voidable by the viator for lack of consideration until payment is tendered to and accepted by the viator. *Payment to the viator shall be deemed to have been made as of the date that the escrow agent:*

(a) *Releases money for a wire transfer to the viator; or*

(b) *Deposits a check for the amount of the proceeds with the United States Postal Service or with a commercially reasonable delivery service.*

Sec. 47. NRS 688C.300 is hereby amended to read as follows:

688C.300 1. A viatical settlement entered into in this state must reserve to the viator an unconditional right to ~~[-terminate-]~~ *rescind* the settlement within ~~[-5]~~

~~days after he receives the proceeds of the settlement.]~~ *the rescission period. Rescission, if exercised by the viator, is effective only if the viator:*

(a) Gives notice of the rescission to the provider or broker of viatical settlements; and

(b) Repays to the provider of viatical settlements all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements, within the rescission period.

2. If the insured dies during ~~that~~ *the rescission* period, the settlement is ~~terminated, but the~~ *deemed rescinded and all proceeds and any premiums, loans and loan interest paid on account of the viatical settlement or on behalf of the provider of viatical settlements* must be repaid to the provider of ~~the~~ *viatical settlement.] settlements within 60 days after the death of the insured.*

3. *In the event of a rescission, if the provider of viatical settlements has paid commissions or other compensation to a broker of viatical settlements in connection with the rescinded transaction, the broker of viatical settlements shall refund all such commissions and compensation to the provider of viatical settlements within 5 business days following receipt of written demand from the provider of viatical settlements. The demand must be accompanied by:*

(a) The viator's notice of rescission, if the rescission was exercised by the viator; or

(b) Notice of the death of the insured, if the rescission was due to the death of the insured within the rescission period.

4. *A purchaser of viatical settlements has the right to rescind an agreement to purchase a viatical settlement within 3 business days after the purchaser of viatical settlements receives the disclosures set forth in sections 21 and 22 of this act.*

Sec. 48. NRS 688C.310 is hereby amended to read as follows:

688C.310 1. Contact with an insured to determine *his residential or business street address and telephone number or* the status of his health after a viatical settlement may be made only by a provider or broker of viatical settlements who is licensed in this state, or its authorized representative, and no oftener than once every 3 months if the insured has a life expectancy of 1 year or more, or once every month if the insured has a life expectancy of less than 1 year. The provider or broker shall explain the procedure for those contacts at the time the settlement is entered into.

2. The limitations of subsection 1 do not apply to contacts for purposes other than determining status of health.

3. A provider or broker is responsible for the acts of his authorized representative.

Sec. 49. NRS 688C.330 is hereby amended to read as follows:

688C.330 1. If a provider of viatical settlements transfers ownership or changes the beneficiary of a viaticated policy, he shall inform the insured of the transfer or change within 20 days after it occurs.

2. *If an insurer receives a request for change of ownership or beneficiary of a viaticated policy from a provider of viatical settlements, the insurer shall respond within 30 days after receipt thereof with written confirmation that the change has been effected or specifying the reasons why the requested change could not be effected.*

3. *An insurer shall not unreasonably delay in effecting a requested change of ownership or beneficiary requested for a viaticated policy by a provider of viatical settlements.*

1 ***4. An insurer shall not seek to interfere with a viatical settlement lawfully***
2 ***entered into in this State.***

3 **Sec. 50.** NRS 688C.350 is hereby amended to read as follows:

4 688C.350 NRS 688C.350 to 688C.430, inclusive, ***and sections 21, 22 and 23***
5 ***of this act*** apply to advertising of viatical settlements , ***agreements to purchase***
6 ***viatical settlements*** or related ***products or*** services intended for dissemination in
7 this state, including advertising on the Internet which is viewed by persons in this
8 state. To the extent that federal regulation establishes requirements for disclosure,
9 those sections must be so interpreted as to eliminate or minimize conflict with the
10 federal requirements.

11 **Sec. 51.** NRS 688C.370 is hereby amended to read as follows:

12 688C.370 ***1.*** An advertisement must be truthful and not misleading in fact
13 or by implication. The form and content of an advertisement for viatical settlements
14 , ***agreements to purchase viatical settlements or related products or services*** must
15 be sufficiently complete and clear to avoid deception. An advertisement may not
16 have a capacity or tendency to mislead or deceive, as determined by the
17 Commissioner from the overall impression it may reasonably be expected to create
18 upon a person of average education or intelligence in the segment of the public to
19 which it is directed.

20 ***2. A provider of viatical settlements shall not enter into a viatical settlement***
21 ***unless the promotional, advertising and marketing materials, in at least 12-point***
22 ***type, have been filed with the Commissioner pursuant to regulations adopted by***
23 ***the Commissioner. The Commissioner shall adopt such regulations as he deems***
24 ***necessary to carry out the provisions of this subsection.***

25 **Sec. 52.** NRS 688C.380 is hereby amended to read as follows:

26 688C.380 ***1.*** The information required to be disclosed under NRS 688C.350
27 to 688C.430, inclusive, ***and sections 21, 22 and 23 of this act*** may not be
28 minimized, obscured, presented ambiguously or so intermingled with other text of
29 an advertisement as to be confusing or misleading.

30 ***2.*** An advertisement may not omit material information or use language or
31 illustrations if the omission or use has a capacity or tendency to, or does, mislead
32 viators , ***purchasers of viatical settlements or prospective purchasers of viatical***
33 ***settlements*** as to the nature or extent of any benefit, loss covered, premium payable
34 or effect on federal or state taxes. Making a viatical settlement ***or an agreement to***
35 ***purchase a viatical settlement*** available for inspection before it is consummated, or
36 offering to refund payment if the viator is not satisfied within the period prescribed
37 in ***subsection 4 of*** NRS 688C.300, does not remedy misleading statements.

38 ***3.*** An advertisement may not use the name or title of an insurer or policy
39 unless the advertisement has been approved by the insurer.

40 ***4. An advertisement may not represent that premiums on a viaticated policy***
41 ***need not be paid in order to maintain that policy, unless that is the fact.***

42 ***5.*** An advertisement may not state or imply that interest charged on an
43 accelerated death benefit or loan on a policy is unfair or in any way improper.

44 ~~***5.1***~~ ***6.*** The words “free,” “no additional cost” or words of similar import may
45 not be used ~~***with***~~ :

46 (a) ***With respect to insurance, unless the terms of the policy provide that the***
47 ***policy is provided without cost to the policyholder.***

48 (b) ***With respect to any benefit or service other than insurance unless true.***

49 ***7. Certain advertisements relating to viatical settlements are deemed to be***
50 ***false and misleading on their face and are prohibited. Those advertisements***
51 ***include, without limitation, the following words and phrases:***

(a) *“Guaranteed,” “fully secured,” “100 percent secured,” “fully insured,” “secure,” “safe,” “backed by rated insurance companies,” “backed by federal law,” “backed by state law” or “state guaranty funds”;*

(b) *“No risk,” “minimal risk,” “low risk,” “no speculation” or “no fluctuation”;*

(c) *“Qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEPs), 403(b) plans, Keogh plans, TSA, other retirement account rollovers” or “tax deferred”;*

(d) *Utilization of the word “guaranteed” to describe a fixed return, annual return, principal, earnings, profits or investment;*

(e) *“No sales charges or fees”;*

(f) *“High yield,” “superior return,” “excellent return,” “high return” or “quick profit”;* and

(g) *Favorable representations or testimonials about the benefits of viatical settlement contracts and agreements to purchase viatical settlements as an investment, out of context and purported to have been taken from newspapers, trade papers, journals, radio and television programs and all other forms of print and electronic media,*

or similar representations.

Sec. 53. NRS 688C.390 is hereby amended to read as follows:

688C.390 1. A testimonial, *endorsement*, appraisal or analysis used in an advertisement must be genuine, represent the present opinion of the author, apply to the viatical settlement *or agreement to purchase a viatical settlement* advertised, if any, and be reproduced with sufficient completeness to avoid misleading viators ~~or purchasers of viatical settlements~~. In using a testimonial, *endorsement*, appraisal or analysis, a licensee under this chapter makes the statements contained therein his own, and the statements must satisfy the requirements of NRS 688C.350 to 688C.430, inclusive ~~or~~, *and sections 21, 22 and 23 of this act.*

2. If the person making a testimonial, *endorsement*, appraisal, analysis or endorsement has a financial interest in the provider of viatical settlements or a related organization, or receives a benefit other than required wages, that fact must be prominently disclosed in the advertisement.

3. An advertisement may not state or imply that a *benefit or service related to a viatical settlement* ~~[- benefit or service]~~ *or an agreement to purchase a viatical settlement* has been approved or endorsed by a group, society or other organization unless that is the fact and any relationship between the organization and the provider of viatical settlements is disclosed. If the organization is owned, controlled or managed by the provider, or receives any payment or other consideration from the provider for making the endorsement or testimonial, that fact must be disclosed in the advertisement.

4. An advertisement may not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement must be identified.

5. If an endorsement refers to benefits received under a viatical settlement or an agreement to purchase a viatical settlement, all information pertinent to that endorsement must be retained for a period of 5 years after the use of the endorsement.

Sec. 54. NRS 688C.410 is hereby amended to read as follows:

688C.410 1. The name of the provider of viatical settlements must be clearly identified in an advertisement about him, ~~or~~ his viatical settlements *or his agreements to purchase viatical settlements*. If a viatical settlement *or an agreement to purchase a viatical settlement* is advertised, it must be identified by

number or other appropriate description. If an application is part of an advertisement, the name of the provider must be shown on the application.

2. An advertisement may not use a trade name, designation of a group, name of a parent or particular division of a provider of viatical settlements, service mark, slogan or other device or reference without disclosing the identity of the provider of viatical settlements licensed under this chapter if the advertisement would have the capacity or tendency to mislead as to his true identity or create the impression that an organization other than the licensee would have a responsibility for the financial obligation under a viatical settlement. The name of the licensee must be stated in all advertisements.

Sec. 55. NRS 688C.420 is hereby amended to read as follows:

688C.420 1. An advertisement may not use a combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristic are so similar to a combination of words, symbols or physical materials used by a governmental program or agency, or otherwise appear to be of such a nature, that they tend to mislead viators *or purchasers of viatical settlements* into believing that the solicitation is connected with a governmental program or agency. An advertisement may not create the impression that a provider of viatical settlements, his financial condition or business practices, the payment of his claims or the merit, desirability or advisability of his viatical settlements *or agreements to purchase viatical settlements* is recommended or endorsed by a governmental authority.

2. An advertisement may state that a provider of viatical settlements is licensed in the state in which the advertisement appears, if it does not imply that competing providers are not so licensed. The advertisement may suggest consulting the licensee's website or communicating with the Commissioner to ascertain whether the state requires licensing and, if so, whether a particular provider or broker of viatical settlements is licensed.

Sec. 56. NRS 688C.450 is hereby amended to read as follows:

688C.450 It is a category D felony, and the offender shall be punished as provided in NRS 193.130, for any person, knowingly or with intent to defraud, to do any of the following acts in order to deprive another of property or for his own pecuniary gain:

1. Present, cause to be presented or prepare with knowledge or belief that it will be presented, false information to or by *an investment agent or* a provider or broker of viatical settlements, a financing agent, an insurer, a provider of insurance or any other person, or to conceal information, as part of, in support of or concerning a fact material to:

(a) An application for the issuance of a policy or viatical settlement;

(b) The underwriting of a policy or viatical settlement;

(c) A claim for payment or other benefit under a policy , ~~for~~ viatical settlement ~~for~~ *or agreement to purchase a viatical settlement;*

(d) A premium paid on a policy ~~for~~ *or as a result of an agreement to purchase a viatical settlement;*

(e) A payment or change of beneficiary or ownership pursuant to a policy or viatical settlement;

(f) The reinstatement or conversion of a policy;

(g) The solicitation, offer or effectuation of a policy , ~~for~~ viatical settlement ~~for~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy , ~~for~~ viatical settlement ~~for~~ *or agreement to purchase a viatical settlement.*

2. In furtherance of a fraud or to prevent detection of a fraud:

(a) Remove, conceal, alter, destroy or sequester from the Commissioner assets or records of a licensee under this chapter or other person engaged in the business of viatical settlements;

(b) Misrepresent or conceal the financial condition of a licensee, a financing agent, an insurer or other person;

(c) Transact the business of viatical settlements in violation of this chapter; or

(d) File with the Commissioner or analogous officer of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the Commissioner or other officer.

3. Present, cause to be presented or prepare with knowledge or belief that it will be presented to or by a provider or broker of viatical settlements, *an investment agent*, a financing agent, an insurer, a provider of insurance or any other person, in connection with a viatical settlement or transaction of insurance, a policy fraudulently by the insured or owner or an agent of either.

4. Embezzle, steal, misappropriate or convert money, premiums, credits or other property *in an amount or having a value of less than \$250* of a provider of viatical settlements, a viator, an insurer, an insured, an owner of a policy or other person engaged in the business of viatical settlements or insurance.

5. Attempt to commit, assist, aid, abet or conspire to commit an act or omission described in subsections 1 to 4, inclusive.

6. Under no circumstances is a violation of this section considered or intended to be a lesser included offense of a violation of the provisions of NRS 90.570.

Sec. 57. NRS 688C.470 is hereby amended to read as follows:

688C.470 1. Except as otherwise provided in subsection 2, a person furnishing information of the kind described in NRS 688C.460 is immune from liability and civil action if the information is furnished to or received from:

(a) The Commissioner or his employees, agents or representatives;

(b) Another federal, state or local law enforcement or regulatory officer or his employees, agents or representatives;

(c) Another person involved in the prevention or detection of violations of NRS 688C.450 or similar offenses or his employees, agents or representatives;

(d) The National Association of Insurance Commissioners or other regulatory body overseeing life insurance or viatical settlements, or its employees, agents or representatives; or

(e) The insurer that issued the policy concerned in the information.

2. The immunity provided in subsection 1 does not extend to a statement made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a violation of NRS 688C.450, the plaintiff must plead specifically that the defendant acted with actual malice.

3. This section does not supplant or modify any other privilege or immunity at common law or under another statute enjoyed by a person described in subsection 1.

4. Except as otherwise provided in subsection 5, a person furnishing information as described in subsection 1 is entitled to an award of attorney's fees and costs if:

(a) The person is a defendant in a civil case arising out of activities performed in carrying out the provisions of this section;

(b) The cause of action in the case is for libel, slander or any other relevant tort;

(c) The person is the prevailing party in the case; and

(d) The person bringing the action is not substantially justified in doing so.

1 *5. A person furnishing information relating to his own fraudulent acts as*
2 *they relate to a viatical settlement is not entitled to an award pursuant to*
3 *subsection 4.*

4 **Sec. 58.** NRS 688C.510 is hereby amended to read as follows:

5 688C.510 1. In addition to the penalties and other means of enforcement
6 provided under this chapter:

7 (a) If a person violates a provision of this chapter or of a regulation adopted
8 under this chapter, the Commissioner may seek an injunction and apply for
9 temporary and permanent orders he determines to be necessary to restrain the
10 violator.

11 (b) A person who violates a provision of this chapter is subject to an
12 administrative fine of not more than \$1,000 for each violation.

13 (c) In addition to a criminal penalty imposed, the court shall order restitution to
14 the person aggrieved by the violation.

15 2. A person aggrieved by a violation of this chapter may bring a civil action
16 against the violator to recover the damages suffered.

17 *3. A violation of this chapter attendant to the signing of an agreement to*
18 *purchase a viatical settlement renders the agreement voidable and subject to*
19 *rescission by the purchaser of viatical settlements, upon tender of the viaticated*
20 *policy by the purchaser of viatical settlements to the provider of viatical*
21 *settlements. Suit for rescission may be brought:*

22 *(a) In a court of competent jurisdiction;*

23 *(b) In the jurisdiction where the alleged violator resides;*

24 *(c) In the jurisdiction where the alleged violator has a principal place of*
25 *business; or*

26 *(d) In the jurisdiction where the alleged violation occurred.*

27 **Sec. 59.** NRS 689B.026 is hereby amended to read as follows:

28 689B.026 1. Except as otherwise provided in this section, no policy of
29 group health insurance may be delivered or issued for delivery in this state to a
30 group which was formed for the purpose of purchasing one or more policies of
31 group health insurance.

32 2. A policy of group health insurance may be delivered to a group described
33 in subsection 1 if the Commissioner approves the issuance. The Commissioner shall
34 not grant his approval unless he finds that:

35 (a) *All policy rates and forms are filed with and approved by the Division*
36 *prior to marketing to a resident or employer in this State;*

37 (b) The benefits of the policy are reasonable in relation to the premiums
38 charged; and

39 ~~[(b)]~~ (c) The group to which the policy is issued is organized and operated in a
40 fiscally sound manner.

41 3. ~~Upon approval by the Commissioner, an insurer may exclude or limit the~~
42 ~~coverage in a policy issued pursuant to this section of any person as to whom~~
43 ~~evidence of insurability is not satisfactory to the insurer.] The Commissioner shall~~
44 ~~use the provisions of this chapter and chapter 689C of NRS to review insurance~~
45 ~~products to employers in this State. The Commissioner shall use the provisions of~~
46 ~~chapter 689A of NRS to review insurance products marketed to natural persons~~
47 ~~in this State.~~

48 4. The provisions of this section apply to the offering in this state of a policy
49 issued in another state.

50 **Sec. 60.** NRS 689B.080 is hereby amended to read as follows:

51 689B.080 Any insurer authorized to write health insurance in this state,
52 including a nonprofit corporation for hospital, medical or dental services that has a
53 certificate of authority issued pursuant to chapter 695B of NRS, may issue blanket

1 accident and health insurance. No blanket policy, except as provided in subsection
2 ~~44~~ 5 of NRS 687B.120, may be issued or delivered in this state unless a copy of the
3 form thereof has been filed in accordance with NRS 687B.120. Every blanket
4 policy must contain provisions which in the opinion of the Commissioner are not
5 less favorable to the policyholder and the individual insured than the following:

6 1. A provision that the policy, including endorsements and a copy of the
7 application, if any, of the policyholder and the persons insured constitutes the entire
8 contract between the parties, and that any statement made by the policyholder or by
9 a person insured is in the absence of fraud a representation and not a warranty, and
10 that no such statements may be used in defense to a claim under the policy, unless
11 contained in a written application. The insured, his beneficiary or assignee has the
12 right to make a written request to the insurer for a copy of an application, and the
13 insurer shall, within 15 days after the receipt of a request at its home office or any
14 branch office of the insurer, deliver or mail to the person making the request a copy
15 of the application. If a copy is not so delivered or mailed, the insurer is precluded
16 from introducing the application as evidence in any action based upon or involving
17 any statements contained therein.

18 2. A provision that written notice of sickness or of injury must be given to the
19 insurer within 20 days after the date when the sickness or injury occurred. Failure
20 to give notice within that time does not invalidate or reduce any claim if it is shown
21 that it was not reasonably possible to give notice and that notice was given as soon
22 as was reasonably possible.

23 3. A provision that the insurer will furnish to the claimant or to the
24 policyholder for delivery to the claimant such forms as are usually furnished by it
25 for filing proof of loss. If the forms are not furnished before the expiration of 15
26 days after giving written notice of sickness or injury, the claimant shall be deemed
27 to have complied with the requirements of the policy as to proof of loss upon
28 submitting, within the time fixed in the policy for filing proof of loss, written proof
29 covering the occurrence, the character and the extent of the loss for which claim is
30 made.

31 4. A provision that in the case of a claim for loss of time for disability, written
32 proof of the loss must be furnished to the insurer within 90 days after the
33 commencement of the period for which the insurer is liable, and that subsequent
34 written proofs of the continuance of the disability must be furnished to the insurer
35 at such intervals as the insurer may reasonably require, and that in the case of a
36 claim for any other loss, written proof of the loss must be furnished to the insurer
37 within 90 days after the date of the loss. Failure to furnish such proof within that
38 time does not invalidate or reduce any claim if it is shown that it was not reasonably
39 possible to furnish proof and that the proof was furnished as soon as was reasonably
40 possible.

41 5. A provision that all benefits payable under the policy other than benefits
42 for loss of time will be payable immediately upon receipt of written proof of loss,
43 and that, subject to proof of loss, all accrued benefits payable under the policy for
44 loss of time will be paid not less frequently than monthly during the continuance of
45 the period for which the insurer is liable, and that any balance remaining unpaid at
46 the termination of that period will be paid immediately upon receipt of proof.

47 6. A provision that the insurer at its own expense has the right and
48 opportunity to examine the person of the insured when and so often as it may
49 reasonably require during the pendency of claim under the policy and also the right
50 and opportunity to make an autopsy where it is not prohibited by law.

51 7. A provision, if applicable, setting forth the provisions of NRS 689B.035.

52 8. A provision for benefits for expense arising from care at home or health
53 supportive services if that care or service was prescribed by a physician and would

1 have been covered by the policy if performed in a medical facility or facility for the
2 dependent as defined in chapter 449 of NRS.

3 9. A provision that no action at law or in equity may be brought to recover
4 under the policy before the expiration of 60 days after written proof of loss has
5 been furnished in accordance with the requirements of the policy and that no such
6 action may be brought after the expiration of 3 years after the time written proof of
7 loss is required to be furnished.

8 **Sec. 61.** Chapter 689C of NRS is hereby amended by adding thereto the
9 provisions set forth as sections 62, 63 and 64 of this act.

10 **Sec. 62.** *Each group health insurance policy must contain in substance a*
11 *provision for benefits payable for expenses incurred for the treatment of abuse of*
12 *alcohol or drugs, as provided in section 64 of this act.*

13 **Sec. 63.** 1. *Notwithstanding any provisions of this title to the contrary, a*
14 *policy of group health insurance delivered or issued for delivery in this State*
15 *pursuant to this chapter must provide coverage for the treatment of conditions*
16 *relating to severe mental illness.*

17 2. *The coverage required by this section:*

18 (a) *Must provide:*

19 (1) *Benefits for at least 40 days of hospitalization as an inpatient per*
20 *policy year and 40 visits for treatment as an outpatient per policy year, excluding*
21 *visits for the management of medication; and*

22 (2) *That two visits for partial or respite care, or a combination thereof,*
23 *may be substituted for each 1 day of hospitalization not used by the insured. In no*
24 *event is the policy required to provide coverage for more than 40 days of*
25 *hospitalization as an inpatient per policy year.*

26 (b) *Is not required to provide benefits for psychosocial rehabilitation or care*
27 *received as a custodial inpatient.*

28 3. *Any deductibles and copayments required to be paid for the coverage*
29 *required by this section must not be greater than 150 percent of the out-of-pocket*
30 *expenses required to be paid for medical and surgical benefits provided pursuant*
31 *to the policy of group health insurance.*

32 4. *The provisions of this section do not apply to a policy of group health*
33 *insurance if, at the end of the policy year, the premiums charged for that policy,*
34 *or a standard grouping of policies, increase by more than 2 percent as a result of*
35 *providing the coverage required by this section and the insurer obtains an*
36 *exemption from the Commissioner pursuant to subsection 5.*

37 5. *To obtain the exemption required by subsection 4, an insurer must*
38 *submit to the Commissioner a written request therefor that is signed by an*
39 *actuary and sets forth the reasons and actuarial assumptions upon which the*
40 *request is based. To determine whether an exemption may be granted, the*
41 *Commissioner shall subtract from the amount of premiums charged during the*
42 *policy year the amount of premiums charged during the period immediately*
43 *preceding the policy year and the amount of any increase in the premiums*
44 *charged that is attributable to factors that are unrelated to providing the coverage*
45 *required by this section. The Commissioner shall verify the information within 30*
46 *days after receiving the request. The request shall be deemed approved if the*
47 *Commissioner does not deny the request within that time.*

48 6. *The provisions of this section do not:*

49 (a) *Limit the provision of specialized services covered by Medicaid for*
50 *persons with conditions relating to mental health or substance abuse.*

51 (b) *Supersede any provision of federal law, any federal or state policy*
52 *relating to Medicaid, or the terms and conditions imposed on any Medicaid*

1 *waiver granted to this State with respect to the provisions of services to persons*
2 *with conditions relating to mental health or substance abuse.*

3 *7. A policy of group health insurance subject to the provisions of this*
4 *chapter which is delivered, issued for delivery or renewed on or after October 3,*
5 *2009, has the legal effect of including the coverage required by this section, and*
6 *any provision of the policy or the renewal which is in conflict with this section is*
7 *void, unless the policy is otherwise exempt from the provisions of this section*
8 *pursuant to subsection 4.*

9 *8. As used in this section, "severe mental illness" means any of the*
10 *following mental illnesses that are biologically based and for which diagnostic*
11 *criteria are prescribed in the Diagnostic and Statistical Manual of Mental*
12 *Disorders, Fourth Edition, published by the American Psychiatric Association:*

13 *(a) Schizophrenia.*

14 *(b) Schizoaffective disorder.*

15 *(c) Bipolar disorder.*

16 *(d) Major depressive disorders.*

17 *(e) Panic disorder.*

18 *(f) Obsessive-compulsive disorder.*

19 **Sec. 64. 1.** *The benefits provided by a group policy for health insurance,*
20 *as required by section 62 of this act, for the treatment of abuse of alcohol or*
21 *drugs must consist of:*

22 *(a) Treatment for withdrawal from the physiological effects of alcohol or*
23 *drugs, with a minimum benefit of \$1,500 per calendar year.*

24 *(b) Treatment for a patient admitted to a facility, with a minimum benefit of*
25 *\$9,000 per calendar year.*

26 *(c) Counseling for a person, group or family who is not admitted to a facility,*
27 *with a minimum benefit of \$2,500 per calendar year.*

28 *2. These benefits must be paid in the same manner as benefits for any other*
29 *illness covered by a similar policy are paid.*

30 *3. The insured person is entitled to these benefits if treatment is received in*
31 *any:*

32 *(a) Facility for the treatment of abuse of alcohol or drugs which is certified*
33 *by the Health Division of the Department of Health and Human Services.*

34 *(b) Hospital or other medical facility or facility for the dependent which is*
35 *licensed by the Health Division of the Department of Health and Human*
36 *Services, is accredited by the Joint Commission on Accreditation of Healthcare*
37 *Organizations and provides a program for the treatment of abuse of alcohol or*
38 *drugs as part of its accredited activities.*

39 **Sec. 65.** *NRS 692A.100 is hereby amended to read as follows:*

40 *692A.100 1. The Commissioner shall provide by regulation for the*
41 *licensing of title agents, their branch offices, direct writing title insurers and escrow*
42 *officers.*

43 *2. Each title agent shall maintain his books of account and record and his*
44 *vouchers pertaining to title insurance business in a manner which permits the*
45 *Commissioner or his representative to ascertain readily whether the agent has*
46 *complied with the provisions of this chapter.*

47 *3. A title agent or escrow officer may engage in the business of handling*
48 *escrows, settlements and closings if he maintains a separate record of all receipts*
49 *and disbursements of money held in escrow and does not commingle that money*
50 *with his own.*

51 *4. Except as otherwise provided in subsection 5:*

52 *(a) For the purpose of determining its financial condition, fulfillment of its*
53 *contractual obligations and compliance with law, the Commissioner or his*

representative or the Commissioner of Financial Institutions of the Department of Business and Industry or his representative when requested by the Commissioner of Insurance shall each year examine or cause to be examined *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive*, the affairs, transactions, agreements, assets, records and accounts, including the escrow accounts, of a title agent, title insurer or escrow officer.

~~§4~~ (b) A title agent or insurer may engage a certified public accountant to perform such an examination in lieu of the Commissioner. In such a case, the examination must be equivalent to the type of examination made by the Commissioner and the expense must be borne by the title agent or insurer being examined. *If a title agent or insurer engages a certified public accountant to conduct an examination, the title agent or insurer may do so only for a period of not more than 2 years.*

5. *The Commissioner shall personally examine in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, the affairs, transactions, agreements, assets, records and accounts, including escrow accounts, of a title agent, title insurer or escrow officer as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 3 years.*

6. The Commissioner shall determine whether an examination performed by an accountant pursuant to *paragraph (b) of* subsection ~~§4~~ 4 is equivalent to an examination conducted by him. The Commissioner may examine any area of the operation of a title agent or insurer if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by him.

7. A person shall not become licensed to circumvent the provisions of this chapter or any other law of this state.

Sec. 66. NRS 694C.060 is hereby amended to read as follows:

694C.060 "Captive insurer" means ~~any pure captive insurer, association captive insurer, agency captive insurer, rental captive insurer and sponsored captive insurer licensed pursuant to this chapter. The term includes a pure captive insurer who, unless otherwise provided by the Commissioner, is a branch captive insurer with respect to operations in this State.~~ *an insurance company which is owned by:*

1. *A parent organization and whose exclusive purpose is to insure risks of:*
 - (a) *The parent organization; and*
 - (b) *Any affiliated companies of the parent organization; or*
2. *More than one insured and whose exclusive purpose is to insure risks of:*
 - (a) *The insureds and members, if any, of the insureds; and*
 - (b) *Any affiliates of:*
 - (1) *The insureds; or*
 - (2) *Members, if any, of the insureds.*

Sec. 67. NRS 694C.180 is hereby amended to read as follows:

694C.180 1. Unless otherwise approved by the Commissioner, a pure captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer must be incorporated as a stock insurer.

2. An association captive insurer must be formed as a:

- (a) Stock insurer;
- (b) Mutual insurer; or
- (c) Reciprocal insurer, except that its attorney-in-fact must be a corporation incorporated in this State.

3. A captive insurer shall have not less than three incorporators or organizers, at least one of whom must be a resident of this State.

4. Before the articles of incorporation of a captive insurer may be filed with the Secretary of State, the Commissioner must approve the articles of incorporation. In determining whether to grant that approval, the Commissioner shall consider:

(a) The character, reputation, financial standing and purposes of the incorporators or organizers;

(b) The character, reputation, financial responsibility, experience relating to insurance and business qualifications of the officers and directors of the captive insurer;

(c) The competence of any person who, pursuant to a contract with the captive insurer, will manage the affairs of the captive insurer;

(d) The competence, reputation and experience of the legal counsel of the captive insurer relating to the regulation of insurance;

(e) *The character, competence, reputation, expertise and experience of any other persons who manage, directly or indirectly, or provide professional services for the captive insurer;*

(f) If the captive insurer is a rental captive insurer, the competence, reputation and experience of the underwriter of the captive insurer;

~~((f))~~ (g) The business plan of the captive insurer; and

~~((g))~~ (h) Such other aspects of the captive insurer as the Commissioner deems advisable.

5. The capital stock of a captive insurer incorporated as a stock insurer must be issued at not less than par value.

6. At least one member of the board of directors of a captive insurer formed as a corporation, or one member of the subscribers advisory committee or the attorney-in-fact of a captive insurer formed as a reciprocal insurer, must be a resident of this State.

7. A captive insurer formed pursuant to the provisions of this chapter has the privileges of, and is subject to, the provisions of general corporation law set forth in chapter 78 of NRS and, if formed as a nonprofit corporation, the provisions set forth in chapter 82 of NRS, as well as the applicable provisions contained in this chapter. If the provisions of this chapter conflict with the general provisions in chapter 78 or 82 of NRS governing corporations, the provisions of this chapter control. The provisions of chapter 693A of NRS ~~[relating to mergers, consolidations, conversions, mutualizations and transfers of domicile to this State]~~ apply to determine the procedures to be followed by captive insurers in carrying out any of those transactions in accordance with this chapter.

8. The articles of association, articles of incorporation, charter or bylaws of a captive insurer formed as a corporation must require that a quorum of the board of directors consists of not less than one-third of the number of directors prescribed by the articles of association, articles of incorporation, charter or bylaws.

9. The agreement of the subscribers or other organizing document of a captive insurer formed as a reciprocal insurer must require that a quorum of its subscribers advisory committee consists of not less than one-third of the number of its members.

Sec. 68. NRS 694C.310 is hereby amended to read as follows:

694C.310 1. The board of directors of a captive insurer shall meet at least once each year in this State. The captive insurer shall:

(a) Maintain its principal place of business in this State; and

(b) Appoint a resident of this State as a registered agent to accept service of process and otherwise act on behalf of the captive insurer in this State. If the registered agent cannot be located with reasonable diligence for the purpose of serving a notice or demand on the captive insurer, the notice or demand may be

1 served on the Secretary of State who shall be deemed to be the agent for the captive
2 insurer.

3 2. A captive insurer shall not transact insurance in this State unless:

4 (a) The captive insurer has made adequate arrangements with a bank located in
5 this State that is authorized pursuant to state or federal law to transfer money;

6 (b) If the captive insurer employs or has entered into a contract with a natural
7 person or business organization to manage the affairs of the captive insurer, the
8 natural person or business organization meets the standards of competence and
9 experience satisfactory to the Commissioner;

10 (c) The captive insurer employs or has entered into a contract with a qualified
11 and experienced certified public accountant who is approved by the Commissioner
12 or a firm of certified public accountants that is nationally recognized;

13 (d) The captive insurer employs or has entered into a contract with qualified,
14 experienced actuaries who are approved by the Commissioner to perform reviews
15 and evaluations of the operations of the captive insurer; and

16 (e) The captive insurer employs or has entered into a contract with an attorney
17 who is licensed to practice law in this State and who meets the standards of
18 competence and experience in matters concerning the regulation of insurance in this
19 State established by the Commissioner by regulation.

20 *3. A person who serves as a member of a board of directors of a captive*
21 *insurer shall not, directly or indirectly, transact business with, or provide a*
22 *service or product for a fee or other compensation to, the captive insurer.*

23 **Sec. 69.** NRS 695E.130 is hereby amended to read as follows:

24 695E.130 1. Except as otherwise provided in chapter 685A of NRS, a
25 purchasing group shall not purchase insurance from an unauthorized insurer or a
26 risk retention group that is not chartered or registered in this state.

27 2. A purchasing group is exempt from any law of this state that relates to the
28 formation or prohibition of groups for the purchase of insurance, and any law that
29 would discriminate against a purchasing group or its members.

30 3. An insurer is exempt from any law of this state that prohibits providing, or
31 offering to provide, to a purchasing group or its members advantages based on their
32 loss and expense experiences not afforded to other persons with respect to rates,
33 policy forms, coverages or other matters.

34 4. ~~{A purchasing group and its insurer are exempt from any law of this state~~
35 ~~which requires that an insurance policy issued to a purchasing group or any of its~~
36 ~~members be countersigned by an insurance agent residing in this state.~~

37 ~~—5.} A purchasing group that obtains liability insurance from a surplus lines~~
38 ~~insurer or a risk retention group shall inform each of the members of the purchasing~~
39 ~~group which have a risk resident or located in this state that the risk is not protected~~
40 ~~by an insurance insolvency guaranty fund in this state, and that the risk retention~~
41 ~~group or insurer may not be subject to all insurance laws and regulations of this~~
42 ~~state.~~

43 ~~{6.} 5. No purchasing group may purchase insurance providing for a~~
44 ~~deductible or self-insured retention applicable to the group as a whole, but the~~
45 ~~coverage may provide for a deductible or self-insured retention applicable to~~
46 ~~individual members of the group.~~

47 ~~{7.} 6. Purchases of insurance by purchasing groups are subject to the same~~
48 ~~standards regarding aggregate limits which are applicable to all purchases of group~~
49 ~~insurance.~~

50 **Sec. 70.** NRS 695F.310 is hereby amended to read as follows:

51 695F.310 1. The Commissioner may examine *in accordance with the*
52 *provisions of NRS 679B.230 to 679B.300, inclusive,* the affairs of any prepaid
53 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 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. 71. NRS 695H.090 is hereby amended to read as follows:

695H.090 1. An application for registration to engage in business as a medical discount plan must be submitted on a form prescribed by the Commissioner. The form must be signed by an officer or an authorized representative of the applicant. Except as otherwise provided in this section, the application must be accompanied by:

(a) A registration fee of \$500.

(b) A copy of the organizational documents of the applicant, if any.

(c) A list of names, addresses, positions of employment and biographical information of each person who is responsible for conducting the business activities of the medical discount plan of the applicant, including, but not limited to, all members of the board of directors, board of trustees, officers and managers. The list must set forth the extent and nature of any contracts or other agreements between any person who is responsible for conducting the business activities of the applicant and the medical discount plan, including disclosure of any possible conflicts of interest.

(d) A complete biographical statement, on a form prescribed by the Commissioner, describing the facilities, employees and services that will be offered by the applicant.

(e) A copy of all forms used for contracts between the applicant and networks of providers of health care regarding the provision of health care or medical services to members.

(f) A copy of the most recent financial statements of the applicant, audited by an independent certified public accountant.

(g) A description of the method of marketing proposed by the applicant.

(h) A description of the procedures for making a complaint to be established and maintained by the applicant.

(i) Any other information required by the Commissioner.

2. Each person who registers a medical discount plan must renew the registration annually before ~~the registration expires.~~ **March 1.** Except as otherwise provided in this section, an application to renew the registration must include:

(a) An annual renewal fee of \$500; and

(b) Any information set forth in subsection 1 that the Commissioner requires to be included in the application.

3. An administrator or insurer that registers a medical discount plan is not required to pay the fees for registering or renewing the registration of the medical discount plan pursuant to this section.

4. The Commissioner shall, by regulation, designate the provisions of subsection 1 that shall be deemed satisfied by an administrator, insurer or affiliate of an insurer that has complied with substantially similar requirements pursuant to other provisions of this title.

1 **Sec. 72.** Chapter 90 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 73, 74 and 75 of this act.

3 **Sec. 73.** *“Provider of viatical settlements” has the meaning ascribed to it in*
4 *NRS 688C.080.*

5 **Sec. 74.** *“Viatical settlement investment” means the contractual right to*
6 *receive a specified portion of the death benefit or ownership of a life insurance*
7 *policy or certificate in exchange for consideration that is less than the dollar*
8 *amount of the expected death benefit of the life insurance policy or certificate.*
9 *The term does not include:*

10 1. *A transaction between a viator and a provider of viatical settlements;*
11 2. *A transfer of ownership or beneficial interest in a life insurance policy*
12 *from a provider of viatical settlements to another provider of viatical settlements,*
13 *or to a legal entity formed solely for the purpose of holding ownership or*
14 *beneficial interest in a life insurance policy or policies;*

15 3. *The bona fide assignment of a life insurance policy to a bank, savings*
16 *bank, savings and loan association, credit union or other licensed lending*
17 *institution as collateral for a loan; or*

18 4. *The exercise of accelerated benefits pursuant to the terms of a life*
19 *insurance policy issued in accordance with title 57 of NRS.*

20 **Sec. 75.** *“Viator” has the meaning ascribed to it in NRS 688C.150, except*
21 *that for the purposes of this chapter, a viator need not be a resident of this State.*

22 **Sec. 76.** NRS 90.211 is hereby amended to read as follows:

23 90.211 As used in this chapter, unless the context otherwise requires, the
24 words and terms defined in NRS 90.215 to 90.307, inclusive, *and sections 73, 74*
25 *and 75 of this act* have the meanings ascribed to them in those sections.

26 **Sec. 77.** NRS 90.295 is hereby amended to read as follows:

27 90.295 “Security” means a note, stock, bond, debenture, evidence of
28 indebtedness, certificate of interest or participation in a profit-sharing agreement, a
29 limited partnership interest, an interest in a limited-liability company, collateral-
30 trust certificate, preorganization certificate or subscription, transferable share,
31 investment contract, *viatical settlement investment*, voting-trust certificate,
32 certificate of deposit for a security, fractional undivided interest in an oil, gas or
33 other mineral lease or in payments out of production of such a lease, right or
34 royalty, a put, call, straddle or option on a security, certificate of deposit or group or
35 index of securities including any interest therein or based on the value of any of the
36 foregoing, or, in general, any interest or instrument commonly known as a security
37 or any certificate of interest or participation in, temporary or interim certificate for,
38 receipt for, whole or partial guarantee of or warrant or right to subscribe to or
39 purchase any of the foregoing. The term does not include:

40 1. An insurance or endowment policy or annuity contract under which an
41 insurance company promises to pay a fixed sum of money either in a lump sum or
42 periodically for life or some other specified period; or

43 2. An interest in a contributory or noncontributory pension or welfare plan
44 subject to the Employee Retirement Income Security Act of 1974.

45 **Sec. 78.** NRS 616B.691 is hereby amended to read as follows:

46 616B.691 1. For the purposes of chapters 612 and 616A to 617, inclusive,
47 of NRS, an employee leasing company which complies with the provisions of NRS
48 616B.670 to 616B.697, inclusive, shall be deemed to be the employer of the
49 employees it leases to a client company.

50 2. ~~{If an} An~~ employee leasing company ~~{complies with the provisions of~~
51 ~~subsection 3, the employee leasing company}~~ shall be ~~{deemed to be the employer~~
52 ~~of its leased employees}~~ *responsible* for ~~{the purposes of}~~ sponsoring and
53 maintaining ~~{any benefit plans, including, without limitation, for the purposes of the~~

~~Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.] workers' compensation insurance.~~

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 ~~or 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. 78.3. NRS 658.151 is hereby amended to read as follows:

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become or is in imminent danger of becoming otherwise insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to trustees.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS.

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

Sec. 78.7. NRS 667.035 is hereby amended to read as follows:

667.035 1. ~~[After July 1, 1971, the]~~ The Federal Deposit Insurance Corporation created by the Federal Deposit Insurance Act, 12 U.S.C. § 1811, may act without bond as receiver or liquidator of any state bank which ~~has~~ :

(a) Has been closed because of inability to meet the demands of its depositors ~~or~~ ; or

(b) Is insured by the Federal Deposit Insurance Corporation and has been taken possession of by the Commissioner pursuant to NRS 658.151.

2. The appropriate state authority having the right to appoint a receiver or liquidator of a state bank may, upon such closing, tender to the Federal Deposit Insurance Corporation the appointment as receiver or liquidator of such bank. If the Federal Deposit Insurance Corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of a state bank, its depositors and other

creditors, and shall be subject to all the duties of such receiver or liquidator, except insofar as such powers, privileges or duties are in conflict with the provisions of the Federal Deposit Insurance Act.

Sec. 79. NRS 688C.120 and 688C.340 are hereby repealed.

Sec. 80. 1. This section and sections 5 and 7 of this act become effective upon passage and approval.

2. Sections 0.2 to 0.8, inclusive, and 3.5 of this act become effective on July 1, 2009.

3. Sections 1 ~~to 4, inclusive,~~ 2, 3, 4, 6, 10 to 60, inclusive, and 65 to 79, inclusive, of this act become effective on October 1, 2009.

~~2-4~~ 4. Sections 8 and 61 to 64, inclusive, of this act become effective on October 3, 2009.

~~4-4~~ 5. Section 9 of this act becomes effective on October 9, 2009.

TEXT OF REPEALED SECTIONS

688C.120 “Trust for a related provider” defined. “Trust for a related provider” means a trust established by a licensed provider of viatical settlements solely to hold the ownership of or beneficial interests in purchased policies in connection with financing.

688C.340 Trust for related provider: Required agreement between trustee and provider. The trustee of a trust for a related provider must agree in writing with the provider of viatical settlements that the provider is responsible for ensuring compliance with all statutory and regulatory requirements and that the trustee will make all records and files related to viatical settlements available to the Commissioner as if those records and files were maintained directly by the provider.