

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.

~

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 58.5 and 64.5 of this bill revise provisions relating to compensation of producers for the sale of certain health benefit plans.

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.



* S B 3 8 8 R 1 *

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

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

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

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

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

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

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

18 **2. *A fee required by this section must be:***

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

20 ***(b) Prorated by the Commissioner as appropriate; and***

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

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

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

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

29 ***(1) Initial fee.....\$1,300***

30 ***(2) Annual fee.....\$1,300***

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

34 ***(1) Initial fee.....\$1,300***

35 ***(2) Annual fee.....\$1,300***

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

38 ***(1) Initial fee.....\$60***

39 ***(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

(j) *Health maintenance organizations, as defined
in NRS 695C.030:*

(1) *Initial fee*\$1,300
(2) *Annual fee*.....\$1,300

(k) *Organizations for dental care, as defined in
NRS 695D.060:*

(1) *Initial fee*\$1,300
(2) *Annual fee*.....\$1,300

(l) *Purchasing groups, as defined in
NRS 695E.100:*

(1) *Initial fee*\$250
(2) *Annual fee*.....\$250

(m) *Prepaid limited health service organizations,
as defined in NRS 695F.050:*

(1) *Initial fee*\$1,300
(2) *Annual fee*.....\$1,300

(n) *Medical discount plans, as defined in
NRS 695H.050:*

(1) *Initial fee*\$1,300
(2) *Annual fee*.....\$1,300

(o) *Motor clubs, as defined in NRS 696A.050:*

(1) *Initial fee*\$1,300
(2) *Annual fee*.....\$1,300



1	(p) Risk retention groups, as defined in	
2	NRS 695E.110:	
3	(1) Initial fee.....	\$250
4	(2) Annual fee.....	\$250
5	(q) Captive insurers, as defined in NRS 694C.060:	
6	(1) Initial fee.....	\$250
7	(2) Annual fee.....	\$250
8	(r) Sellers of prepaid funeral contracts subject to	
9	the provisions of chapter 689 of NRS:	
10	(1) Initial fee.....	\$60
11	(2) Triennial fee.....	\$60
12	(s) Bail agents, as defined in NRS 697.040:	
13	(1) Initial fee.....	\$60
14	(2) Triennial fee.....	\$60
15	(t) Bail enforcement agents, as defined in	
16	NRS 697.055:	
17	(1) Initial fee.....	\$60
18	(2) Triennial fee.....	\$60
19	(u) General agents, as defined in NRS 697.070:	
20	(1) Initial fee.....	\$60
21	(2) Triennial fee.....	\$60
22	(v) Bail solicitors, as defined in NRS 697.060:	
23	(1) Initial fee.....	\$60
24	(2) Triennial fee.....	\$60
25	(w) Brokers, as defined in NRS 685A.030:	
26	(1) Initial fee.....	\$60
27	(2) Triennial fee.....	\$60
28	(x) Managing general agents, as defined in	
29	NRS 683A.060:	
30	(1) Initial fee.....	\$60
31	(2) Triennial fee.....	\$60
32	(y) Independent and public adjusters, as defined	
33	in NRS 684A.030:	
34	(1) Initial fee.....	\$60
35	(2) Triennial fee.....	\$60
36	(z) Associate adjusters, as defined in	
37	NRS 684A.030:	
38	(1) Initial fee.....	\$60
39	(2) Triennial fee.....	\$60
40	(aa) Motor vehicle physical damage appraisers, as	
41	defined in NRS 684B.010:	
42	(1) Initial fee.....	\$60
43	(2) Triennial fee.....	\$60



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



(nn) *External review organizations, as provided for in NRS 683A.371:*

(1) *Initial fee*.....\$60

(2) *Annual fee*.....\$60

(oo) *Agents who perform utilization reviews, as defined in NRS 683A.376:*

(1) *Initial fee*.....\$60

(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 this Code shall be provided by ~~[legislative appropriation from the General Fund]~~ *the Fund for Insurance Administration and Enforcement created by section 0.4 of this act* and shall be paid out on claims as other claims against the State are paid.

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

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

679B.410 The Commissioner shall:

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

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

3. Report to each regular session of the Legislature concerning his duties and findings pursuant to this section no later than *the first Monday in February*. ~~[H-]~~

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

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

(a) Domestic insurer;

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

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

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



* S B 3 8 8 R 1 *

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

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

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

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

(a) Is not licensed or authorized to do business in any state other than Nevada; ~~for~~ *and*

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

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

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

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

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

3. In any case where it is necessary to execute an emergency bond and a commissioned agent authorized to execute the bond is not present, a manager or other employee of the insurer having authority under a power of attorney may execute the bond in order to produce a valid contract between the insurer and the obligee. The bond must subsequently be countersigned by a ~~resident~~ commissioned agent ~~[]~~ who *is authorized to execute the bond. The commissioned agent who executes the bond* shall make and retain an adequate office record of the transaction.

4. ~~[Nothing contained in this section prevents exercise of the free and unlimited right to negotiate contracts by licensed~~



* S B 3 8 8 R 1 *

~~nonresident agents or brokers outside this State, if the policies, endorsements or evidence of those contracts covering properties or insurable interests in this State are countersigned by a registered agent of this State. Every such policy or contract must be countersigned by a registered agent.~~

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

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

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

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

Sec. 3.1. NRS 680B.060 is hereby amended to read as follows:
680B.060 1. The taxes imposed under NRS 680B.027 must be collected by the Department of Taxation and promptly deposited with the State Treasurer for credit to the State General Fund.

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

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



* S B 3 8 8 R 1 *

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

5. ~~[AHH]~~ *Except as otherwise provided in section 0.6 of this act,* all taxes, fees, licenses, fines and charges collected under this Code, including the general 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. 3.3. NRS 683A.261 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for



1 flood, of personal watercraft and of excess liability, written over one
2 or more underlying policies of automobile or residential property
3 insurance.

4 (i) Fixed annuities as a limited line.

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

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

7 2. A license as a producer of insurance remains in effect unless
8 revoked, suspended or otherwise terminated if a request for a
9 renewal is submitted on or before the date for the renewal specified
10 on the license, the fee for renewal and a fee established by the
11 Commissioner of not more than \$15 for deposit in the Insurance
12 Recovery Account are paid for each license and each authorization
13 to transact business on behalf of a business organization licensed
14 pursuant to subsection 2 of NRS 683A.251, and any requirement for
15 education or any other requirement to renew the license is satisfied
16 by the date specified on the license for the renewal. A producer of
17 insurance may submit a request for a renewal of his license within
18 30 days after the date specified on the license for the renewal if the
19 producer of insurance otherwise complies with the provisions of this
20 subsection and pays, in addition to any fee paid pursuant to this
21 subsection, a penalty of 50 percent of the renewal fee. A license as a
22 producer of insurance expires if the Commissioner receives a
23 request for a renewal of the license more than 30 days after the date
24 specified on the license for the renewal. A fee paid pursuant to this
25 subsection is nonrefundable.

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

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

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



* S B 3 8 8 R 1 *

1 ~~residence.] The license must be [conspicuously displayed in an area~~
2 ~~of the place of business which is open to the]~~ *available for* public ~~[-]~~
3 *inspection upon request.*

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

17 **Sec. 3.5.** NRS 685A.070 is hereby amended to read as
18 follows:

19 685A.070 1. A broker shall not knowingly place surplus lines
20 insurance with an insurer which is unsound financially or ineligible
21 pursuant to this section.

22 2. Except as otherwise provided in this section, an insurer is
23 not eligible to accept surplus lines risks pursuant to this chapter
24 unless it has surplus as to policyholders in an amount of not less
25 than \$15,000,000 and, if an alien insurer, unless it has and maintains
26 in a bank or trust company which is a member of the United States
27 Federal Reserve System a trust fund established pursuant to terms
28 that are reasonably adequate to protect all of its policyholders in the
29 United States. Such a trust fund must not have an expiration date
30 which is at any time less than 5 years in the future, on a continuing
31 basis. In the case of:

32 (a) A single alien insurer, such a trust fund must not be less than
33 the greater of \$5,400,000 or 30 percent of the gross liabilities of the
34 alien insurer for surplus lines in the United States, excluding any
35 liabilities for aviation, wet marine and transportation insurance, not
36 to exceed \$60,000,000, to be determined annually on the basis of
37 accounting practices and procedures that are substantially equivalent
38 to the accounting practices and procedures applicable in this State as
39 of December 31 of the year immediately preceding the date of the
40 determination where:

41 (1) The liabilities are maintained in an irrevocable trust
42 account in a qualified financial institution in the United States, on
43 behalf of policyholders in the United States, consisting of cash,
44 securities, letters of credit or any other investments of substantially
45 the same character and quality as investments that are eligible



* S B 3 8 8 R 1 *

1 investments pursuant to chapter 682A of NRS for the capital and
2 statutory reserves of admitted insurers to write like kinds of
3 insurance in this State. The trust fund, which must be included in
4 any calculation of capital and surplus or its equivalent, must comply
5 with the requirements set forth in the Standard Trust Agreement
6 required for listing with the International Insurers Department of the
7 National Association of Insurance Commissioners;

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

14 (3) In calculating the amount of the trust fund required by
15 this subsection, credit must be given for any deposits for any surplus
16 lines that are separately required and maintained within a state or
17 territory of the United States, not to exceed the amount of the alien
18 insurer's loss and loss adjustment reserves maintained in that state
19 or territory.

20 (b) A group of insurers which includes individual
21 unincorporated insurers, such a trust fund must not be less than
22 \$100,000,000.

23 (c) A group of incorporated insurers under common
24 administration, such a trust fund must not be less than
25 \$100,000,000. Each insurer within the group must individually
26 maintain capital and surplus of not less than \$25,000,000. The group
27 of incorporated insurers must:

28 (1) Operate under the supervision of the Department of Trade
29 and Industry of the United Kingdom;

30 (2) Possess aggregate policyholders surplus of
31 \$10,000,000,000, which must consist of money in trust in an amount
32 not less than the assuming insurers' liabilities attributable to
33 insurance written in the United States; and

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

37 (d) An insurance exchange created by the laws of a state, the
38 insurance exchange shall have and maintain a trust fund in an
39 amount of not less than \$75,000,000 or have a surplus as to
40 policyholders in an amount of not less than \$75,000,000. If an
41 insurance exchange maintains money for the protection of all
42 policyholders, each syndicate shall maintain minimum capital and
43 surplus of not less than \$15,000,000 and must qualify separately to
44 be eligible for the acceptance of surplus lines risks pursuant to this
45 chapter.



* S B 3 8 8 R 1 *

1 ➤ The Commissioner may require larger trust funds or surplus as to
2 policyholders than those set forth in this section if, in his judgment,
3 the volume of business being transacted or proposed to be transacted
4 warrants larger amounts.

5 3. An insurer is not eligible to write surplus lines of insurance
6 unless it has established a reputation for financial integrity and
7 satisfactory practices in underwriting and handling claims. In
8 addition, a foreign insurer must be authorized in the state of its
9 domicile to write the kinds of insurance which it intends to write in
10 Nevada.

11 4. The Commissioner may from time to time compile or
12 approve a list of all surplus lines insurers deemed by him to be
13 eligible currently, and may ~~mail~~ *post* a copy of the list ~~to each~~
14 ~~broker at his office last of record with the Commissioner.~~ *on the*
15 *Internet website maintained by the Division.* To be placed on the
16 list, a surplus lines insurer must file an application with the
17 Commissioner. The application must be accompanied by a
18 nonrefundable fee of \$2,450. This subsection does not require the
19 Commissioner to determine the actual financial condition or claims
20 practices of any unauthorized insurer. The status of eligibility, if
21 granted by the Commissioner, indicates only that the insurer appears
22 to be sound financially and to have satisfactory claims practices, and
23 that the Commissioner has no credible evidence to the contrary.
24 While any such list is in effect, the broker shall restrict to the
25 insurers so listed all surplus lines business placed by him.

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

27 685B.120 1. ~~Any~~ *Except as otherwise provided in*
28 *subsection 2, a* person who provides coverage in this State for the
29 cost of:

- 30 (a) Medical care;
31 (b) Surgery;
32 (c) Chiropractic;
33 (d) Physical therapy;
34 (e) Speech pathology;
35 (f) Audiology;
36 (g) Professional care of mental health;
37 (h) Dental care;
38 (i) Hospital care;
39 (j) Ophthalmic care; or
40 (k) Ambulance services,

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



* S B 3 8 8 R 1 *

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. 4.5. NRS 686C.210 is hereby amended to read as follows:

686C.210 1. The benefits that the Association may become obligated to cover may not exceed the lesser of:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer;

(b) With respect to one life, regardless of the number of policies or contracts:

(1) Three hundred thousand dollars in death benefits from life insurance, but not more than \$100,000 in net cash for surrender and withdrawal for life insurance; or

(2) One hundred thousand dollars in the present value of benefits from annuities, including net cash for surrender and withdrawal;

(c) With respect to health insurance for any one natural person:

(1) One hundred thousand dollars for coverages other than disability insurance, basic hospital, medical and surgical insurance or major medical insurance, including any net cash for surrender or withdrawal;

(2) Three hundred thousand dollars for disability insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance; or

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, ~~[\$100,000]~~ \$250,000 in present value of benefits from the annuity in the aggregate, including any net cash for surrender or withdrawal.

2. In no event is the Association obligated to cover more than:



(a) With respect to any one life or person under paragraphs (b) and (c) of subsection 1:

(1) An aggregate of \$300,000 in benefits, excluding benefits for basic hospital, medical and surgical insurance or major medical insurance; or

(2) An aggregate of \$500,000 in benefits, including benefits for basic hospital, medical and surgical insurance or major medical insurance.

(b) With respect to one owner of several nongroup policies of life insurance, whether the owner is a natural person or an organization and whether the persons insured are officers, managers, employees or other persons, more than \$5,000,000 in benefits, regardless of the number of policies and contracts held by the owner.

3. The limitations set forth in this section are limitations on the benefits for which the Association is obligated before taking into account its rights to subrogation or assignment or the extent to which those benefits could be provided out of the assets of the impaired or insolvent insurer attributable to covered policies. The cost of the Association's obligations under this chapter may be met by the use of assets attributable to covered policies, or reimbursed to the Association pursuant to its rights to subrogation or assignment.

4. In performing its obligation to provide coverage under NRS 686C.150 and 686C.152, the Association need not guarantee, assume, reinsure or perform, or cause to be guaranteed, assumed, reinsured or performed, the contractual obligations of the impaired or insolvent insurer under a covered policy or contract which do not materially affect the economic value or economic benefits of the covered policy or contract.

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:*

1. The benefits due under the health coverage are paid; and

2. 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.*



* S B 3 8 8 R 1 *

1 **Sec. 8.** *An insurer or other organization providing health*
2 *coverage pursuant to chapter 689B, 695A, 695B, 695C or 695F of*
3 *NRS shall comply with the provisions of the Paul Wellstone and*
4 *Pete Domenici Mental Health Parity and Addiction Equity Act of*
5 *2008, Public Law No. 110-343, Division C, Title V, Subtitle B, and*
6 *any federal regulations issued pursuant thereto.*

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

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

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

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

19 **2.** *Nothing in subsection 1 shall be construed to grant an*
20 *insurer the authority to waive the notice requirements established*
21 *pursuant to subsection 2 of NRS 608.1577. The failure of an*
22 *insurer to include in a policy of group life, dental or*
23 *health insurance an informational statement described in*
24 *paragraph (a) of subsection 1 shall not be construed as a waiver of*
25 *the notice requirements established pursuant to subsection 2 of*
26 *NRS 608.1577.*

27 **Sec. 10.5.** NRS 687B.040 is hereby amended to read as
28 follows:

29 687B.040 1. Any natural person of competent legal capacity
30 may procure or effect an insurance contract upon his own life or
31 body for the benefit of any person. But a person shall not procure or
32 cause to be procured any insurance contract upon the life or body of
33 another individual unless the benefits under the contract are payable
34 to the person insured or his personal representatives, or to a person
35 having, at the time when the contract was made, an insurable
36 interest in the person insured.

37 **2.** *A trust shall not procure, cause to be procured or hold an*
38 *insurance contract upon the life of a person unless each*
39 *beneficiary of the trust:*

40 *(a) Has an insurable interest in the person insured; or*

41 *(b) Is a charitable, benevolent, educational or religious*
42 *institution, or an agency thereof, and is designated irrevocably as*
43 *a beneficiary of the trust.*

44 **3.** If the beneficiary, assignee or other payee under any contract
45 made in violation of this section receives from the insurer any



* S B 3 8 8 R 1 *

benefits thereunder accruing upon the death, disablement or injury of the person insured, the person insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

~~[3-]~~ 4. As used in this section, "insurable interest" as to such personal insurance means that every person has an insurable interest in the life, body and health of himself, and of other persons as follows:

(a) In the case of persons related closely by blood or by law, a substantial interest engendered by love and affection; and

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the person insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the person insured.

~~[4-]~~ 5. Before, on or after January 1, 1972, an individual party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a corporation or of an interest in such shares, has an insurable interest in the life, body and health of each individual party to the contract and for the purposes of the contract only, in addition to any insurable interest which may otherwise exist as to the person.

~~[5-]~~ 6. An insurer is entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the insurable interest of the applicant in the insured. An insurer does not incur legal liability except as otherwise set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

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

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

(a) No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits~~



* S B 3 8 8 R 1 *

~~under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~

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

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

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

~~[3.]~~ 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.]~~ 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.



* S B 3 8 8 R 1 *

~~[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. 11.5. NRS 687B.290 is hereby amended to read as follows:

687B.290 1. The benefits, rights, privileges and options which under any annuity contract issued prior to or after January 1, 1972, are due or prospectively due the annuitant shall not be subject to execution nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the contract, except ~~for~~:

~~—(a) As~~ *as* to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payment to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity contract, the annuitant and the payment sought to be avoided on the ground of fraud.

~~[(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity contracts under which he is an annuitant shall not at any time exceed \$350 per month for the length of time represented by such installments, and such periodic payments in excess of \$350 per month shall be subject to garnishee execution to the same extent as are wages and salaries.~~

~~—(c) If the total benefits presently due and payable to any annuitant under all annuity contracts under which he is an annuitant, at any time exceed payment at the rate of \$350 per month, then the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in installments, such portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.]~~

2. If the contract so provides, the benefits, rights, privileges or options accruing under such contract to a beneficiary or assignee shall not be transferable or subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee.



* S B 3 8 8 R 1 *

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

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

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

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

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

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

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

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

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

35 *(c) Chapter 680A of NRS.*

36 *(d) Chapter 683A of NRS.*

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

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



* S B 3 8 8 R 1 *

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, including, without limitation, premiums and costs if the insured returns to health, 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:*

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



* S B 3 8 8 R 1 *

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

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

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

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

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



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

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

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

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

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

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

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

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

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

1. The provider of viatical settlements; or

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

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

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



* S B 3 8 8 R 1 *

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

- 5 (a) Controls;
6 (b) Is controlled by; or
7 (c) Is under common control with,
8 ↳ the broker of viatical settlements.

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

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

22 **Sec. 27.** The Commissioner may place a broker or investment
23 agent of viatical settlements on probation if the Commissioner
24 finds that the broker or investment agent of viatical settlements
25 has acted in bad faith with regard to a viator.

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

30 (a) Refuse to:

- 31 (1) Issue a license to the producer of life insurance; or
32 (2) Renew a license of the producer of life insurance;

33 (b) Suspend the producer of life insurance for a period not to
34 exceed 12 months; or

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

36 2. If the Commissioner takes action as described in
37 paragraphs (a), (b) or (c) of subsection 1, the producer of life
38 insurance may apply in writing for a hearing before the
39 Commissioner to determine the reasonableness of the action taken
40 by the Commissioner, pursuant to the provisions of NRS 679B.310
41 to 679B.370, inclusive.

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

43 688C.010 As used in this chapter, unless the context otherwise
44 requires, the words and terms defined in NRS 688C.020 to



688C.150, inclusive, *and sections 13 to 16, inclusive, of this act* have the meanings ascribed to them in those sections.

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

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

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

688C.030 "Broker of viatical settlements" means a person who on behalf of a viator and for a fee, commission or other valuable consideration offers or attempts to negotiate a viatical settlement between the viator and one or more providers *or brokers* of viatical settlements. The term does not include an attorney at law, certified public accountant or financial planner accredited by a nationally recognized accrediting agency who is retained by the viator and whose 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 *1.* "Purchaser of viatical settlements" means ~~[a]~~ :

(a) 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]~~ ;

(b) A person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract *as described in subsection 2 of NRS 687B.040*; or



* S B 3 8 8 R 1 *

(c) *A person who* 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.

2. The term does not include:

~~[(1)]~~ (a) A person licensed pursuant to this chapter;

~~[(2)]~~ (b) 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)]~~ (c) A financing agent; *or*

~~[(4)]~~ (d) 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 ~~[-~~

~~—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*



* S B 3 8 8 R 1 *

1 *to purchase a viatical settlement*, the legal effect of ~~the~~ *the* viatical
2 settlement *or agreement to purchase a viatical settlement, as*
3 *applicable*, is governed by the law of the state in which the viator *or*
4 *purchaser* having the largest fractional ownership resides. If the
5 viators *or purchasers of viatical settlements* own equal fractions,
6 they may agree in writing to choose ~~the~~ *which* state, *among the*
7 *states* in which ~~one resides.~~ *the viators or purchasers of viatical*
8 *settlements reside, will be the state whose law will govern.*

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

10 688C.190 1. Except as otherwise provided in NRS 688C.215,
11 a person shall not, without first obtaining a license from the
12 Commissioner, operate in or from this State as *an investment agent*
13 *or* a provider or broker of viatical settlements.

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

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

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

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

31 688C.200 1. Upon the filing of an application and payment
32 of the fee, the Commissioner shall investigate the applicant, and
33 issue a license if he finds that the applicant:

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

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

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

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

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

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



1 (2) *Has demonstrated evidence of financial responsibility*
2 *through either:*

3 (I) *A surety bond executed and issued by an authorized*
4 *surety in favor of the State of Nevada, continuous in form and in*
5 *an amount as determined by the Commissioner, of not less than*
6 *\$250,000; or*

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

9 2. The Commissioner shall not issue a license to a nonresident
10 unless a written designation of an agent for service of process, or an
11 irrevocable written consent to the commencement of an action
12 against the applicant by service of process upon the Commissioner,
13 accompanies the application.

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

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

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

- 26 (a) *Erroneous acts;*
27 (b) *Failure to act; or*
28 (c) *Conviction of:*

- 29 (1) *Fraud; or*
30 (2) *Unfair practices,*

31 ↪ *by the provider or broker of viatical settlements.*

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

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

36 688C.210 1. After notice, and after a hearing if requested, the
37 Commissioner may suspend, revoke, refuse to issue or refuse to
38 renew a license under this chapter if he finds that:

39 ~~(1)~~ (a) There was material misrepresentation in the application
40 for the license;

41 ~~(2)~~ (b) The licensee or an officer, partner, member or
42 significant managerial employee has been convicted of fraudulent or
43 dishonest practices, is subject to a final administrative action for
44 disqualification, or is otherwise shown to be untrustworthy or
45 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;

~~[10.]~~ (j) The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; ~~for~~

~~—11.]~~ (k) The applicant or licensee has violated a provision of this chapter ~~;~~ 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.



* S B 3 8 8 R 1 *

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;

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

~~((d))~~ (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.



* S B 3 8 8 R 1 *

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

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

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

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

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

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

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

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

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

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

(2) *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.

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



* S B 3 8 8 R 1 *

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

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

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

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

All medical, financial and personal information solicited or obtained by a provider or broker of viatical settlements about an insured, including his 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 ~~[(j)]~~ *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. *The existence of any affiliations or contractual agreements between the provider and purchaser of viatical settlements and:*

(a) *The identity of that purchaser of viatical settlements; and*



(b) If any contractual agreements exist between the provider and purchaser of viatical settlements, the identity of every party to those agreements.

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

(a) The identity of the person making the offer and who has an affiliation or agreement with the broker of viatical settlements; and

(b) If any contractual agreements exist between the broker of viatical settlements and a person making an offer, the identity of every party to those agreements.

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.

~~[5-]~~ 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 ~~[~~ *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 ~~[2]~~ *5* years after the issuance of the policy to which the



1 settlement relates unless one or more of the following conditions is
2 or has been satisfied:

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

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

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

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

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

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

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

22 ~~[(2)]~~ (3) The spouse of the owner or insured has died;

23 ~~[(3)]~~ (4) The owner or insured has divorced his spouse;

24 ~~[(4)]~~ (5) The owner or insured has retired from full-time
25 employment;

26 ~~[(5)]~~ (6) The owner or insured has become physically or
27 mentally disabled and a physician determines that the disability
28 precludes him from maintaining full-time employment;

29 ~~[(6) The owner of the policy was the employer of the insured~~
30 ~~and that relationship has terminated;]~~

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

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

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

42 2. The independent evidence must be submitted to the insurer
43 when the provider of viatical settlements submits a request to the
44 insurer to effect transfer of the policy to him. The insurer shall
45 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) 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 ~~15 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.



* S B 3 8 8 R 1 *

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 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*



* S B 3 8 8 R 1 *

1 *thereof with written confirmation that the change has been*
2 *effected or specifying the reasons why the requested change could*
3 *not be effected.*

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

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

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

10 688C.350 NRS 688C.350 to 688C.430, inclusive, *and sections*
11 *21, 22 and 23 of this act* apply to advertising of viatical settlements
12 *, agreements to purchase viatical settlements* or related *products or*
13 *services* intended for dissemination in this state, including
14 advertising on the Internet which is viewed by persons in this state.
15 To the extent that federal regulation establishes requirements for
16 disclosure, those sections must be so interpreted as to eliminate or
17 minimize conflict with the federal requirements.

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

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

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

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

36 688C.380 1. The information required to be disclosed under
37 NRS 688C.350 to 688C.430, inclusive, *and sections 21, 22 and 23*
38 *of this act* may not be minimized, obscured, presented ambiguously
39 or so intermingled with other text of an advertisement as to be
40 confusing or misleading.

41 2. An advertisement may not omit material information or use
42 language or illustrations if the omission or use has a capacity or
43 tendency to, or does, mislead viators *, purchasers of viatical*
44 *settlements or prospective purchasers of viatical settlements* as to
45 the nature or extent of any benefit, loss covered, premium payable



* S B 3 8 8 R 1 *

1 or effect on federal or state taxes. Making a viatical settlement *or an*
2 *agreement to purchase a viatical settlement* available for inspection
3 before it is consummated, or offering to refund payment if the viator
4 is not satisfied within the period prescribed in *subsection 4 of NRS*
5 *688C.300*, does not remedy misleading statements.

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

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

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

14 ~~5.1~~ 6. The words “free,” “no additional cost” or words of
15 similar import may not be used ~~[with]~~ :

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

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

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

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

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

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

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

36 (e) *“No sales charges or fees”;*

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

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

45 *↪ or similar representations.*



* S B 3 8 8 R 1 *

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 ~~[]~~, *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



1 settlements licensed under this chapter if the advertisement would
2 have the capacity or tendency to mislead as to his true identity or
3 create the impression that an organization other than the licensee
4 would have a responsibility for the financial obligation under a
5 viatical settlement. The name of the licensee must be stated in all
6 advertisements.

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

8 688C.420 1. An advertisement may not use a combination of
9 words, symbols or physical materials that by their content,
10 phraseology, shape, color or other characteristic are so similar to a
11 combination of words, symbols or physical materials used by a
12 governmental program or agency, or otherwise appear to be of such
13 a nature, that they tend to mislead viators *or purchasers of viatical*
14 *settlements* into believing that the solicitation is connected with a
15 governmental program or agency. An advertisement may not create
16 the impression that a provider of viatical settlements, his financial
17 condition or business practices, the payment of his claims or the
18 merit, desirability or advisability of his viatical settlements *or*
19 *agreements to purchase viatical settlements* is recommended or
20 endorsed by a governmental authority.

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

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

29 688C.450 It is a category D felony, and the offender shall be
30 punished as provided in NRS 193.130, for any person, knowingly or
31 with intent to defraud, to do any of the following acts in order to
32 deprive another of property or for his own pecuniary gain:

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

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

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

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



* S B 3 8 8 R 1 *

(d) A premium paid on a policy ~~[]~~ *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 , ~~[or]~~ viatical settlement ~~[]~~ *or agreement to purchase a viatical settlement;* or

(h) The issuance of written evidence of a policy , ~~[or]~~ viatical settlement ~~[]~~ *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;



* S B 3 8 8 R 1 *

(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.

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

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

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

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

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

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

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



* S B 3 8 8 R 1 *

1 3. *A violation of this chapter attendant to the signing of an*
2 *agreement to purchase a viatical settlement renders the agreement*
3 *voidable and subject to rescission by the purchaser of viatical*
4 *settlements, upon tender of the viaticated policy by the purchaser*
5 *of viatical settlements to the provider of viatical settlements. Suit*
6 *for rescission may be brought:*

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

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

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

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

12 **Sec. 58.5.** NRS 689A.710 is hereby amended to read as
13 follows:

14 689A.710 1. Except as otherwise provided in this section, an
15 individual carrier or a producer shall not, directly or indirectly:

16 (a) Encourage or direct an eligible person to refrain from filing
17 an application for coverage with an individual carrier because of the
18 health status, claims experience, industry, occupation or geographic
19 location of the eligible person.

20 (b) Encourage or direct an eligible person to seek coverage from
21 another carrier because of the health status, claims experience,
22 industry, occupation or geographic location of the eligible person.

23 2. The provisions of subsection 1 do not apply to information
24 provided to an eligible person by an individual carrier or a producer
25 relating to the established geographic service area or a provision for
26 a restricted network of the individual carrier.

27 3. Except as otherwise provided in this subsection, an
28 individual carrier shall not, directly or indirectly, enter into any
29 contract, agreement or arrangement with a producer if the contract,
30 agreement or arrangement provides for or results in a variation to
31 the compensation paid to a producer for the sale of a health benefit
32 plan because of the health status, claims experience, industry,
33 occupation or geographic location of the individual at the time that
34 the health benefit plan is issued to or renewed by the individual. The
35 provisions of this subsection do not apply to any arrangement for
36 compensation that provides payment to a producer on the basis of a
37 percentage of premiums, except that the percentage may not vary
38 because of the health status, claims experience, industry, occupation
39 or geographic area of the individual. *Compensation paid pursuant*
40 *to a contract, agreement or arrangement to a producer for the sale*
41 *of a health benefit plan shall be based on the total premiums paid*
42 *by an individual for the full extent of the coverage afforded by the*
43 *health benefit plan.*

44 4. An individual carrier shall not terminate, fail to renew, or
45 limit its contract or agreement of representation with a producer for



* S B 3 8 8 R 1 *

1 any reason related to the health status, claims experience, industry,
2 occupation or geographic location of an individual at the time that
3 the health benefit plan is issued to or renewed by the individual
4 placed by the producer with the individual carrier.

5 5. A denial by an individual carrier of an application for
6 coverage from an eligible person must be in writing and must state
7 the reason for the denial.

8 6. The Commissioner may adopt regulations that set forth
9 additional standards to provide for the fair marketing and broad
10 availability of health benefit plans to eligible persons in this state.

11 7. A violation of any provision of this section by an individual
12 carrier may constitute an unfair trade practice for the purposes of
13 chapter 686A of NRS.

14 8. The provisions of this section apply to a third-party
15 administrator if the third-party administrator enters into a contract,
16 agreement or other arrangement with an individual carrier to provide
17 administrative, marketing or other services related to the offering of
18 a health benefit plan to eligible persons in this state.

19 9. Nothing in this section interferes with the right and
20 responsibility of a broker to advise and represent the best interests of
21 an eligible person who is seeking health insurance coverage from an
22 individual carrier.

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

24 689B.026 1. Except as otherwise provided in this section, no
25 policy of group health insurance may be delivered or issued for
26 delivery in this state to a group which was formed for the purpose of
27 purchasing one or more policies of group health insurance.

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

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

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

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

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



1 *shall use the provisions of chapter 689A of NRS to review*
2 *insurance products marketed to natural persons in this State.*

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

5 **Sec. 59.5.** NRS 689B.030 is hereby amended to read as
6 follows:

7 689B.030 Each group health insurance policy must contain in
8 substance the following provisions:

9 1. A provision that, in the absence of fraud, all statements
10 made by applicants or the policyholders or by an insured person are
11 representations and not warranties, and that no statement made for
12 the purpose of effecting insurance voids the insurance or reduces its
13 benefits unless the statement is contained in a written instrument
14 signed by the policyholder or the insured person, a copy of which
15 has been furnished to him or his beneficiary.

16 2. A provision that the insurer will furnish to the policyholder
17 for delivery to each employee or member of the insured group a
18 statement in summary form of the essential features of the insurance
19 coverage of that employee or member and to whom benefits
20 thereunder are payable. If dependents are included in the coverage,
21 only one statement need be issued for each family.

22 3. A provision that to the group originally insured may be
23 added from time to time eligible new employees or members or
24 dependents, as the case may be, in accordance with the terms of the
25 policy.

26 4. A provision for benefits for expense arising from care at
27 home or health supportive services if the care or service was
28 prescribed by a physician and would have been covered by the
29 policy if performed in a medical facility or facility for the dependent
30 as defined in chapter 449 of NRS.

31 ~~5. [A provision for benefits payable for expenses incurred for~~
32 ~~the treatment of the abuse of alcohol or drugs, as provided in~~
33 ~~NRS 689B.036.~~

34 ~~—6.]~~ A provision for benefits for expenses arising from hospice
35 care.

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

37 689B.080 Any insurer authorized to write health insurance in
38 this state, including a nonprofit corporation for hospital, medical or
39 dental services that has a certificate of authority issued pursuant to
40 chapter 695B of NRS, may issue blanket accident and health
41 insurance. No blanket policy, except as provided in subsection ~~[4]~~ 5
42 of NRS 687B.120, may be issued or delivered in this state unless a
43 copy of the form thereof has been filed in accordance with NRS
44 687B.120. Every blanket policy must contain provisions which in



1 the opinion of the Commissioner are not less favorable to the
2 policyholder and the individual insured than the following:

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

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

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

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



* S B 3 8 8 R 1 *

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

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

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

8. A provision for benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

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

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

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

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

2. *The coverage required by this section:*

(a) *Must provide:*

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

(2) *That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of*



1 *hospitalization not used by the insured. In no event is the policy*
2 *required to provide coverage for more than 40 days of*
3 *hospitalization as an inpatient per policy year.*

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

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

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

17 *5. To obtain the exemption required by subsection 4, an*
18 *insurer must submit to the Commissioner a written request*
19 *therefor that is signed by an actuary and sets forth the reasons and*
20 *actuarial assumptions upon which the request is based. To*
21 *determine whether an exemption may be granted, the*
22 *Commissioner shall subtract from the amount of premiums*
23 *charged during the policy year the amount of premiums charged*
24 *during the period immediately preceding the policy year and the*
25 *amount of any increase in the premiums charged that is*
26 *attributable to factors that are unrelated to providing the coverage*
27 *required by this section. The Commissioner shall verify the*
28 *information within 30 days after receiving the request. The request*
29 *shall be deemed approved if the Commissioner does not deny the*
30 *request within that time.*

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

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

35 *(b) Supersede any provision of federal law, any federal or state*
36 *policy relating to Medicaid, or the terms and conditions imposed*
37 *on any Medicaid waiver granted to this State with respect to the*
38 *provisions of services to persons with conditions relating to mental*
39 *health or substance abuse.*

40 *7. A policy of group health insurance subject to the*
41 *provisions of this chapter which is delivered, issued for delivery or*
42 *renewed on or after October 3, 2009, has the legal effect of*
43 *including the coverage required by this section, and any provision*
44 *of the policy or the renewal which is in conflict with this section is*



1 void, unless the policy is otherwise exempt from the provisions of
2 this section pursuant to subsection 4.

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

- 8 (a) Schizophrenia.
- 9 (b) Schizoaffective disorder.
- 10 (c) Bipolar disorder.
- 11 (d) Major depressive disorders.
- 12 (e) Panic disorder.
- 13 (f) Obsessive-compulsive disorder.

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

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

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

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

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

27 3. The insured person is entitled to these benefits if treatment
28 is received in any:

29 (a) Facility for the treatment of abuse of alcohol or drugs
30 which is certified by the Health Division of the Department of
31 Health and Human Services.

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

38 **Sec. 64.5.** NRS 689C.355 is hereby amended to read as
39 follows:

40 689C.355 1. Except as otherwise provided in this section, a
41 carrier or a producer shall not, directly or indirectly:

42 (a) Encourage or direct a small employer to refrain from filing
43 an application for coverage with the carrier because of the health
44 status, claims experience, industry, occupation or geographic
45 location of the small employer.



(b) Encourage or direct a small employer to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

2. The provisions of subsection 1 do not apply to information provided to a small employer by a carrier or a producer relating to the established geographic service area or a provision for a restricted network of the carrier.

3. Except as otherwise provided in this subsection, a carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation that is paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the small employer at the time that the health benefit plan is issued to or renewed by the small employer. The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of percentage of premium, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer. *Compensation paid pursuant to a contract, agreement or arrangement to a producer for the sale of a health benefit plan shall be based on the total premiums paid by a small employer for the full extent of the coverage afforded by the health benefit plan.*

4. A carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, occupation or geographic location of a small employer at the time that the health benefit plan is issued to or renewed by the small employer placed by the producer with the carrier.

5. A carrier or producer shall not induce or otherwise encourage a small employer to separate or otherwise exclude an employee or a dependent of the employee from health coverage or benefits provided in connection with the employment of the employee.

6. A violation of any provision of this section by a carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

7. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with a carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to small employers in this state.

8. Nothing in this section interferes with the right and responsibility of a broker to advise and represent the best interests of



* S B 3 8 8 R 1 *

1 a small employer who is seeking health insurance coverage from a
2 small employer carrier.

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

4 692A.100 1. The Commissioner shall provide by regulation
5 for the licensing of title agents, their branch offices, direct writing
6 title insurers and escrow officers.

7 2. Each title agent shall maintain his books of account and
8 record and his vouchers pertaining to title insurance business in a
9 manner which permits the Commissioner or his representative to
10 ascertain readily whether the agent has complied with the provisions
11 of this chapter.

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

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

17 (a) For the purpose of determining its financial condition,
18 fulfillment of its contractual obligations and compliance with law,
19 the Commissioner or his representative or the Commissioner of
20 Financial Institutions of the Department of Business and Industry or
21 his representative when requested by the Commissioner of
22 Insurance shall each year examine or cause to be examined *in*
23 *accordance with the provisions of NRS 679B.230 to 679B.300,*
24 *inclusive,* the affairs, transactions, agreements, assets, records and
25 accounts, including the escrow accounts, of a title agent, title insurer
26 or escrow officer.

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

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

42 6. The Commissioner shall determine whether an examination
43 performed by an accountant pursuant to *paragraph (b) of* subsection
44 ~~(b)~~ 4 is equivalent to an examination conducted by him. The
45 Commissioner may examine any area of the operation of a title



* S B 3 8 8 R 1 *

1 agent or insurer if the Commissioner determines that the
2 examination of that area is not equivalent to an examination
3 conducted by him.

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

6 **Sec. 66.** (Deleted by amendment.)

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

8 694C.180 1. Unless otherwise approved by the
9 Commissioner, a pure captive insurer, an agency captive insurer, a
10 rental captive insurer or a sponsored captive insurer must be
11 incorporated as a stock insurer.

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

13 (a) Stock insurer;

14 (b) Mutual insurer; or

15 (c) Reciprocal insurer, except that its attorney-in-fact must be a
16 corporation incorporated in this State.

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

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

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

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

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

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

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

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

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

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

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

44 6. At least one member of the board of directors of a captive
45 insurer formed as a corporation, or one member of the subscribers



1 advisory committee or the attorney-in-fact of a captive insurer
2 formed as a reciprocal insurer, must be a resident of this State.

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

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

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

25 **Sec. 68.** (Deleted by amendment.)

26 **Sec. 68.3.** NRS 695B.180 is hereby amended to read as
27 follows:

28 695B.180 A contract for hospital, medical or dental services
29 must not be entered into between a corporation proposing to furnish
30 or provide any one or more of the services authorized under this
31 chapter and a subscriber:

32 1. Unless the entire consideration therefor is expressed in the
33 contract.

34 2. Unless the times at which the benefits or services to the
35 subscriber take effect and terminate are stated in a portion of the
36 contract above the evidence of its execution.

37 3. If the contract purports to entitle more than one person to
38 benefits or services, except for family contracts issued under NRS
39 695B.190, group contracts issued under NRS 695B.200, and blanket
40 contracts issued under NRS 695B.220.

41 4. Unless every printed portion and any endorsement or
42 attached papers are plainly printed in type of which the face is not
43 smaller than 10 points.

44 5. Except for group contracts and blanket contracts issued
45 under NRS 695B.220, unless the exceptions of the contract are



* S B 3 8 8 R 1 *

1 printed with greater prominence than the benefits to which they
2 apply.

3 6. Except for group contracts and blanket contracts issued
4 under NRS 695B.230, unless, if any portion of the contract purports,
5 by reason of the circumstances under which an illness, injury or
6 disablement is incurred to reduce any service to less than that
7 provided for the same illness, injury or disablement incurred under
8 ordinary circumstances, that portion is printed in boldface type and
9 with greater prominence than any other text of the contract.

10 7. If the contract contains any provisions purporting to make
11 any portion of the charter, constitution or bylaws of a nonprofit
12 corporation a part of the contract unless that portion is set forth in
13 full in the contract.

14 8. ~~Unless the contract, if it is a group contract, contains a~~
15 ~~provision for benefits payable for expenses incurred for the~~
16 ~~treatment of the abuse of alcohol or drugs, as provided in~~
17 ~~NRS 695B.194.~~

18 ~~—9.]~~ Unless the contract provides benefits for expenses incurred
19 for hospice care.

20 ~~[10.]~~ 9. Unless the contract for service in a hospital contains in
21 blackface type, not less than 10 points, the following provisions:

22
23 This contract does not restrict or interfere with the right of
24 any person entitled to service and care in a hospital to select
25 the contracting hospital or to make a free choice of his
26 attending physician, who must be the holder of a valid and
27 unrevoked physician's license and a member of, or acceptable
28 to, the attending staff and board of directors of the hospital in
29 which the services are to be provided.

30 **Sec. 68.7.** NRS 695C.170 is hereby amended to read as
31 follows:

32 695C.170 1. Every enrollee residing in this state is entitled to
33 evidence of coverage under a health care plan. If the enrollee
34 obtains coverage under a health care plan through an insurance
35 policy, whether by option or otherwise, the insurer shall issue the
36 evidence of coverage. Otherwise, the health maintenance
37 organization shall issue the evidence of coverage.

38 2. Evidence of coverage or amendment thereto must not be
39 issued or delivered to any person in this state until a copy of the
40 form of the evidence of coverage or amendment thereto has been
41 filed with and approved by the Commissioner.

42 3. An evidence of coverage:

43 (a) Must not contain any provisions or statements which are
44 unjust, unfair, inequitable, misleading, deceptive, which encourage



* S B 3 8 8 R 1 *

misrepresentation or which are untrue, misleading or deceptive as defined in subsection 1 of NRS 695C.300; and

(b) Must contain a clear and complete statement, if a contract, or a reasonably complete summary if a certificate, of:

(1) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan;

(2) Any limitations on the services, kind of services, benefits, or kind of benefits, to be provided, including any deductible or copayment feature;

(3) Where and in what manner the services may be obtained;

and

(4) The total amount of payment for health care services and the indemnity or service benefits, if any, which the enrollee is obligated to pay. ~~[- and~~

~~— (5) A provision for benefits payable for expenses incurred for the treatment of the abuse of alcohol or drugs, as provided in NRS 695C.174.]~~

↪ Any subsequent change may be evidenced in a separate document issued to the enrollee.

4. A copy of the form of the evidence of coverage to be used in this state and any amendment thereto is subject to the requirements for filing and approval of subsection 2 unless it is subject to the jurisdiction of the Commissioner under the laws governing health insurance, in which event the provisions for filing and approval of those laws apply. To the extent that such provisions do not apply to the requirements in subsection 3, such provisions are amended to incorporate the requirements of subsection 3 in approving or disapproving an evidence of coverage required by subsection 2.

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

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

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

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

4. ~~[A purchasing group and its insurer are exempt from any law of this state which requires that an insurance policy issued to a~~



~~purchasing group or any of its members be countersigned by an insurance agent residing in this state.~~

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

~~[6.]~~ 5. No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole, but the coverage may provide for a deductible or self-insured retention applicable to individual members of the group.

~~[7.]~~ 6. Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits which are applicable to all purchases of group insurance.

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

695F.310 1. The Commissioner may examine *in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive*, the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every 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



* S B 3 8 8 R 1 *

1 of directors, board of trustees, officers and managers. The list must
2 set forth the extent and nature of any contracts or other agreements
3 between any person who is responsible for conducting the business
4 activities of the applicant and the medical discount plan, including
5 disclosure of any possible conflicts of interest.

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

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

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

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

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

18 (i) Any other information required by the Commissioner.

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

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

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

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

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

34 **Sec. 71.5.** NRS 21.090 is hereby amended to read as follows:

35 21.090 1. The following property is exempt from execution,
36 except as otherwise specifically provided in this section or required
37 by federal law:

38 (a) Private libraries, works of art, musical instruments and
39 jewelry not to exceed \$5,000 in value, belonging to the judgment
40 debtor or a dependent of the judgment debtor, to be selected by the
41 judgment debtor, and all family pictures and keepsakes.

42 (b) Necessary household goods, furnishings, electronics,
43 wearing apparel, other personal effects and yard equipment, not to
44 exceed \$12,000 in value, belonging to the judgment debtor or a



1 dependent of the judgment debtor, to be selected by the judgment
2 debtor.

3 (c) Farm trucks, farm stock, farm tools, farm equipment,
4 supplies and seed not to exceed \$4,500 in value, belonging to the
5 judgment debtor to be selected by him.

6 (d) Professional libraries, equipment, supplies, and the tools,
7 inventory, instruments and materials used to carry on the trade or
8 business of the judgment debtor for the support of himself and his
9 family not to exceed \$10,000 in value.

10 (e) The cabin or dwelling of a miner or prospector, his cars,
11 implements and appliances necessary for carrying on any mining
12 operations and his mining claim actually worked by him, not
13 exceeding \$4,500 in total value.

14 (f) Except as otherwise provided in paragraph (p), one vehicle if
15 the judgment debtor's equity does not exceed \$15,000 or the
16 creditor is paid an amount equal to any excess above that equity.

17 (g) For any workweek, 75 percent of the disposable earnings of
18 a judgment debtor during that week, or 50 times the minimum
19 hourly wage prescribed by section 6(a)(1) of the federal Fair Labor
20 Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the
21 time the earnings are payable, whichever is greater. Except as
22 otherwise provided in paragraphs (o), (s) and (t), the exemption
23 provided in this paragraph does not apply in the case of any order of
24 a court of competent jurisdiction for the support of any person, any
25 order of a court of bankruptcy or of any debt due for any state or
26 federal tax. As used in this paragraph:

27 (1) "Disposable earnings" means that part of the earnings of
28 a judgment debtor remaining after the deduction from those earnings
29 of any amounts required by law to be withheld.

30 (2) "Earnings" means compensation paid or payable for
31 personal services performed by a judgment debtor in the regular
32 course of business, including, without limitation, compensation
33 designated as income, wages, tips, a salary, a commission or a
34 bonus. The term includes compensation received by a judgment
35 debtor that is in the possession of the judgment debtor,
36 compensation held in accounts maintained in a bank or any other
37 financial institution or, in the case of a receivable, compensation
38 that is due the judgment debtor.

39 (h) All fire engines, hooks and ladders, with the carts, trucks and
40 carriages, hose, buckets, implements and apparatus thereunto
41 appertaining, and all furniture and uniforms of any fire company or
42 department organized under the laws of this State.

43 (i) All arms, uniforms and accouterments required by law to be
44 kept by any person, and also one gun, to be selected by the debtor.



(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance . ~~[, if the annual premium paid does not exceed \$15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the \$15,000 bears to the whole annual premium paid.]~~

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed \$500,000 in present value, held in:



* S B 3 8 8 R 1 *

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors'



* S B 3 8 8 R 1 *

benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed \$1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

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

Sec. 73. *"Provider of viatical settlements" has the meaning ascribed to it in NRS 688C.080.*

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

1. A transaction between a viator and a provider of viatical settlements;

2. A transfer of ownership or beneficial interest in a life insurance policy from a provider of viatical settlements to another provider of viatical settlements, or to a legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

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

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



1 **Sec. 75.** *“Viator” has the meaning ascribed to it in NRS*
2 *688C.150, except that for the purposes of this chapter, a viator*
3 *need not be a resident of this State.*

4 **Sec. 76.** NRS 90.211 is hereby amended to read as follows:
5 90.211 As used in this chapter, unless the context otherwise
6 requires, the words and terms defined in NRS 90.215 to 90.307,
7 inclusive, *and sections 73, 74 and 75 of this act* have the meanings
8 ascribed to them in those sections.

9 **Sec. 77.** NRS 90.295 is hereby amended to read as follows:
10 90.295 “Security” means a note, stock, bond, debenture,
11 evidence of indebtedness, certificate of interest or participation in a
12 profit-sharing agreement, a limited partnership interest, an interest
13 in a limited-liability company, collateral-trust certificate,
14 preorganization certificate or subscription, transferable share,
15 investment contract, *viatical settlement investment*, voting-trust
16 certificate, certificate of deposit for a security, fractional undivided
17 interest in an oil, gas or other mineral lease or in payments out of
18 production of such a lease, right or royalty, a put, call, straddle or
19 option on a security, certificate of deposit or group or index of
20 securities including any interest therein or based on the value of any
21 of the foregoing, or, in general, any interest or instrument commonly
22 known as a security or any certificate of interest or participation in,
23 temporary or interim certificate for, receipt for, whole or partial
24 guarantee of or warrant or right to subscribe to or purchase any of
25 the foregoing. The term does not include:

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

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

33 **Sec. 77.5.** NRS 287.010 is hereby amended to read as follows:
34 287.010 1. The governing body of any county, school
35 district, municipal corporation, political subdivision, public
36 corporation or other local governmental agency of the State of
37 Nevada may:

38 (a) Adopt and carry into effect a system of group life, accident
39 or health insurance, or any combination thereof, for the benefit of its
40 officers and employees, and the dependents of officers and
41 employees who elect to accept the insurance and who, where
42 necessary, have authorized the governing body to make deductions
43 from their compensation for the payment of premiums on the
44 insurance.



(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 689B.030 to 689B.050, inclusive, 689B.287 and 689B.575 apply to coverage provided pursuant to this paragraph . ~~[, except that the provisions of NRS 689B.0359 do not apply to such coverage.]~~

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the



* S B 3 8 8 R 1 *

1 legal services organization, and the dependents of those officers and
2 employees, are eligible for any life, accident or health insurance
3 provided pursuant to this section to the officers and employees, and
4 the dependents of the officers and employees, of the county, school
5 district, municipal corporation, political subdivision, public
6 corporation or other local governmental agency.

7 4. If a contract is entered into pursuant to subsection 3, the
8 officers and employees of the legal services organization:

9 (a) Shall be deemed, solely for the purposes of this section, to be
10 officers and employees of the county, school district, municipal
11 corporation, political subdivision, public corporation or other local
12 governmental agency with which the legal services organization has
13 contracted; and

14 (b) Must be required by the contract to pay the premiums or
15 contributions for all insurance which they elect to accept or of which
16 they authorize the purchase.

17 5. A contract that is entered into pursuant to subsection 3:

18 (a) Must be submitted to the Commissioner of Insurance for
19 approval not less than 30 days before the date on which the contract
20 is to become effective.

21 (b) Does not become effective unless approved by the
22 Commissioner.

23 (c) Shall be deemed to be approved if not disapproved by the
24 Commissioner within 30 days after its submission.

25 6. As used in this section, "legal services organization" means
26 an organization that operates a program for legal aid and receives
27 money pursuant to NRS 19.031.

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

29 616B.691 1. For the purposes of chapters 612 and 616A to
30 617, inclusive, of NRS, an employee leasing company which
31 complies with the provisions of NRS 616B.670 to 616B.697,
32 inclusive, shall be deemed to be the employer of the employees it
33 leases to a client company.

34 2. ~~[If an]~~ **An** employee leasing company ~~[complies with the~~
35 ~~provisions of subsection 3, the employee leasing company]~~ shall be
36 deemed to be the employer of its leased employees for the purposes
37 of sponsoring and maintaining any benefit plans . ~~[, including,~~
38 ~~without limitation, for the purposes of the Employee Retirement~~
39 ~~Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.]~~

40 3. An employee leasing company shall not offer its employees
41 any self-funded ~~[industrial]~~ insurance program. An employee
42 leasing company shall not act as a self-insured employer or be a
43 member of an association of self-insured public or private
44 employers pursuant to chapters 616A to 616D, inclusive, or chapter
45 617 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*



* S B 3 8 8 R 1 *

(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, 688C.340, 689B.0359, 689B.036, 695B.1938, 695B.194, 695C.1738 and 695C.174 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 3.1 of this act become effective on July 1, 2009.

3. Sections 1, 2, 3, 3.3 to 4.5, inclusive, 6, 10 to 60, inclusive, and 64.5 to 79, inclusive, of this act become effective on October 1, 2009.

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

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

LEADLINES OF REPEALED SECTIONS

688C.120 "Trust for a related provider" defined.

688C.340 Trust for related provider: Required agreement between trustee and provider.

689B.0359 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

689B.036 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

695B.1938 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695B.194 Required provision concerning benefits for treatment of abuse of alcohol or drugs.



* S B 3 8 8 R 1 *

695C.1738 Required provision concerning coverage for treatment of conditions relating to severe mental illness.

695C.174 Required provision concerning benefits for treatment of abuse of alcohol or drugs.

