

ASSEMBLY BILL NO. 130—ASSEMBLYWOMAN SMITH

FEBRUARY 9, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to affordable housing.
(BDR 25-874)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to affordable housing; allowing affordable housing entities to participate in a program of joint self-insurance; exempting such a program of joint self-insurance from the Nevada Insurance Code; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, any two or more public agencies or nonprofit medical
2 facilities may enter into a cooperative agreement to establish a self-insurance
3 reserve or purchase certain kinds of insurance. (NRS 277.055) **Section 1** of this bill
4 allows any two or more affordable housing entities to establish and participate in a
5 program to jointly self-insure and purchase certain kinds of insurance and
6 establishes provisions to govern such a program. **Section 1** also: (1) exempts such a
7 program from the Nevada Insurance Code; (2) requires certain information relating
8 to the program to be submitted to the Commissioner of Insurance; and (3)
9 authorizes the Commissioner to order an examination, issue a cease and desist order
10 or hold a hearing regarding any violation of **section 1** of the program or the
11 operation of the program while in an unsafe financial condition.

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

1 **Section 1.** Chapter 315 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. Except as otherwise provided in subsection 3, any two or***
4 ***more affordable housing entities may establish and participate in***
5 ***a program to jointly self-insure and jointly purchase insurance or***
6 ***reinsurance for coverage under a plan of:***



1 (a) Casualty insurance, as that term is defined in NRS
2 681A.020, except for workers' compensation and employer's
3 liability coverage;

4 (b) Marine and transportation insurance, as that term is
5 defined in NRS 681A.050;

6 (c) Property insurance, as that term is defined in
7 NRS 681A.060;

8 (d) Surety insurance, as that term is defined in NRS 681A.070;
9 or

10 (e) Insurance for any combination of the kinds of insurance
11 listed in paragraphs (a) to (d), inclusive.

12 2. A program established pursuant to subsection 1 must be
13 administered by an entity which is organized as a nonprofit
14 corporation, limited-liability company, partnership or trust,
15 whether organized under the laws of this State or another state or
16 operating in another state. A majority of the board of directors or
17 other governing body of the entity administering the program must
18 be affiliated with one or more of the affordable housing entities
19 participating in the program.

20 3. This section does not apply to an affordable housing entity
21 that individually self-insures or participates in a risk pooling
22 arrangement, including a risk retention group or a risk
23 purchasing group, with respect to the kinds of insurance set forth
24 in subsection 1.

25 4. Except as otherwise provided in this section or by specific
26 statute:

27 (a) A program established pursuant to subsection 1 and the
28 entity administering the program:

29 (1) Shall be deemed not to be providing coverage which
30 constitutes insurance; and

31 (2) Are not subject to the provisions of title 57 of NRS; and

32 (b) The entity administering a program established pursuant to
33 subsection 1 shall be deemed not to be engaging in the transaction
34 of insurance.

35 5. The entity administering a program established pursuant
36 to subsection 1 shall provide any affordable housing entity that
37 seeks to participate in the program with a written notice, in
38 10-point type or larger, before the affordable housing entity begins
39 participating in the program, that the program is not regulated by
40 the Commissioner and that, if the program or the entity
41 administering the program is found insolvent, a claim under the
42 program is not covered by the Nevada Insurance Guaranty
43 Association Act.

44 6. The entity administering a program established pursuant
45 to subsection 1 shall submit to the Commissioner:



(a) Within 105 days after the end of the program's fiscal year:
(1) An annual financial statement for the program audited by a certified public accountant; and
(2) An annual actuarial analysis for the program prepared by an actuary who meets the qualification standards for issuing statements of actuarial opinion in the United States established by the American Academy of Actuaries or its successor organization; and

(b) Within 30 days after:
(1) Filing with any other regulatory body, a claims audit report relating to the entity or the program, a copy of the claims audit report filed with the other regulatory body;

(2) Issuance by any other regulatory body of a report of examination relating to the entity or the program, a copy of the report of examination issued by the other regulatory body;

(3) The effective date of a plan of financing, management and operation for the entity or the program or any material change in such a plan, a copy of the plan or material change; and

(4) The effective date of any material change in the scope of regulation of the entity or the program by any other state in which the entity operates, a statement of the material change.

7. The Commissioner may order an examination of a program established pursuant to subsection 1 or the entity administering the program based upon any credible evidence that the program or entity is in violation of this section or is operating or being operated while in an unsafe financial condition. Such an examination must be administered in accordance with NRS 679B.230 to 679B.300, inclusive, and any regulations adopted pursuant thereto.

8. If the Commissioner determines that a program established pursuant to subsection 1 or the entity administering the program is in violation of this section or is operating or being operated while in an unsafe financial condition, the Commissioner may issue and serve upon the entity administering the program an order to cease and desist from the violation or from administering or in any way operating the program.

9. The Commissioner may hold a hearing, without a request by any party, to determine whether a program established pursuant to subsection 1 or the entity administering the program is in violation of this section or is operating or being operated while in an unsafe financial condition. A person aggrieved by any act, threatened act or failure of the Commissioner to act, or by any report, rule, regulation or order of the Commissioner relating to this section, may request a hearing. Any hearing held pursuant to this subsection must be held in accordance with NRS 679B.310



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1 to 679B.370, inclusive, and any regulations adopted pursuant
2 thereto.

3 10. The provisions of this section must be liberally construed
4 to grant affordable housing entities maximum flexibility to jointly
5 self-insure and jointly purchase insurance or reinsurance to the
6 extent that a program established pursuant to subsection 1 is being
7 administered and otherwise operated in a safe financial condition
8 and in a sound manner.

9 11. Each entity administering a program established
10 pursuant to subsection 1 shall, on or before January 15 of each
11 odd-numbered year, submit a report to the Director of the
12 Legislative Counsel Bureau for transmittal to the Legislature. The
13 report must include, without limitation, a list of the affordable
14 housing entities participating in the program and any other
15 information the Director deems relevant.

16 12. As used in this section:

17 (a) "Affordable housing" means housing projects in which
18 some of the dwelling units may be purchased or rented, with or
19 without government assistance, on a basis that is affordable to
20 persons of low income.

21 (b) "Affordable housing entity" means:

22 (1) A housing authority created under the laws of this State
23 or another jurisdiction and any agency or instrumentality of a
24 housing authority, including, but not limited to, a legal entity
25 created to enter into an agreement which complies with
26 NRS 277.055;

27 (2) A nonprofit corporation organized under the laws of
28 this State or another state that is engaged in providing affordable
29 housing; or

30 (3) A general or limited partnership or limited-liability
31 company which is engaged in providing affordable housing and
32 which is affiliated with a housing authority described in
33 subparagraph (1) or a nonprofit corporation described in
34 subparagraph (2) if the housing authority or nonprofit
35 corporation:

36 (I) Has, or has the right to acquire, a financial or
37 ownership interest in the partnership or limited-liability company;

38 (II) Has the power to direct the management or policies
39 of the partnership or limited-liability company; or

40 (III) Has entered into a contract to lease, manage or
41 operate the affordable housing owned by the partnership or
42 limited-liability company.

43 (c) "Commissioner" means the Commissioner of Insurance.



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1 **Sec. 2.** NRS 315.150 is hereby amended to read as follows:
2 315.150 Unless the context otherwise requires, the definitions
3 contained in NRS 315.160 to 315.300, inclusive, govern the
4 construction of NRS 315.140 to 315.7813, inclusive ~~§~~, *and section*
5 *1 of this act.*

6 **Sec. 3.** NRS 315.360 is hereby amended to read as follows:
7 315.360 Any housing authority created and existing prior to
8 July 1, 1975, pursuant to the Housing Authorities Law of 1943 or
9 the Housing Law of 1951 continues in existence for the purposes of
10 and has all of the powers granted by NRS 315.140 to 315.7813,
11 inclusive ~~§~~, *and section 1 of this act.*

12 **Sec. 4.** NRS 679A.160 is hereby amended to read as follows:
13 679A.160 Except as otherwise provided by specific statute, no
14 provision of this Code applies to:

15 1. Fraternal benefit societies, as identified in chapter 695A of
16 NRS, except as stated in chapter 695A of NRS.

17 2. Hospital, medical or dental service corporations, as
18 identified in chapter 695B of NRS, except as stated in chapter 695B
19 of NRS.

20 3. Motor clubs, as identified in chapter 696A of NRS, except as
21 stated in chapter 696A of NRS.

22 4. Bail agents, as identified in chapter 697 of NRS, except as
23 stated in NRS 680B.025 to 680B.039, inclusive, and chapter 697 of
24 NRS.

25 5. Risk retention groups, as identified in chapter 695E of NRS,
26 except as stated in chapter 695E of NRS.

27 6. Captive insurers, as identified in chapter 694C of NRS, with
28 respect to their activities as captive insurers, except as stated in
29 chapter 694C of NRS.

30 7. Health and welfare plans arising out of collective bargaining
31 under chapter 288 of NRS, except that the Commissioner may
32 review the plan to ensure that the benefits are reasonable in relation
33 to the premiums and that the fund is financially sound.

34 **8. *Programs established pursuant to subsection 1 of section 1***
35 ***of this act and the entities administering those programs, except as***
36 ***stated in section 1 of this act.***

37 **Sec. 5.** NRS 679A.165 is hereby amended to read as follows:
38 679A.165 A person who is required by statute to obtain
39 insurance or any other type of security as a condition of licensure or
40 conducting business must obtain the insurance or other security in
41 the manner set forth in NRS 277.067, 277.069 or 277.0695 *or*
42 *section 1 of this act* or from an insurer who is licensed or otherwise
43 allowed to transact insurance under this title.

