

ASSEMBLY BILL NO. 155—ASSEMBLYMAN ATKINSON

FEBRUARY 16, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to changes in rates of certain insurance. (BDR 57-727)

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 insurance; revising provisions relating to the filing and effective date of certain increases or decreases in rates of insurance; authorizing the Commissioner of Insurance to order certain rates of insurance to be discontinued under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer seeking to increase or decrease the rate of certain kinds and lines of insurance must file a proposal with the Commissioner of Insurance. (NRS 686B.070) The Commissioner may, within 60 days, approve or disapprove the proposal, and if no action is taken within 60 days, the proposal is deemed effective. (NRS 686B.110)

Section 1 of this bill provides that an insurer may file with the Commissioner a proposal to increase or decrease the rate of a line of insurance by not more than 7 percent, which rate becomes effective upon filing. An insurer may not make a filing pursuant to **section 1** if the Commissioner has made a determination that the market for that line of insurance is not competitive. The Commissioner may require an insurer to file supporting data and provide that a rate change filed pursuant to **section 1** becomes effective not less than 30 days after the filing if the insurer filing the proposal is determined by the Commissioner to be in hazardous financial condition or to have exhibited a pattern of engaging in rating practices which are unfairly discriminatory. The Commissioner may order any rate set in accordance with **section 1** to be discontinued if the Commissioner later determines that the rate is inadequate or unfairly discriminatory, or otherwise violates any provision of the Nevada Insurance Code.



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

Section 1. Chapter 686B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 and 3, an insurer may file with the Commissioner a proposed increase or decrease in the rates for a line of insurance to become effective upon filing if the rates proposed in the filing provide for an overall statewide increase or decrease in those rates of not more than 7 percent in the aggregate for all types of coverage specified in the filing. The 7-percent limitation set forth in this section does not apply on the basis of an insured individual. An insurer may not file a proposed increase or decrease in the rates for a line of insurance pursuant to this section more than once during any 12-month period unless the rates proposed in the filing, when combined with rates set forth in other filings made by that insurer within the preceding 12 months, do not result in an overall statewide increase or decrease in those rates of more than 7 percent in aggregate for all types of coverage that are subject to the filing.

2. An insurer may not file a proposed increase or decrease in the rates pursuant to this section if the Commissioner determines that the market for that line of insurance is not competitive.

3. If the Commissioner determines that an insurer is in hazardous financial condition pursuant to NRS 680A.205 or determines in a hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, that the insurer has exhibited a pattern of engaging in rating practices which are unfairly discriminatory, the Commissioner may:

(a) Require the insurer to file the supporting data required by NRS 686B.100 and provide that the rates become effective not less than 30 days after the filing of the supporting data; or

(b) Subject the rates to review pursuant to NRS 686B.110.

4. A proposed increase or decrease in rates filed pursuant to this section is presumed to be in compliance with all applicable provisions of this Code. If, after the proposed increase or decrease in the rates is filed, the Commissioner determines that the rates set forth in the filing are inadequate or unfairly discriminatory or that the rates or filing otherwise violates a provision of this Code, the Commissioner shall issue a written order:

(a) Specifying the provision of this Code that has been violated and the reasons the rates are inadequate or unfairly discriminatory, or the reasons the rates or filing violates this Code; and



(b) Setting forth a reasonable date on which the rates are no longer effective.

↪ An order issued by the Commissioner pursuant to this subsection is prospective only and does not apply to any contract of insurance that is subject to the filing and is issued or made before the effective date of the order.

5. If an insurer requests a hearing to contest a written order issued by the Commissioner pursuant to subsection 4, the Commissioner has the burden of showing that the rates set forth in the filing are inadequate or unfairly discriminatory or that the rates or filing otherwise violates a provision of this Code. Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

↪ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue a subsequent order concerning the rate for which the hearing is held within 45 days after the hearing, the rate shall be deemed approved.

6. An increase in rates within the limitations specified in subsection 1 may be applied to an individual existing policy only if the increase in rates is applied at the time of a renewal or conditional renewal of the existing policy and the insurer complies with the notice requirements set forth in NRS 687B.350. A notice of renewal or conditional renewal that clearly and conspicuously discloses the amount of the renewal premium applicable to the policy shall be deemed to be in compliance with this section.

7. If, after the filing of a rate that is presumed pursuant to subsection 4 to be in compliance with the Code, the Commissioner finds that the rate no longer meets the requirements of this Code, the Commissioner may order the insurer to discontinue the rate. An order for the discontinuance of a rate may be issued only after the Commissioner conducts a hearing with at least 10 days' notice for all insurers and rate service organizations that, as determined by the Commissioner, would be affected by the order. The order must be in writing and include, without limitation:

(a) The grounds for issuing the order;

(b) The date on which the order to discontinue the rate becomes effective; and

(c) The date the order expires, which must be within a reasonable period after the date on which the order becomes effective. An order for the discontinuance of a rate does not affect



1 *any contract or policy of insurance that is made or issued before*
2 *the date on which the order becomes effective.*

3 **Sec. 2.** NRS 686B.010 is hereby amended to read as follows:

4 686B.010 1. The Legislature intends that NRS 686B.010 to
5 686B.1799, inclusive, *and section 1 of this act* be liberally
6 construed to achieve the purposes stated in subsection 2, which
7 constitute an aid and guide to interpretation but not an independent
8 source of power.

9 2. The purposes of NRS 686B.010 to 686B.1799, inclusive,
10 *and section 1 of this act* are to:

11 (a) Protect policyholders and the public against the adverse
12 effects of excessive, inadequate or unfairly discriminatory rates;

13 (b) Encourage, as the most effective way to produce rates that
14 conform to the standards of paragraph (a), independent action by
15 and reasonable price competition among insurers;

16 (c) Provide formal regulatory controls for use if independent
17 action and price competition fail;

18 (d) Authorize cooperative action among insurers in the rate-
19 making process, and to regulate such cooperation in order to prevent
20 practices that tend to bring about monopoly or to lessen or destroy
21 competition;

22 (e) Encourage the most efficient and economic marketing
23 practices; and

24 (f) Regulate the business of insurance in a manner that will
25 preclude application of federal antitrust laws.

26 **Sec. 3.** NRS 686B.020 is hereby amended to read as follows:

27 686B.020 As used in NRS 686B.010 to 686B.1799, inclusive,
28 *and section 1 of this act*, unless the context otherwise requires:

29 1. "Advisory organization," except as limited by NRS
30 686B.1752, means any person or organization which is controlled
31 by or composed of two or more insurers and which engages in
32 activities related to rate making. For the purposes of this subsection,
33 two or more insurers with common ownership or operating in this
34 State under common ownership constitute a single insurer. An
35 advisory organization does not include:

36 (a) A joint underwriting association;

37 (b) An actuarial or legal consultant; or

38 (c) An employee or manager of an insurer.

39 2. "Market segment" means any line or kind of insurance or, if
40 it is described in general terms, any subdivision thereof or any class
41 of risks or combination of classes.

42 3. "Rate service organization" means any person, other than an
43 employee of an insurer, who assists insurers in rate making or filing
44 by:



(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

Sec. 4. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, *and section 1 of this act* apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) Group and blanket health insurance and credit health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; and

(h) Surety insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 5. NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, *and section 1 of this act* if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, *and section 1 of this act* with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.



1 **Sec. 6.** NRS 686B.070 is hereby amended to read as follows:
2 686B.070 1. ~~{Every}~~ **Except as otherwise provided in section**
3 **1 of this act, every** authorized insurer and every rate service
4 organization licensed under NRS 686B.140 which has been
5 designated by any insurer for the filing of rates under subsection 2
6 of NRS 686B.090 shall file with the Commissioner all:

- 7 (a) Rates and proposed increases thereto;
- 8 (b) Forms of policies to which the rates apply;
- 9 (c) Supplementary rate information; and
- 10 (d) Changes and amendments thereof,

11 ➔ made by it for use in this state.

12 2. If an insurer makes a filing for a proposed increase in a rate
13 for insurance covering the liability of a practitioner licensed
14 pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the
15 practitioner's professional duty toward a patient, the insurer shall
16 not include in the filing any component that is directly or indirectly
17 related to the following:

18 (a) Capital losses, diminished cash flow from any dividends,
19 interest or other investment returns, or any other financial loss that
20 is materially outside of the claims experience of the professional
21 liability insurance industry, as determined by the Commissioner.

22 (b) Losses that are the result of any criminal or fraudulent
23 activities of a director, officer or employee of the insurer.

24 ➔ If the Commissioner determines that a filing includes any such
25 component, the Commissioner shall, pursuant to NRS 686B.110,
26 disapprove the proposed increase, in whole or in part, to the extent
27 that the proposed increase relies upon such a component.

28 **Sec. 7.** NRS 686B.080 is hereby amended to read as follows:
29 686B.080 Each filing and any supporting information filed
30 under NRS 686B.010 to 686B.1799, inclusive, **and section 1 of this**
31 **act** must, as soon as filed, be open to public inspection at any
32 reasonable time. Copies may be obtained by any person on request
33 and upon payment of a reasonable charge therefor.

34 **Sec. 8.** NRS 686B.100 is hereby amended to read as follows:
35 686B.100 1. ~~{By}~~ **Except as otherwise provided in**
36 **subsection 3, by** rule, the Commissioner may require the filing of
37 supporting data as to any or all kinds or lines of insurance or
38 subdivisions thereof or classes of risks or combinations thereof as
39 the Commissioner deems necessary for the proper functioning of the
40 process for monitoring and regulating rates. The supporting data
41 must include:

42 (a) The experience and judgment of the filer, and, to the extent it
43 wishes or the Commissioner requires, of other insurers or rate
44 service organizations;

45 (b) Its interpretation of any statistical data relied upon;



(c) Descriptions of the actuarial and statistical methods employed in setting the rates; and

(d) Any other relevant matters required by the Commissioner.

2. Whenever a filing of a proposed increase in a rate is not accompanied by such information as the Commissioner has required under subsection 1, the Commissioner may so inform the insurer and the filing shall be deemed to be made when the information is furnished.

3. The Commissioner shall not require an insurer who files a proposed increase or decrease in rates pursuant to section 1 of this act to file supporting data pursuant to this section unless the Commissioner has determined pursuant to subsection 3 of section 1 of this act that such supporting data is required.

Sec. 9. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. ~~{The}~~ ***Except as otherwise provided in section 1 of this act, the*** Commissioner shall consider each proposed increase or decrease in the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 2 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal no later than 60 days after it is determined by the Commissioner to be complete pursuant to subsection 4. If the Commissioner fails to approve or disapprove the proposal within that period, the proposal shall be deemed approved.

2. Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

3. If the Commissioner disapproves a proposed rate ***pursuant to subsection 1*** and an insurer requests a hearing ***pursuant to this section*** to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~{H}~~ ***, and section 1 of this act.*** Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or



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(b) Within a period agreed upon by the insurer and the Commissioner.

➔ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the proposed rate for which the hearing is held within 45 days after the hearing, the proposed rate shall be deemed approved.

4. The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal to increase or decrease a rate submitted to the Commissioner pursuant to subsection 1. Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

Sec. 10. NRS 686B.115 is hereby amended to read as follows:

686B.115 1. Any hearing held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, *and section 1 of this act* must be open to members of the public.

2. All costs for transcripts prepared pursuant to such a hearing must be paid by the insurer requesting the hearing.

3. At any hearing which is held by the Commissioner to determine whether rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive, *and section 1 of this act* and which involves rates for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, if a person is not otherwise authorized pursuant to this title to become a party to the hearing by intervention, the person is entitled to provide testimony at the hearing if, not later than 2 days before the date set for the hearing, the person files with the Commissioner a written statement which states:

(a) The name and title of the person;

(b) The interest of the person in the hearing; and

(c) A brief summary describing the purpose of the testimony the person will offer at the hearing.

4. If a person provides testimony at a hearing in accordance with subsection 3:

(a) The Commissioner may, if the Commissioner finds it necessary to preserve order, prevent inordinate delay or protect the rights of the parties at the hearing, place reasonable limitations on the duration of the testimony and prohibit the person from providing testimony that is not relevant to the issues raised at the hearing.



(b) The Commissioner shall consider all relevant testimony provided by the person at the hearing in determining whether the rates comply with the provisions of NRS 686B.010 to 686B.1799, inclusive ~~H~~, and section 1 of this act.

Sec. 11. NRS 686B.130 is hereby amended to read as follows:

686B.130 1. A rate service organization and an advisory organization shall not provide any service relating to the rates of any insurance subject to NRS 686B.010 to 686B.1799, inclusive, and section 1 of this act, and an insurer shall not utilize the services of an organization for such purposes unless the organization has obtained a license pursuant to NRS 686B.140.

2. A rate service organization and an advisory organization shall not refuse to supply any services for which it is licensed in this state to any insurer authorized to do business in this state and offering to pay the fair and usual compensation for the services.

Sec. 12. NRS 690B.330 is hereby amended to read as follows:

690B.330 1. In each rating plan of an insurer that issues a policy of professional liability insurance to a practitioner licensed pursuant to chapter 630 or 633 of NRS, the insurer shall provide for a reduction in the premium for the policy if the practitioner implements a qualified risk management system. The amount of the reduction in the premium must be determined by the Commissioner in accordance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~H~~, and section 1 of this act.

2. A qualified risk management system must comply with all requirements established by the Commissioner.

3. The Commissioner shall adopt regulations to:

(a) Establish the requirements for a qualified risk management system; and

(b) Carry out the provisions of this section.

4. The provisions of this section apply to all rating plans which an insurer that issues a policy of professional liability insurance to a practitioner licensed pursuant to chapter 630 or 633 of NRS files with the Commissioner on and after the effective date of the regulations adopted by the Commissioner pursuant to this section.

