

SENATE BILL NO. 114—SENATORS ROBERSON AND ATKINSON

FEBRUARY 13, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to the filing of rates for insurance. (BDR 57-146)

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

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

AN ACT relating to insurance; revising provisions relating to the filing of rates for insurance with the Commissioner of Insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, authorized insurers and certain rate service organizations
2 are required to file with the Commissioner of Insurance all rates and proposed
3 increases thereto, as well as the forms of policies to which the rates apply, certain
4 supplementary information and any changes or amendments to the rates. (NRS
5 686B.070) **Section 1** of this bill requires that any such filing for a change in a rate
6 must include a proposed effective date and must be filed not less than 30 days
7 before that proposed effective date, except that the authorized insurer or rate service
8 organization may request that the Commissioner authorize an earlier effective date
9 than the date proposed.

10 Existing law requires the Commissioner to take certain actions in determining
11 whether to approve or disapprove a proposed increase or decrease in a rate. The
12 Commissioner is required to approve or disapprove such a proposal not later than 60
13 days after the Commissioner determines the proposal is complete. (NRS 686B.110)
14 **Section 2** of this bill requires the Commissioner to approve or disapprove a proposal
15 not later than 30 days after the Commissioner determines the proposal is complete.
16 **Section 2** requires the Commissioner to submit a written notice of disapproval
17 within that 30 days to the insurer or rate service organization that filed the proposal
18 and requires the notice to set forth the reasons the proposal was disapproved. **Section**
19 **2** also provides that, upon receipt of a written notice of disapproval from the
20 Commissioner, the insurer or rate service organization may request a reconsideration
21 of the proposal and may submit to the Commissioner any documents or other
22 information for review by the Commissioner. Finally, **section 2** requires the
23 Commissioner to approve or disapprove the proposal upon reconsideration not later
24 than 30 days after receipt of the request for reconsideration.



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

Section 1. NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner all:

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

↪ made by it for use in this state.

2. *A filing made pursuant to this section must include a proposed effective date and must be filed not less than 30 days before that proposed effective date, except that a filing for a proposed increase or decrease in a rate may include a request that the Commissioner authorize an effective date that is earlier than the proposed effective date.*

3. If an insurer makes a filing for a proposed increase in a rate 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, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

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

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

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

Sec. 2. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. 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 ~~12~~ 3 of NRS 686B.070, the



1 Commissioner shall disapprove the proposal. The Commissioner
2 shall approve or disapprove each proposal no later than ~~160~~ 30 days
3 after it is determined by the Commissioner to be complete pursuant
4 to subsection ~~14~~ 6. If the Commissioner fails to approve or
5 disapprove the proposal within that period, the proposal shall be
6 deemed approved.

7 2. *If the Commissioner disapproves a proposed increase or*
8 *decrease in any rate pursuant to subsection 1, the Commissioner*
9 *shall send a written notice of disapproval to the insurer or the rate*
10 *service organization that filed the proposal. The notice must set*
11 *forth the reasons the proposal is not in compliance with NRS*
12 *686B.050 or subsection 3 of NRS 686B.070 and must be sent to*
13 *the insurer or the rate service organization not more than 30 days*
14 *after the Commissioner determines that the proposal is complete*
15 *pursuant to subsection 6.*

16 3. *Upon receipt of a written notice of disapproval from the*
17 *Commissioner pursuant to subsection 2 or 6, the insurer or rate*
18 *service organization may request that the Commissioner*
19 *reconsider the proposed increase or decrease. The request for*
20 *reconsideration must be received by the Commissioner not more*
21 *than 30 days after the insurer or rate service organization receives*
22 *the written notice of disapproval from the Commissioner, except*
23 *that if the insurer or rate service organization requests, in writing,*
24 *an extension of 30 additional days in which to request a*
25 *reconsideration, the Commissioner shall grant the extension. A*
26 *request for reconsideration submitted pursuant to this subsection*
27 *may include, without limitation, any documents or other*
28 *information for review by the Commissioner in reconsidering*
29 *the proposal. The Commissioner shall approve or disapprove*
30 *the proposal upon reconsideration not later than 30 days after*
31 *receipt of the request for reconsideration and shall notify the*
32 *insurer or rate service organization of his or her approval or*
33 *disapproval.*

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



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~~13-1~~ 5. If the Commissioner disapproves a proposed rate pursuant to subsection 1, subsection 6 or upon reconsideration pursuant to subsection 3 and an insurer requests a hearing 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. 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 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.

~~14-1~~ 6. 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. *The Commissioner shall notify the insurer or rate service organization if the Commissioner determines that the proposal is incomplete. The notice must be sent within 15 business days after the proposal is filed with the Commissioner and must set forth the documents or other information that is required to complete the proposal. The Commissioner may disapprove the proposal if the insurer or rate service organization fails to provide the documents or other information to the Commissioner within 30 days after the insurer or rate service organization receives the notice that the proposal is incomplete. If the Commissioner disapproves the proposal pursuant to this subsection, the Commissioner shall notify the insurer or rate service organization of that fact in writing.*

Sec. 3. NRS 686B.117 is hereby amended to read as follows:

686B.117 If a filing made with the Commissioner pursuant to paragraph (a) of subsection 1 of NRS 686B.070 pertains 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, any interested person, and any association of persons or organization whose members may be affected, may intervene as a matter of right in any



- 1 hearing or other proceeding conducted to determine whether the
- 2 applicable rate or proposed increase thereto:
- 3 1. Complies with the standards set forth in NRS 686B.050 and
- 4 subsection ~~12~~ 3 of NRS 686B.070.
- 5 2. Should be approved or disapproved.

