

ASSEMBLY BILL NO. 372—ASSEMBLYMAN STEWART

MARCH 17, 2015

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to insurance.
(BDR 57-1003)

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; establishing a tax credit for an insurer who meets certain criteria related to economic development in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a 3.5 percent tax on the net direct premiums and net direct considerations of an insurer transacting business in this State. (NRS 680B.027) Existing law also provides for a tax credit of up to 80 percent against this tax for an insurer who meets certain criteria related to economic development in this State. (NRS 680B.050) Beginning January 1, 2016, the aggregate amount of the credits may not exceed \$5,000,000, allocated on a pro rata basis among all insurers eligible for the credit, and the credit is scheduled to expire on January 1, 2021. (NRS 680B.050; Chapter 1, Statutes of Nevada 2014, 28th Special Session, p. 3)

Section 2 of this bill establishes a tax credit of up to 80 percent against the tax imposed by NRS 680B.027 for an insurer who meets certain criteria related to economic development. In addition, **section 2** provides that an insurer who has received 10 years of credits under NRS 680B.050 is ineligible to receive the new credit and that, for all other insurers, the amount of the new credit in any given year must be reduced by the amount of any credit taken pursuant to NRS 680B.050. Further, **section 2** specifies that an insurer is only eligible for the tax credit if certain tax collections have exceeded projections.

Section 3 of this bill establishes the criteria an insurer must meet to qualify for the tax credit in **section 2**. Specifically, an insurer must execute an agreement with the Office of Economic Development providing that the insurer will: (1) have 250 or more full-time employees in this State; (2) maintain and own a principal or regional office in this State in which they have made an investment of \$10,000,000 or more; (3) pay an hourly wage that is equal to or greater than the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation; and (4) provide health



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insurance for all of its employees in this State and their dependents. In addition, **section 3** provides that an insurer who fails to meet the requirements in the agreement or who ceases operations before the time specified in the agreement is required to repay the Department of Taxation the amount of any credit taken before the failure of the insurer to comply with the provisions of the agreement, plus interest. **Sections 7 and 8** of this bill provide for the tax credit in **section 2** to be treated like economic development tax abatements for the purposes of reporting and analysis. **Sections 9-11** of this bill account for the January 1, 2021, expiration of the tax credit authorized by NRS 680B.050 while retaining statutory language necessary for the operation of the new tax credit in **section 2**. In particular, **section 10** of this bill provides that the tax credit authorized by NRS 680B.050 will no longer be available on or after January 1, 2021.

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

Section 1. Chapter 680B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in this section, a domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), that qualifies pursuant to the provisions of section 3 of this act, is entitled to a credit against the tax otherwise imposed by NRS 680B.027 in an amount determined pursuant to subsections 2 and 3.

2. To determine the amount of the credit to which an insurer is entitled, the insurer must first calculate:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive; and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

3. The total amount of the credit calculated pursuant to subsection 2 must not exceed 80 percent of the tax otherwise payable by the insurer pursuant to NRS 680B.027.

4. The credit provided for in subsection 1 must be effective for a period of 10 years, or for such longer period as may be approved by the Office of Economic Development.

5. For any given year, the credit provided for in subsection 1 must be reduced by the amount of any credits taken by the insurer pursuant to NRS 680B.050.



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6. No domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), is eligible for the credit provided for in subsection 1 if the insurer has taken the credit provided for in NRS 680B.050 against taxes due in a total of any 10 years or more, regardless of whether those years are consecutive, at any time before January 1, 2016.

7. If the credit provided for in subsection 1 is approved by the Office of Economic Development pursuant to section 3 of this act, the credit must be administered and carried out in the manner set forth in that section.

8. The cumulative credits provided for in this section for all insurers in any given year must not exceed the total amount of taxes payable pursuant to NRS 680B.027 actually collected in any given year less the total amount of taxes payable pursuant to that section which are included in the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228 for that year.

9. If the total amount of taxes payable pursuant to NRS 680B.027 actually collected in a given year is less than the total amount of taxes payable pursuant to that section which are included in the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228 for that year, no credits shall be allowed pursuant to this section.

10. If the total amount of taxes payable pursuant to NRS 680B.027 actually collected in a given year is greater than the total amount of taxes payable pursuant to that section which are included in the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228 for that year, and the difference between the actual taxes collected and the taxes forecasted is less than the cumulative credits to which all insurers may be entitled pursuant to this section for that year, the credits to which each insurer may be entitled pursuant to this section must be reduced on a pro rata basis so that the cumulative credits provided by this section for all insurers in that year does not exceed the difference between the actual taxes collected and the taxes forecasted for that year.

Sec. 3. 1. A domestic or foreign insurer may apply to the Office of Economic Development pursuant to this section for the tax credit provided for in section 2 of this act.

2. The Office of Economic Development must approve an application for a tax credit pursuant to this section if the Office makes the following determinations:

(a) The business license of the insurer is consistent with:



1 (1) *The State Plan for Economic Development developed by*
2 *the Executive Director of the Office of Economic Development*
3 *pursuant to subsection 2 of NRS 231.053; and*

4 (2) *Any guidelines adopted by the Executive Director of the*
5 *Office of Economic Development to implement the State Plan for*
6 *Economic Development;*

7 (b) *The applicant has executed an agreement with the Office*
8 *of Economic Development which must:*

9 (1) *Comply with the requirements of this section;*

10 (2) *State that the insurer will, after the date on which the*
11 *tax credit becomes effective, continue in operation in this State for*
12 *a period specified by the Office of Economic Development, which*
13 *must be at least 10 years, and will continue to meet the eligibility*
14 *requirements set forth in this subsection; and*

15 (3) *Bind the successors in interest of the insurer for the*
16 *specified period;*

17 (c) *The insurer holds a certificate of authority issued by the*
18 *Commissioner; and*

19 (d) *The insurer meets the following requirements:*

20 (1) *The insurer will have 250 or more full-time employees*
21 *in this State on the payroll of the insurer by the fourth calendar*
22 *quarter following the calendar quarter in which the tax credit*
23 *becomes effective and thereafter maintain a full-time workforce in*
24 *this State of at least that size during the entirety of the period for*
25 *which the insurer receives the tax credit;*

26 (2) *The insurer owns the real property upon which its*
27 *principal regional office is situated and has, within the period*
28 *beginning 5 years before the date on which the tax credit becomes*
29 *effective and ending not later than 2 years after the date on which*
30 *the tax credit becomes effective, made an investment of at least*
31 *\$10,000,000 in this State for improvements upon the principal*
32 *regional office or other capital assets that will be retained in this*
33 *State until at least the end of the period during which the tax*
34 *credits are effective; and*

35 (3) *The average hourly wage that will be paid by the insurer*
36 *to its employees in this State is at least 100 percent of the average*
37 *statewide hourly wage as established by the Employment Security*
38 *Division of the Department of Employment, Training and*
39 *Rehabilitation on July 1 of each fiscal year and:*

40 (I) *The insurer will, by the fourth calendar quarter*
41 *following the calendar quarter in which the credit becomes*
42 *effective, provide a health insurance plan for all employees that*
43 *includes an option for health insurance coverage for dependents*
44 *of the employees; and*



(II) The cost to the insurer for the health care benefits the insurer provides to its employees in this State will meet the minimum requirements for health care benefits established by the Office of Economic Development by regulation pursuant to subsection 8 of NRS 360.750 and, if applicable, pursuant to subsection 7.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall consider the level of health care benefits provided by the insurer to its employees, the projected economic impact of the insurer and the projected tax revenue of the insurer after deducting projected revenue from the abated taxes; and

(b) May, if the Office of Economic Development determines such action is necessary:

(1) Approve an application for a tax credit pursuant to this section by an insurer that does not meet the requirements set forth in paragraph (b) or (d) of subsection 2;

(2) Make the requirements set forth in paragraph (b) or (d) of subsection 2 more stringent; or

(3) Add additional requirements that an insurer must meet to qualify for a tax credit pursuant to this section.

4. If the Office of Economic Development approves an application for a tax credit pursuant to this section, the Office shall immediately forward a certificate of eligibility for the tax credit to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. An applicant for a tax credit pursuant to this section or an existing insurer whose tax credit is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

6. If an insurer whose credit has been approved pursuant to this section and is in effect ceases to meet the requirements set forth in subsection 2, or ceases operation before the time specified in the agreement described in paragraph (b) of subsection 2, the insurer shall repay to the Department of Taxation the amount of the tax credit that was allowed pursuant to this section before the failure of the insurer to comply unless the Nevada Tax Commission determines that the insurer has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the insurer shall, in addition to the amount of the tax credit required to be paid pursuant to this subsection, pay interest on the portion thereof,



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1 *from the last day of the month following the period for which the*
2 *payment would have been made had the tax credit not been*
3 *approved until the date of payment of the tax.*

4 **7. The Office of Economic Development:**

5 (a) *Shall, if any regulations are necessary in addition to those*
6 *adopted pursuant to subsection 8 of NRS 360.750, adopt*
7 *regulations relating to the minimum level of health care benefits*
8 *that an insurer must provide to its employees; and*

9 (b) *May adopt such other regulations as the Office determines*
10 *to be necessary to carry out the provisions of this section.*

11 **8. The Nevada Tax Commission:**

12 (a) *Shall, if any regulations are necessary in addition to those*
13 *adopted pursuant to subsection 9 of NRS 360.750, adopt*
14 *regulations regarding:*

15 (1) *The capital investment that a new insurer must make to*
16 *meet the requirements set forth in paragraph (d) of subsection 2;*
17 *and*

18 (2) *Any security that an insurer is required to post to*
19 *qualify for a tax credit pursuant to this section; and*

20 (b) *May adopt such other regulations as the Commission*
21 *determines to be necessary to carry out the provisions of this*
22 *section.*

23 **9. An applicant for a tax credit pursuant to this section who is**
24 **aggrieved by a final decision of the Office of Economic**
25 **Development may petition for judicial review in the manner**
26 **provided in chapter 233B of NRS.**

27 **10. Where two or more insurers who are affiliates within the**
28 **meaning of NRS 692C.030 jointly conduct operations in this State,**
29 **the term "insurer" in this section refers to such insurers**
30 **collectively as a group.**

31 **Sec. 4. NRS 680B.027 is hereby amended to read as follows:**

32 **680B.027 1. Except as otherwise provided in NRS 680B.033,**
33 **680B.0353, 680B.050 and 690C.110, and section 2 of this act,** for
34 **the privilege of transacting business in this State, each insurer shall**
35 **pay to the Department of Taxation a tax upon his or her net direct**
36 **premiums and net direct considerations written at the rate of 3.5**
37 **percent.**

38 **2. The tax must be paid in the manner required by NRS**
39 **680B.030 and 680B.032.**

40 **3. The Commissioner or the Executive Director of the**
41 **Department of Taxation may require at any time verified**
42 **supplemental statements with reference to any matter pertinent to**
43 **the proper assessment of the tax.**



Sec. 5. NRS 680B.055 is hereby amended to read as follows:

680B.055 1. For the purposes of eligibility for the credit provided by NRS 680B.050, *or section 2 of this act*, if an insurer is a partner, general or limited, in a limited partnership which owns a building used by the insurer as its home office or a regional home office, the insurer shall be deemed to own the building so used if:

(a) The insurer's proportionate interest in the partnership is equal to or greater than the proportion which the floor area of the building or portion thereof so used bears to the total floor area of the buildings on the contiguous real property owned by the partnership at the location of the building so used; or

(b) The insurer's interest in the partnership is 50 percent or more.

2. The ad valorem tax paid by the insurer shall be deemed to be that proportion of the total ad valorem tax paid by the partnership upon its contiguous real property at the location of the building which the floor area of the building so used bears to the total floor area of the buildings on the contiguous real property.

Sec. 6. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, *and sections 2 and 3 of this act*, chapter 686A of NRS, NRS 687B.500 and chapter 695G of NRS apply to a health maintenance organization.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by "health maintenance organization."

Sec. 7. NRS 231.0685 is hereby amended to read as follows:

231.0685 The Office shall, on or before January 15 of each odd-numbered year, prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature a report concerning the abatements from taxation that the Office approved pursuant to NRS 274.310, 274.320, 274.330, 360.750 or 360.752 ~~†~~, *and concerning any tax credits that the Office approved pursuant to section 3 of this act*. The report must set forth, for each abatement from taxation *and tax credit* that the Office approved during the fiscal years which are 3 fiscal years and 6 fiscal years immediately preceding the submission of the report:

1. The dollar amount of the abatement ~~†~~ *or credit*;

2. The location of the business for which the abatement *or credit* was approved;

3. ~~†The~~ *If applicable, the* value of infrastructure included as an incentive for the business;



4. If applicable, the number of employees that the business for which the abatement *or credit* was approved employs or will employ;

5. Whether the business for which the abatement *or credit* was approved is a new business or an existing business;

6. The economic sector in which the business operates, the number of primary jobs related to the business, the average wage paid to employees of the business and the assessed values of personal property and real property of the business; and

7. Any other information that the Office determines to be useful.

Sec. 8. NRS 353.207 is hereby amended to read as follows:

353.207 1. The Chief shall:

(a) Require the Office of Economic Development and the Office of Energy each periodically to conduct an analysis of the relative costs and benefits of each incentive for economic development previously approved by the respective office and in effect during the immediately preceding 2 fiscal years, including, without limitation, any abatement of taxes approved by the Office of Economic Development pursuant to NRS 274.310, 274.320, 274.330, 360.750, 360.752, 360.950, 361.0687, 374.357 or 701A.210, *and any tax credits approved by the Office pursuant to section 3 of this act*, to assist the Governor and the Legislature in determining whether the economic benefits of the incentive have accomplished the purposes of the statute pursuant to which the incentive was approved and warrant additional incentives of that kind;

(b) Require each office to report in writing to the Chief the results of the analysis conducted by the office pursuant to paragraph (a); and

(c) Establish a schedule for performing and reporting the results of the analysis required by paragraph (a) which ensures that the results of the analysis reported by each office are included in the proposed budget prepared pursuant to NRS 353.205, as required by that section.

2. Each report prepared for the Chief pursuant to this section is a public record and is open to inspection pursuant to the provisions of NRS 239.010.

Sec. 9. Section 2 of this act is hereby amended to read as follows:

1. Except as otherwise provided in this section, a domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), that qualifies pursuant to the provisions of section 3 of this act, is entitled to a credit against the tax



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otherwise imposed by NRS 680B.027 in an amount determined pursuant to subsections 2 and 3.

2. To determine the amount of the credit to which an insurer is entitled, the insurer must first calculate:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive; and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

3. The total amount of the credit calculated pursuant to subsection 2 must not exceed 80 percent of the tax otherwise payable by the insurer pursuant to NRS 680B.027.

4. The credit provided for in subsection 1 must be effective for a period of 10 years, or for such longer period as may be approved by the Office of Economic Development.

~~5. For any given year, the credit provided for in subsection 1 must be reduced by the amount of any credits taken by the insurer pursuant to NRS 680B.050.~~

~~6.~~ No domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), is eligible for the credit provided for in subsection 1 if the insurer has taken the credit provided for in NRS 680B.050 against taxes due in a total of any 10 years or more, regardless of whether those years are consecutive, at any time before January 1, 2016.

~~7.~~ 6. If the credit provided for in subsection 1 is approved by the Office of Economic Development pursuant to section 3 of this act, the credit must be administered and carried out in the manner set forth in that section.

~~8.~~ 7. The cumulative credits provided for in this section for all insurers in any given year must not exceed the total amount of taxes payable pursuant to NRS 680B.027 actually collected in any given year less the total amount of taxes payable pursuant to that section which are included in the projections and estimates prepared by the Economic Forum pursuant to NRS 353.228 for that year.

~~9.~~ 8. If the total amount of taxes payable pursuant to NRS 680B.027 actually collected in a given year is less than the total amount of taxes payable pursuant to that section which are included in the projections and estimates prepared



1 by the Economic Forum pursuant to NRS 353.228 for that
2 year, no credits shall be allowed pursuant to this section.

3 ~~140.1~~ 9. If the total amount of taxes payable pursuant to
4 NRS 680B.027 actually collected in a given year is greater
5 than the total amount of taxes payable pursuant to that section
6 which are included in the projections and estimates prepared
7 by the Economic Forum pursuant to NRS 353.228 for that
8 year, and the difference between the actual taxes collected
9 and the taxes forecasted is less than the cumulative credits to
10 which all insurers may be entitled pursuant to this section for
11 that year, the credits to which each insurer may be entitled
12 pursuant to this section must be reduced on a pro rata basis so
13 that the cumulative credits provided by this section for all
14 insurers in that year does not exceed the difference between
15 the actual taxes collected and the taxes forecasted for that
16 year.

17 **Sec. 10.** Section 2 of chapter 1, Statutes of Nevada 2014, 28th
18 Special Session, at page 2, is hereby amended to read as follows:

19 Sec. 2. NRS 680B.050 is hereby amended to read as
20 follows:

21 680B.050 1. Except as otherwise provided in this
22 section, a domestic or foreign insurer, including, without
23 limitation, an insurer that is exempt from federal taxation
24 pursuant to 26 U.S.C. § 501(c)(29), which owns and
25 substantially occupies and uses any building in this state as its
26 home office or as a regional home office is entitled to a credit
27 against the tax otherwise imposed by NRS 680B.027 in an
28 amount determined pursuant to subsections 2 and 3.

29 2. To determine the amount of the credit to which an
30 insurer is entitled, the insurer must first calculate:

31 (a) An amount equal to 50 percent of the aggregate
32 amount of the tax as determined under NRS 680B.025 to
33 680B.039, inclusive; and

34 (b) An amount equal to the full amount of ad valorem
35 taxes paid by the insurer during the calendar year next
36 preceding the filing of the report required by NRS 680B.030,
37 upon the home office or regional home office together with
38 the land, as reasonably required for the convenient use of the
39 office, upon which the home office or regional home office is
40 situated.

41 3. The total aggregate amount of credits that may be
42 applied by all insurers pursuant to subsection 1 must not
43 exceed \$5,000,000 and must be allocated to each insurer on a
44 pro rata basis by determining the percentage of the total



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amount calculated for all insurers pursuant to subsection 2 that is allocable to each insurer.

4. As used in this section, a "regional home office" means an office of the insurer performing for an area covering two or more states, with a minimum of 25 employees on its office staff, the supervision, underwriting, issuing and servicing of the insurance business of the insurer.

5. The insurer shall, on or before March 15 of each year, furnish proof to the satisfaction of the Executive Director of the Department of Taxation, on forms furnished by or acceptable to the Executive Director, as to its entitlement to the tax reduction provided for in this section. A determination of the Executive Director of the Department of Taxation pursuant to this section is not binding upon the Commissioner for the purposes of NRS 682A.240.

6. An insurer is not entitled to the credits provided in this section unless:

(a) The insurer owned the property upon which the reduction is based for the entire year for which the reduction is claimed; and

(b) The insurer occupied at least 70 percent of the usable space in the building to transact insurance or the insurer is a general or limited partner and occupies 100 percent of its ownership interest in the building.

7. If two or more insurers under common ownership or management and control jointly own in equal interest, and jointly occupy and use such a home office or regional home office in this state for the conduct and administration of their respective insurance businesses as provided in this section, each of the insurers is entitled to the credits provided for by this section if otherwise qualified therefor under this section.

8. For the purposes of subsection 1, any insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29) and is restricted or prohibited from purchasing or owning real property pursuant to a contract with the Federal Government, including any entity thereof, shall be deemed to own any portion of any real property that the insurer occupies. The provisions of this subsection expire upon the expiration, cancellation, repayment or any other termination of the contract restricting or prohibiting such purchase or ownership.

9. An insurer that is described in subsection 1 is not entitled to a tax credit pursuant to this section on or after January 1, 2021.



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1 **Sec. 11.** Section 3 of chapter 1, Statutes of Nevada 2014, 28th
2 Special Session, at page 3, is hereby amended to read as follows:

3 Sec. 3. ~~NRS 680B.050 and 680B.055 are hereby~~
4 ~~repealed.~~

5 **Sec. 12.** Section 4 of chapter 1, Statutes of Nevada 2014, 28th
6 Special Session, at page 3, is hereby amended to read as follows:

7 Sec. 4. 1. This section and section 2 of this act
8 become effective on January 1, 2016.

9 2. ~~{Sections}~~ **Section** 1 ~~{and 3}~~ of this act ~~{become}~~
10 **becomes** effective on January 1, 2021.

11 **Sec. 13.** The provisions of subsection 1 of NRS 218D.380 do
12 not apply to any provision of this act which adds or revises a
13 requirement to submit a report to the Legislature.

14 **Sec. 14.** 1. This section and sections 1 to 8, inclusive, and 10
15 to 13, inclusive, of this act become effective on January 1, 2016.

16 2. Section 9 of this act becomes effective on January 1, 2021.

