

Amendment No. 32

Senate Amendment to Senate Bill No. 67	(BDR 57-371)
Proposed by: Senate Committee on Commerce, Labor and Energy	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 67 (§§ 2, 5).

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

MSM/WLK



Date: 4/16/2015

S.B. No. 67—Revises provisions governing the regulation of insurance.
(BDR 57-371)



SENATE BILL NO. 67—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE DIVISION OF INSURANCE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing the regulation of insurance.
(BDR 57-371)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; adopting the provisions of various model laws and acts of the National Association of Insurance Commissioners; ***setting forth the manner in which the Commissioner of Insurance may adopt the Valuation Manual adopted by the National Association of Insurance Commissioners***; revising provisions regarding the confidentiality of certain information and materials provided to the Division of Insurance of the Department of Business and Industry; revising provisions regarding the requirements for annual financial statements filed by self-insured groups for workers' compensation; revising provisions regarding licensing requirements; revising provisions regarding the cash value of policies of life insurance; allowing insurer's to issue electronic proof of insurance certificates for automobiles; revising provisions governing state-chartered risk retention groups; authorizing the Division to access certain sealed records of licensees and applicants for licenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-18 of this bill make changes to chapter 681A of NRS in conformance with amendments to the National Association of Insurance Commissioners' Credit for Reinsurance Model Law. **Sections ~~22-29~~ 23-39.5 and 41** of this bill adopt certain provisions of the National Association of Insurance Commissioners' Standard Valuation Law. ***Section 33.7 of this bill describes the Valuation Manual and sets forth the criteria for determining the date on which the Valuation Manual becomes operative. Sections 33.3 and 33.7-36 of this bill describe the minimum standards for the valuation of reserves associated with policies and contracts of insurance issued on or after the operative date of the Valuation Manual. Section 33.5 of this bill sets forth the requirements for actuarial opinions of reserves prepared after the operative date of the Valuation Manual. Sections 40.15-40.43 of this bill revise certain existing provisions to apply before the operative date of the***

Valuation Manual, as specified. Section 41 ~~of this bill~~ makes changes regarding the confidentiality of documents and information which constitute a memorandum in support of an actuarial opinion submitted by an insurer ~~as part of a rate filing,~~ to the Commissioner pursuant to NRS 681B.230, including materials provided by the insurer to the Commissioner in connection with the memorandum. Sections 43-230 of this bill adopt the provisions of the National Association of Insurance Commissioners' Investments of Insurers Model Act (Defined Limits Version). Sections 233 and 318 of this bill make changes to the requirements for insurance administrators and self-insured employers for workers' compensation when filing their annual financial statements. Sections 234-238 of this bill make various changes to the licensing requirements for producers of insurance. Sections 241-253 of this bill adopt certain provisions of the National Association of Insurance Commissioners' Life and Health Insurance Guaranty Association Model Act. Sections 254 and 256 of this bill add coverage for assumed claims transactions to the Nevada ~~Life and Health~~ Insurance Guaranty Association. ~~Sections~~ Section 258 ~~and 259~~ of this bill ~~make~~ makes changes to certain provisions relating to the cash values of policies of life insurance. Sections 263 and 317 of this bill allow insurers to provide electronic proof of insurance certificates for motor vehicles. Sections 265-289 of this bill adopt the provisions of the National Association of Insurance Commissioners' Risk Management and Own Risk and Solvency Assessment Model Act. Sections 290-303 of this bill adopt various amendments to the National Association of Insurance Commissioners' Insurance Holding Company System Regulatory Act. Sections 307-311 of this bill make changes regarding state-chartered risk retention groups. Sections 312 and 313 of this bill authorize the Division of Insurance of the Department of Business and Industry to inspect certain sealed records to determine the suitability of an applicant for a license or the discipline of a licensee for misconduct. Section 319 of this bill repeals various provisions of existing law which are replaced by various sections of this bill.

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

Section 1. NRS 680B.050 is hereby amended to read as follows:

680B.050 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), which owns and substantially occupies and uses any building in this state as its home office or as a regional home office is entitled to the following credits against the tax otherwise imposed by NRS 680B.027:

(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.

➤ These credits must not reduce the amount of tax payable to less than 20 percent of the tax otherwise payable by the insurer under NRS 680B.027.

2. 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.

3. 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~~ *sections 174 to 177, inclusive, of this act.*

4. 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.

5. 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.

6. 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.

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

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

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

(c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:

(1) Initial fee\$60

(2) Annual fee\$60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee\$1,300

(2) Annual fee\$1,300

1	(e) Producers of insurance, as defined in NRS 679A.117:	
2	(1) Initial fee	\$60
3	(2) Triennial fee	\$60
4	(f) Accredited reinsurers for certified reinsurers,	
5	<u>Reinsurers</u> , as provided for in NRS 681A.160 or	
6	<u>section 5 of this act, as applicable:</u>	
7	(1) Initial fee	\$1,300
8	(2) Annual fee	\$1,300
9	(g) Intermediaries, as defined in NRS 681A.330:	
10	(1) Initial fee	\$60
11	(2) Triennial fee	\$60
12	(h) Reinsurers, as defined in NRS 681A.370:	
13	(1) Initial fee	\$1,300
14	(2) Annual fee	\$1,300
15	(i) Administrators, as defined in NRS 683A.025:	
16	(1) Initial fee	\$60
17	(2) Triennial fee	\$60
18	(j) Managing general agents, as defined in NRS 683A.060:	
19	(1) Initial fee	\$60
20	(2) Triennial fee	\$60
21	(k) Agents who perform utilization reviews, as defined in NRS	
22	683A.376:	
23	(1) Initial fee	\$60
24	(2) Annual fee	\$60
25	(l) Insurance consultants, as defined in NRS 683C.010:	
26	(1) Initial fee	\$60
27	(2) Triennial fee	\$60
28	(m) Independent adjusters, as defined in NRS 684A.030:	
29	(1) Initial fee	\$60
30	(2) Triennial fee	\$60
31	(n) Public adjusters, as defined in NRS 684A.030:	
32	(1) Initial fee	\$60
33	(2) Triennial fee	\$60
34	(o) Associate adjusters, as defined in NRS 684A.030:	
35	(1) Initial fee	\$60
36	(2) Triennial fee	\$60
37	(p) Motor vehicle physical damage appraisers, as defined in NRS	
38	684B.010:	
39	(1) Initial fee	\$60
40	(2) Triennial fee	\$60
41	(q) Brokers, as defined in NRS 685A.031:	
42	(1) Initial fee	\$60
43	(2) Triennial fee	\$60
44	(r) Eligible surplus line insurers, as provided for in	
45	NRS 685A.070:	
46	(1) Initial fee	\$1,300
47	(2) Annual fee	\$1,300
48	(s) Companies, as defined in NRS 686A.330:	
49	(1) Initial fee	\$1,300
50	(2) Annual fee	\$1,300
51	(t) <u>(s)</u> Rate service organizations, as defined in	
52	NRS 686B.020:	
53	(1) Initial fee	\$1,300

1	(2) Annual fee	\$1,300
2	(u) <u>(u)</u> Brokers of viatical settlements, as defined in	
3	NRS 688C.030:	
4	(1) Initial fee	\$60
5	(2) Annual fee	\$60
6	(u) <u>(u)</u> Providers of viatical settlements, as defined in	
7	NRS 688C.080:	
8	(1) Initial fee	\$60
9	(2) Annual fee	\$60
10	(v) <u>(v)</u> Agents for prepaid burial contracts subject to	
11	the provisions of chapter 689 of NRS:	
12	(1) Initial fee	\$60
13	(2) Triennial fee	\$60
14	(w) <u>(w)</u> Agents for prepaid funeral contracts subject	
15	to the provisions of chapter 689 of NRS:	
16	(1) Initial fee	\$60
17	(2) Triennial fee	\$60
18	(x) <u>(x)</u> Sellers of prepaid burial contracts subject to	
19	the provisions of chapter 689 of NRS:	
20	(1) Initial fee	\$60
21	(2) Triennial fee	\$60
22	(y) <u>(y)</u> Sellers of prepaid funeral contracts subject to	
23	the provisions of chapter 689 of NRS:	
24	(1) Initial fee	\$60
25	(2) Triennial fee	\$60
26	(z) <u>(z)</u> Providers, as defined in NRS 690C.070:	
27	(1) Initial fee	\$1,300
28	(2) Annual fee	\$1,300
29	(aa) <u>(aa)</u> Escrow officers, as defined in	
30	NRS 692A.028:	
31	(1) Initial fee	\$60
32	(2) Triennial fee	\$60
33	(bb) <u>(bb)</u> Title agents, as defined in NRS 692A.060:	
34	(1) Initial fee	\$60
35	(2) Triennial fee	\$60
36	(cc) <u>(cc)</u> Captive insurers, as defined in	
37	NRS 694C.060:	
38	(1) Initial fee	\$250
39	(2) Annual fee	\$250
40	(dd) <u>(dd)</u> Fraternal benefit societies, as defined in	
41	NRS 695A.010:	
42	(1) Initial fee	\$1,300
43	(2) Annual fee	\$1,300
44	(ee) <u>(ee)</u> Insurance agents for societies, as provided	
45	for in NRS 695A.330:	
46	(1) Initial fee	\$60
47	(2) Triennial fee	\$60
48	(ff) <u>(ff)</u> Corporations subject to the provisions of	
49	chapter 695B of NRS:	
50	(1) Initial fee	\$1,300
51	(2) Annual fee	\$1,300
52	(gg) <u>(gg)</u> Health maintenance organizations, as	
53	defined in NRS 695C.030:	

1	(1) Initial fee	\$1,300
2	(2) Annual fee	\$1,300
3	(hh) <i>(hh)</i> Organizations for dental care, as defined in	
4	NRS 695D.060:	
5	(1) Initial fee	\$1,300
6	(2) Annual fee	\$1,300
7	(ii) <i>(ii)</i> Purchasing groups, as defined in	
8	NRS 695E.100:	
9	(1) Initial fee	\$250
10	(2) Annual fee	\$250
11	(jj) <i>(jj)</i> Risk retention groups, as defined in	
12	NRS 695E.110:	
13	(1) Initial fee	\$250
14	(2) Annual fee	\$250
15	(kk) <i>(kk)</i> Prepaid limited health service organizations,	
16	as defined in NRS 695F.050:	
17	(1) Initial fee	\$1,300
18	(2) Annual fee	\$1,300
19	(ll) <i>(ll)</i> Medical discount plans, as defined in	
20	NRS 695H.050:	
21	(1) Initial fee	\$1,300
22	(2) Annual fee	\$1,300
23	(mm) <i>(mm)</i> Club agents, as defined in NRS 696A.040:	
24	(1) Initial fee	\$60
25	(2) Triennial fee	\$60
26	(nn) <i>(nn)</i> Motor clubs, as defined in NRS 696A.050:	
27	(1) Initial fee	\$1,300
28	(2) Annual fee	\$1,300
29	(oo) <i>(oo)</i> Bail agents, as defined in NRS 697.040:	
30	(1) Initial fee	\$60
31	(2) Triennial fee	\$60
32	(pp) <i>(pp)</i> Bail enforcement agents, as defined in	
33	NRS 697.055:	
34	(1) Initial fee	\$60
35	(2) Triennial fee	\$60
36	(qq) <i>(qq)</i> Bail solicitors, as defined in NRS 697.060:	
37	(1) Initial fee	\$60
38	(2) Triennial fee	\$60
39	(rr) <i>(rr)</i> General agents, as defined in NRS 697.070:	
40	(1) Initial fee	\$60
41	(2) Triennial fee	\$60
42	(ss) <i>(ss)</i> Exchange enrollment facilitators, as defined	
43	in NRS 695J.050:	
44	(1) Initial fee	\$60
45	(2) Triennial fee	\$60

Sec. 3. Chapter 681A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. *Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commissioner as a reinsurer in this State and secures its obligations in accordance with the requirements of this chapter.*

Sec. 5. *To be eligible for certification, an assuming insurer must:*

1 1. Be domiciled and licensed to transact insurance or reinsurance in a
2 qualified jurisdiction, as determined by the Commissioner pursuant to section 7
3 of this act;

4 2. Maintain minimum capital and surplus, or its equivalent, in an amount
5 to be determined by the Commissioner;

6 3. Maintain financial strength ratings from two or more rating agencies
7 deemed acceptable by the Commissioner;

8 4. Agree to submit to the jurisdiction of this State, appoint the
9 Commissioner as its agent for service of process in this State and agree to provide
10 security for 100 percent of the assuming insurer's liabilities attributable to
11 reinsurance ceded by ceding insurers in the United States for use if the assuming
12 insurer resists enforcement of a final judgment rendered by any court of
13 competent jurisdiction in the United States;

14 5. Agree to meet applicable information filing requirements as determined
15 by the Commissioner, both with respect to an initial application for certification
16 and on an ongoing basis; and

17 6. Satisfy any other requirements for certification deemed relevant by the
18 Commissioner.

19 Sec. 6. An association that includes incorporated and individual
20 unincorporated underwriters may be a certified reinsurer. In addition to
21 satisfying the requirements of section 5 of this act, to be eligible for certification:

22 1. The association must satisfy its minimum capital and surplus
23 requirements through the capital and surplus equivalents, net of liabilities, of the
24 association and its members, which must include a joint central fund that may be
25 applied to any unsatisfied obligation of the association or any of its members, in
26 an amount determined by the Commissioner to provide adequate protection;

27 2. The incorporated members of the association must not engage in any
28 business other than underwriting as a member of the association and are subject
29 to the same level of regulation and solvency control by the association's
30 domiciliary regulator as are the unincorporated members; and

31 3. Within 90 days after its financial statements are due to be filed with the
32 association's domiciliary regulator, the association must provide to the
33 Commissioner an annual certification by the association's domiciliary regulator
34 of the solvency of each underwriter member or, if a certification is unavailable,
35 financial statements prepared by independent public accountants of each
36 underwriter member.

37 Sec. 7. 1. The Commissioner shall create and publish a list of qualified
38 jurisdictions, pursuant to which an assuming insurer licensed and domiciled in
39 such jurisdiction is eligible to be considered for certification by the Commissioner
40 as a certified reinsurer.

41 2. In order to determine whether the domiciliary jurisdiction of an alien
42 assuming insurer is eligible to be recognized as a qualified jurisdiction, the
43 Commissioner shall evaluate the appropriateness and effectiveness of the
44 reinsurance supervisory system of the jurisdiction, both initially and on an
45 ongoing basis, and consider the rights, benefits and extent of reciprocal
46 recognition afforded by the alien jurisdiction to reinsurers licensed and domiciled
47 in the United States. A qualified jurisdiction must agree to share information and
48 cooperate with the Commissioner with respect to all certified reinsurers domiciled
49 within that jurisdiction. A jurisdiction may not be recognized as a qualified
50 jurisdiction if the Commissioner has determined that the jurisdiction does not
51 adequately and promptly enforce final judgments rendered by a court of
52 competent jurisdiction in the United States. Additional factors may be considered
53 at the discretion of the Commissioner.

3. The Commissioner may consider the list of qualified jurisdictions maintained by the National Association of Insurance Commissioners in determining qualified jurisdictions.

4. Any jurisdictions that meet the requirements for accreditation pursuant to the National Association of Insurance Commissioners' financial standards and accreditation program must be recognized as qualified jurisdictions.

5. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner may suspend or revoke the reinsurer's certification.

Sec. 7.5. The Commissioner shall:

1. Assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings which have been assigned to certified reinsurers by rating agencies that the Commissioner deems acceptable pursuant to regulations adopted by the Commissioner; and

2. Publish a list of all certified reinsurers and the ratings that he or she has assigned to those certified reinsurers.

Sec. 8. 1. For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Commissioner and consistent with the provisions of NRS 681A.240 or, in a multi-beneficiary trust, pursuant to NRS 681A.180 and 681A.190, except as otherwise provided in sections 4 to 10, inclusive, of this act.

2. If a certified reinsurer maintains a trust to fully secure its obligations subject to NRS 681A.180 and 681A.190, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multi-beneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this section or comparable laws of other jurisdictions in the United States and for its obligations subject to NRS 681A.180 and 681A.190. It is a condition of the grant of certification pursuant to sections 4 to 10, inclusive, of this act that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner of insurance of the state with principal regulatory authority over each trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

3. The minimum trustee surplus requirements provided in NRS 681A.180 and 681A.190 are not applicable with respect to a multi-beneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred pursuant to sections 4 to 10, inclusive, of this act, except that the trust shall maintain a minimum trustee surplus of \$10,000,000.

4. With respect to obligations incurred by a certified reinsurer pursuant to sections 4 to 10, inclusive, of this act, if the security is insufficient, the Commissioner shall reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

5. For the purposes of sections 4 to 10, inclusive, of this act, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

6. If the Commissioner continues to assign a higher rating as permitted by other provisions of NRS 681A.150 to 681A.190, inclusive, and sections 4 to ~~12~~ 10, inclusive, of this act, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

1 7. A certified reinsurer shall secure obligations assumed from ceding
2 insurers in the United States under this section at a level consistent with the
3 rating of the certified reinsurer, as specified in regulations adopted by the
4 Commissioner.

5 8. As used in this section, “terminated” means the revocation, suspension,
6 voluntary surrender or inactive status of a reinsurer’s certification.

7 Sec. 9. If an applicant for certification has been certified as a reinsurer in
8 a National Association of Insurance Commissioners accredited jurisdiction, the
9 Commissioner has the discretion to defer to that jurisdiction’s certification, and
10 has the discretion to defer to the rating assigned by that jurisdiction, and such
11 assuming insurer shall be considered to be certified in this State.

12 Sec. 10. A certified reinsurer that ceases to assume new business in this
13 State may request to maintain its certification in inactive status to continue to
14 qualify for a reduction in security for its in-force business. An inactive certified
15 reinsurer must continue to comply with all applicable requirements of NRS
16 681A.150 to 681A.190, inclusive, and sections 4 to 10, inclusive, of this act, and
17 the Commissioner shall assign a rating that takes into account, if relevant, the
18 reasons why the reinsurer is not assuming new business.

19 Sec. 11. Credit must be allowed when the reinsurance is ceded to an
20 assuming insurer not meeting the requirements of NRS 681A.150 to 681A.190,
21 inclusive, and sections 4 to 10, inclusive, of this act, but only as to the insurance
22 of risks located in jurisdictions where the reinsurance is required by applicable
23 law or regulation of that jurisdiction.

24 Sec. 12. 1. A ceding insurer shall take steps to manage its reinsurance
25 recoverables proportionate to its own book of business. A domestic ceding insurer
26 shall notify the Commissioner within 30 days after reinsurance recoverables from
27 any single assuming insurer, or group of affiliated assuming insurers, exceeds 50
28 percent of the domestic ceding insurer’s last reported surplus to policyholders, or
29 after it is determined that reinsurance recoverables from any single assuming
30 insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The
31 notification must demonstrate that the exposure is safely managed by the
32 domestic ceding insurer.

33 2. A ceding insurer shall take steps to diversify its reinsurance program. A
34 domestic ceding insurer shall notify the Commissioner within 30 days after
35 ceding to any single assuming insurer, or group of affiliated assuming insurers,
36 more than 20 percent of the ceding insurer’s gross written premium in the
37 preceding calendar year, or after it has determined that the reinsurance ceded to
38 any single assuming insurer, or group of affiliated assuming insurers, is likely to
39 exceed this limit. The notification must demonstrate that the exposure is safely
40 managed by the domestic ceding insurer.

41 Sec. 13. NRS 681A.130 is hereby amended to read as follows:

42 681A.130 The Commissioner may adopt regulations to carry out the
43 provisions of NRS 681A.110 to 681A.560, inclusive ~~H~~, and sections 4 to 12,
44 inclusive, of this act.

45 Sec. 14. NRS 681A.140 is hereby amended to read as follows:

46 681A.140 As used in NRS 681A.140 to 681A.240, inclusive, and sections 4
47 to 12, inclusive, of this act, “qualified financial institution in the United States”
48 means an institution that:

49 1. Is organized, or in the case of a branch or agency of a foreign banking
50 organization in the United States licensed, under the laws of the United States or
51 any state thereof and has been granted authority to operate with fiduciary powers;

52 2. Is regulated, supervised and examined by federal or state authorities having
53 regulatory authority over banks and trust companies;

3. Is determined:

(a) By the Commissioner to meet the standards of financial condition and standing prescribed by the Commissioner; or

(b) By the National Association of Insurance Commissioners to meet the standards of financial condition and standing prescribed by the National Association of Insurance Commissioners; and

4. Is determined by the Commissioner to be otherwise acceptable.

Sec. 15. NRS 681A.150 is hereby amended to read as follows:

681A.150 No credit may be taken as an asset or as a deduction from liability on account of reinsurance unless the reinsurer is authorized to transact insurance or reinsurance in this state or the requirements of NRS 681A.160 ~~to 681A.170, 681A.180 or~~ to 681A.190, *inclusive, and sections 4 to ~~11~~ 10, inclusive, of this act*, and in any of these cases the requirements of NRS 681A.200 and 681A.210 also are met.

Sec. 16. NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which ~~it~~ *satisfies all of the following conditions:*

(a) Files with the Commissioner ~~that~~ *a properly* executed ~~form approved by the Commissioner~~ *Form AR-1, provided on the Internet website of the Division,* as evidence of its submission to this state's jurisdiction. ~~it~~

(b) Submits to this state's authority to examine its books and records. ~~it~~

(c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state. ~~it~~

(d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement. ~~it~~

(e) ~~Maintains~~ *Demonstrates to the satisfaction of the Commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains* a surplus as regards policyholders in an amount which is:

(1) Not less than \$20,000,000 and whose accreditation has not been denied by the Commissioner within 90 days after its submission; or

(2) Less than \$20,000,000 and whose accreditation has been approved by the Commissioner. ~~it and~~

(f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to NRS 680C.110.

2. ~~No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification. Before suspending or revoking the reinsurer's accreditation or certification, the Commissioner must give the reinsurer notice and opportunity for a hearing.~~

3. *The suspension or revocation of an accreditation or certification may not take effect until after the Commissioner's order on hearing unless:*

(a) *The reinsurer waives its right to a hearing;*

(b) The Commissioner's order is based upon regulatory action taken by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer; or

(c) The Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

4. During the period in which a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured pursuant to NRS 681A.240. If the reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured pursuant to NRS 681A.240.

Sec. 17. NRS 681A.170 is hereby amended to read as follows:

681A.170 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a branch in the United States of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or branch in the United States of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000; ~~and~~

(b) Submits to the authority of this state to examine its books and records ~~and~~ ;

(c) Files with the Commissioner a properly executed Form AR-1, provided on the Internet website of the Division, as evidence of its submission to this State's jurisdiction.

2. The requirement of paragraph (a) of subsection 1 does not apply to reinsurance ceded and assumed pursuant to pooling among insurers affiliated with the same holding company.

Sec. 18. NRS 681A.180 is hereby amended to read as follows:

681A.180 1. Except as otherwise provided in subsection ~~4~~ 5, credit must be allowed if reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified financial institution in the United States for the payment of the valid claims of its policyholders and ceding insurers in the United States, their assigns and successors in interest. The assuming insurer shall:

(a) Report annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' form of annual statement by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund; and

(b) Submit to the authority of the Commissioner to examine its books and records.

2. In the case of a single assuming insurer ~~1, the~~ :

(a) The trust must consist of an account in trust equal to the assuming insurer's liabilities attributable to business written in the United States and the assuming insurer shall maintain a surplus in trust of not less than \$20,000,000.

(b) Three years after the assuming insurer has permanently discontinued underwriting new business secured by the trust, the commissioner of insurance of the state with principal regulatory authority over the trust may, at any time, authorize a reduction in the required trustee surplus, but only after finding, based on the assessment of the risk, that the new required surplus level is adequate for the protection of ceding insurers, policyholders and claimants in the United

1 *States in light of a reasonably adverse loss development. The risk assessment may*
2 *involve an actuarial review, including an independent analysis of reserves and*
3 *cash flows, and must consider all material risk factors, including, as applicable,*
4 *the lines of business involved, the stability of the incurred loss estimates and the*
5 *effect of the surplus requirements on the assuming insurer's liquidity or solvency.*
6 *The minimum required trustee surplus may not be reduced to an amount less*
7 *than 30 percent of the assuming insurer's liabilities attributable to reinsurance*
8 *ceded by ceding insurers domiciled in the United States and covered by the trust.*

9 3. In the case of a group of incorporated and individual unincorporated
10 underwriters:

11 (a) The trust must consist of an account in trust equal to the group's liabilities
12 attributable to business written in the United States.

13 (b) The group shall:

14 (1) Maintain a surplus in trust of which \$100,000,000 must be held jointly
15 for the benefit of ceding insurers in the United States to any member of the group;
16 and

17 (2) Make available to the Commissioner an annual certification of the
18 solvency of each underwriter by the group's domiciliary regulator and its
19 independent public accountants.

20 (c) The incorporated members of the group:

21 (1) Shall not engage in any business other than underwriting as a member
22 of the group; and

23 (2) Must be subject to the same level of regulation and solvency control by
24 the applicable regulatory agency of the state in which the group is domiciled as the
25 individual unincorporated members of the group.

26 4. *Credit for reinsurance must not be granted unless the form of the trust*
27 *and any amendments to the trust have been approved by the commissioner of*
28 *insurance of the state in which the trust is domiciled or the commissioner of*
29 *insurance of another state that, under the terms of the trust instrument, has*
30 *accepted responsibility for regulatory authority over the trust. The form of the*
31 *trust and any amendments to the trust must also be filed with each state in which*
32 *the ceding insurer beneficiaries are domiciled or located. The trust instrument*
33 *must provide that:*

34 (a) *Contested claims become valid and enforceable from money held in the*
35 *trust to the extent such claims remain unsatisfied within 30 days after the entry of*
36 *the final order of any court of competent jurisdiction in the United States;*

37 (b) *Legal title to the assets of the trust must be vested in the trustees for the*
38 *benefit of the grantor's ceding insurers in the United States, their assigns and*
39 *successors in interest;*

40 (c) *The trust is subject to examination as determined by the Commissioner;*

41 (d) *The trust must remain in effect for as long as the assuming insurers or*
42 *any member or former member of a group of insurers has outstanding*
43 *obligations due under the agreements for reinsurance subject to the trust; and*

44 (e) *Not later than February 28 of each year, the trustees of the trust shall*
45 *report to the Commissioner in writing setting forth the balance of the trust and*
46 *listing the trust's investments at the end of the preceding year and shall certify*
47 *the date of termination of the trust or certify that the trust will not expire before*
48 *the next following December 31.*

49 5. If the assuming insurer does not meet the requirements of NRS 681A.110,
50 681A.160 or 681A.170, credit must not be allowed unless the assuming insurer has
51 agreed to the following conditions set forth in the trust agreement:

52 (a) Notwithstanding any provision to the contrary in the trust instrument, if the
53 trust fund consists of an amount that is less than the amount required pursuant to

1 this section, or if the grantor of the trust fund is declared to be insolvent or placed
2 into receivership, rehabilitation, liquidation or a similar proceeding in accordance
3 with the laws of the grantor's state or country of domicile, the trustee of the trust
4 fund must comply with an order of the commissioner of insurance or other
5 appropriate person with regulatory authority over the trust fund in that state or
6 country or a court of competent jurisdiction requiring the trustee to transfer to that
7 commissioner or person all the assets of the trust fund;

8 (b) The assets of the trust fund must be distributed by and claims filed with and
9 valued by the commissioner of insurance or other appropriate person with
10 regulatory authority over the trust fund in accordance with the laws of the state in
11 which the trust fund is domiciled that are applicable to the liquidation of domestic
12 insurers in that state;

13 (c) If the commissioner of insurance or other appropriate person with
14 regulatory authority over the trust fund determines that the assets of the trust fund
15 or any portion of the trust fund are not required to satisfy any claim of any ceding
16 insurer of the grantor of the trust fund in the United States, the assets must be
17 returned by that commissioner or person to the trustee of the trust fund for
18 distribution in accordance with the trust agreement; and

19 (d) The grantor of the trust must waive any right that:

20 (1) Is otherwise available to the grantor under the laws of the United
21 States; and

22 (2) Is inconsistent with the provisions of this subsection.

23 **Sec. 19.** NRS 681A.210 is hereby amended to read as follows:

24 681A.210 1. Except as otherwise provided in subsection 2, if the assuming
25 insurer is not licensed or accredited to transact insurance or reinsurance in this
26 State, the credit permitted by NRS 681A.170 or 681A.180 must not be allowed
27 unless the assuming insurer agrees in the agreements for reinsurance:

28 (a) That in the event of the failure of the assuming insurer to perform its
29 obligations under the terms of the agreement, the assuming insurer, at the request of
30 the ceding insurer, will submit to the jurisdiction of any court of competent
31 jurisdiction in any state of the United States, will comply with all requirements
32 necessary to give the court jurisdiction, and will abide by the final decision of the
33 court or of any appellate court in the event of an appeal;

34 (b) To designate the Commissioner or a designated attorney as its true and
35 lawful attorney upon whom may be served any lawful process in an action, suit or
36 proceeding instituted by or on behalf of the ceding company; and

37 (c) To comply with the conditions set forth in subsection ~~44~~ 5 of NRS
38 681A.180.

39 2. This section does not conflict with or override the obligation of the parties
40 to an agreement for reinsurance to arbitrate their disputes if such an obligation is
41 created in the agreement.

42 **Sec. 20.** NRS 681A.220 is hereby amended to read as follows:

43 681A.220 Credit must be allowed if reinsurance is ceded to an assuming
44 insurer not meeting the requirements of NRS 681A.110 ~~44~~ and 681A.150 ~~4~~
45 ~~681A.160, 681A.170, 681A.180 or~~ to 681A.190, *inclusive, and sections 4 to 44*
46 *10, inclusive, of this act*, but only with respect to the insurance of risks located in
47 jurisdictions where such reinsurance is required by applicable law or regulation of
48 that jurisdiction.

49 **Sec. 21.** NRS 681A.230 is hereby amended to read as follows:

50 681A.230 1. Credit must be allowed as an asset or as a deduction from
51 liability to any ceding insurer for reinsurance lawfully ceded to an assuming insurer
52 qualified therefor pursuant to NRS 681A.110 ~~44~~ and 681A.150 ~~4~~ ~~681A.160,~~
53 ~~681A.170, 681A.180 or~~ to 681A.190, *inclusive, and sections 4 to 44* *10.*

inclusive, of this act, but no such credit may be allowed unless the contract for reinsurance provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable pursuant to a contract reinsured by the assuming insurer on the basis of reported claims allowed in any liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Except as otherwise provided in NRS 686C.223, those payments must be made directly to the ceding insurer or to its domiciliary liquidator unless:

(a) The contract of reinsurance or other written contract specifically designates another payee of the payments in the event of the insolvency of the ceding insurer; or

(b) The assuming insurer, with the consent of the persons directly insured, has assumed the obligations from the policies issued by the ceding insurer as direct obligations of the assuming insurer, and in substitution for the obligations of the ceding insurer, to the payees under those policies.

2. The domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of any claim against the ceding insurer on any contract reinsured within a reasonable time after such a claim is filed in the liquidation proceeding. During the pendency of the claim, the assuming insurer may investigate the claim and, at its own expense, interpose in the proceeding in which the claim is to be adjudicated any defense that the assuming insurer deems available to the ceding insurer or its liquidator.

Sec. 22. Chapter 681B of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to ~~39.1~~ 39.5, inclusive, of this act.

Sec. 23. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 24 to 32, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 24. *“Accident and health insurance” means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness or medical conditions ~~it~~, and as may further be specified in the Valuation Manual.*

Sec. 25. *“Applicable company” means an insurer that:*

1. *Has written, issued or reinsured life insurance, accident and health insurance or deposit-type contracts in this State and has at least one such policy in force or on claim; or*

2. *Has written, issued or reinsured life insurance, accident and health insurance or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this State.*

Sec. 26. *“Appointed actuary” means a qualified actuary who is appointed in accordance with the Valuation Manual to prepare the actuarial opinion required by ~~NRS 681B.200 to 681B.260, inclusive,~~ section 33.5 of this act.*

Sec. 27. *“Confidential information” means any information which qualifies as confidential under section 33 of this act.*

Sec. 28. *“Deposit-type contract” means a contract that does not incorporate mortality ~~risk, including annuity and pure endowment contracts,~~ or morbidity risks, and as may further be specified in the Valuation Manual.*

Sec. 28.3. *“Life insurance” means a contract that incorporates mortality risk, including, without limitation, an annuity and pure endowment contract, and as may further be specified in the Valuation Manual.*

Sec. 28.5. *“NAIC” means the National Association of Insurance Commissioners or its successor organization.*

Sec. 28.7 *“Operative date of the Valuation Manual” means the date determined pursuant to subsection 2 of section 33.7 of this act.*

Sec. 29. "Policyholder behavior" includes any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take pursuant to a policy or contract subject to this chapter, including, without limitation, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization or benefit elections prescribed by the policy or contract. The term does not include events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

Sec. 30. "Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with sections 34, 35 and 36 ~~of this act~~, and as may further be specified in the Valuation Manual.

Sec. 30.5. "Qualified actuary" means a natural person who:

1. Is qualified to sign the applicable statement of actuarial opinion in accordance with the standards that are established by the American Academy of Actuaries, or its successor organization, to determine the qualification of an actuary to sign such a statement; and

2. Meets the applicable requirements set forth in the Valuation Manual.

Sec. 31. "Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

Sec. 32. "Valuation Manual" means the Valuation Manual adopted by the National Association of Insurance Commissioners ~~on December 2, 2012, and as subsequently amended~~ by the NAIC.

Sec. 33. 1. The following types of information shall qualify as confidential information:

(a) A memorandum in support of an opinion submitted pursuant to NRS 681B.200 to ~~681B.280~~, 681B.260, inclusive, or section 33.5 of this act and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such memorandum;

(b) All documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in the course of an examination authorized by subsection 2 of NRS 679B.230 or subsection 7 of section 33.7 of this act, provided that if an examination report or other material prepared in connection with an examination authorized by NRS 679B.230 to 679B.300, inclusive, is not held as private and confidential information in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, an adopted examination report created in accordance with the provisions of subsection 2 of NRS 679B.230 or subsection 7 of section 33.7 of this act shall not be deemed confidential information;

(c) Any reports, documents, materials and other information developed by an applicable company in support of, or in connection with, an annual certification by the applicable company in accordance with the provisions of paragraph (b) of subsection 1 of section 35 of this act evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such reports, documents, materials and other information;

(d) Any principle-based valuation report developed in accordance with paragraph (c) of subsection ~~14~~ 1 of section 35 of this act, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such report; and

(e) Any experience data and experience materials, and any other documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such data and materials.

2. As used in this section:

(a) "Experience data" means all documents, materials, data and other information submitted by an applicable company to the Commissioner, a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to ~~section 35~~ sections 37 and 37.5 of this act.

(b) "Experience materials" means all documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created or produced in connection with experience data including, without limitation, any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner ~~14~~, a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to sections 37 and 37.5 of this act.

Sec. 33.3. 1. For policies and contracts issued on or after the operative date of the Valuation Manual:

(a) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every applicable company doing business in this State.

(b) In lieu of the valuation of the reserves required of a foreign or alien applicable company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive.

2. The provisions set forth in sections 33.7 to 36, inclusive, of this act apply to all policies and contracts issued on or after the operative date of the Valuation Manual.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 33.5. 1. For actuarial opinions of reserves prepared after the operative date of the Valuation Manual:

(a) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Valuation Manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(b) Every applicable company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner, except as exempted in the Valuation Manual, must also annually include in the opinion required by paragraph (a), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the Valuation Manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(c) Each opinion required by paragraphs (a) and (b) must be governed by the following provisions:

(1) A memorandum, in the form and substance as specified in the Valuation Manual, and acceptable to the Commissioner, must be prepared to support each actuarial opinion.

(2) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in the Valuation Manual or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the Valuation Manual or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the Commissioner.

(d) In addition to the requirements of paragraph (c), each opinion required by paragraphs (a) and (b) must be governed by the following provisions:

(1) The opinion must be in the form and substance as specified in the Valuation Manual and acceptable to the Commissioner.

(2) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the Valuation Manual.

(3) The opinion must apply to all policies and contracts subject to paragraph (b) plus other actuarial liabilities as may be specified in the Valuation Manual.

(4) The opinion must be based on standards adopted from time to time by the Actuarial Standards Board, or its successor organization, and on such additional standards as may be prescribed in the Valuation Manual.

(5) In the case of an opinion required to be submitted by a foreign or alien applicable company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(6) Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurance company and the Commissioner, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

(7) Disciplinary action by the Commissioner against the company or the appointed actuary must be defined in regulations by the Commissioner.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

1 Sec. 33.7. 1. For policies issued on or after the operative date of the
2 Valuation Manual, the standard prescribed in the Valuation Manual is the
3 minimum standard of valuation required under section 33.3 of this act, except as
4 otherwise provided in subsection 6 or 8.

5 2. The operative date of the Valuation Manual is January 1 of the first
6 calendar year following the first July 1 as of which all of the following have
7 occurred:

8 (a) The Valuation Manual has been adopted by the NAIC by an affirmative
9 vote of at least 42 members, or three-fourths of the members voting, whichever is
10 greater.

11 (b) The Standard Valuation Law, as amended by the NAIC in 2009, or
12 legislation including substantially similar terms and provisions, has been enacted
13 by states representing greater than 75 percent of the direct premiums written as
14 reported in the following annual statements submitted for 2008:

15 (1) Life, accident and health annual statements;

16 (2) Health annual statements; or

17 (3) Fraternal annual statements.

18 (c) The Standard Valuation Law, as amended by the NAIC in 2009, or
19 legislation including substantially similar terms and provisions, has been enacted
20 by at least 42 of the following 55 jurisdictions:

21 (1) The 50 states of the United States;

22 (2) American Samoa;

23 (3) The American Virgin Islands;

24 (4) The District of Columbia;

25 (5) Guam; and

26 (6) Puerto Rico.

27 (d) The Valuation Manual is adopted in accordance with regulations adopted
28 by the Commissioner.

29 3. Within 90 days after all the events described in paragraphs (a) to (d),
30 inclusive, of subsection 2 have taken place, the Commissioner shall issue a
31 bulletin to inform insurers and the public of that fact.

32 4. Unless a change in the Valuation Manual specifies a later effective date,
33 changes to the Valuation Manual are effective on January 1 following the date
34 when:

35 (a) The change to the Valuation Manual is adopted by the NAIC by an
36 affirmative vote representing:

37 (1) At least three-fourths of the members of the NAIC voting, but not less
38 than a majority of the total membership; and

39 (2) Members of the NAIC representing jurisdictions totaling greater than
40 75 percent of the direct premiums written as reported in the following annual
41 statements most recently available before the vote in subparagraph (1):

42 (I) Life, accident and health annual statements;

43 (II) Health annual statements; or

44 (III) Fraternal annual statements.

45 5. The Valuation Manual must specify all of the following:

46 (a) Minimum valuation standards for and definitions of the policies or
47 contracts subject to section 33.3 of this act, including:

48 (1) The Commissioner's reserve valuation method for life insurance
49 contracts, other than annuity contracts, subject to section 33.3 of this act;

50 (2) The Commissioner's annuity reserve valuation method for annuity
51 contracts subject to section 33.3 of this act; and

52 (3) Minimum reserves for all other policies or contracts subject to section
53 33.3 of this act;

1 (b) Which policies or contracts or types of policies or contracts that are
2 subject to the requirements of a principle-based valuation in section 34 of this act
3 and the minimum valuation standards consistent with those requirements;

4 (c) For policies and contracts subject to a principle-based valuation under
5 sections 34, 35 and 36 of this act;

6 (1) Requirements for the format of the reports provided to the
7 Commissioner pursuant to paragraph (c) of subsection 1 of section 35 of this act
8 and which must include information necessary to determine if the valuation is
9 appropriate and in compliance with sections 23 to 39.5, inclusive, of this act, and
10 NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive;

11 (2) Assumptions must be prescribed for risks over which the company
12 does not have significant control or influence; and

13 (3) Procedures for corporate governance and oversight of the actuarial
14 function, and a process for appropriate waiver or modification of such
15 procedures;

16 (d) For policies not subject to a principle-based valuation under sections 34,
17 35 and 36 of this act, the minimum valuation standard must:

18 (1) Be consistent with the minimum standard of valuation before the
19 operative date of the Valuation Manual; or

20 (2) Develop reserves that quantify the benefits and guarantees, and the
21 funding, associated with the contracts and their risks at a level of conservatism
22 that reflects conditions which include unfavorable events that have a reasonable
23 probability of occurring during the lifetime of the contracts;

24 (e) Other requirements, including, but not limited to, those relating to reserve
25 methods, models for measuring risk, generation of economic scenarios,
26 assumptions, margins, use of company experience, risk measurement, disclosure,
27 certifications, reports, actuarial opinions and memorandums, transition rules and
28 internal controls; and

29 (f) The data and form of the data required pursuant to section 37 of this act,
30 with whom the data must be submitted, and may specify other requirements
31 including data analyses and reporting of such analyses.

32 6. In the absence of a specific valuation requirement or if a specific
33 valuation requirement in the Valuation Manual is not, in the opinion of the
34 Commissioner, in compliance with sections 23 to 39.5, inclusive, of this act, and
35 NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, the
36 company must, with respect to such requirements, comply with minimum
37 valuation standards prescribed by the Commissioner by regulation.

38 7. The Commissioner may engage a qualified actuary, at the expense of the
39 company, to perform an actuarial examination of the company and opine on the
40 appropriateness of any reserve assumption or method used by the company, or to
41 review and opine on a company's compliance with any requirement set forth in
42 sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150,
43 inclusive, and 681B.200 to 681B.270, inclusive. The Commissioner may rely
44 upon the opinion, regarding provisions contained within sections 23 to 39.5,
45 inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to
46 681B.270, inclusive, of a qualified actuary engaged by the Commissioner of
47 another state, district or territory of the United States. As used in this subsection,
48 "engage" includes employment and contracting.

49 8. The Commissioner may require a company to change any assumption or
50 method that, in the opinion of the Commissioner, is necessary in order to comply
51 with the requirements of the Valuation Manual or sections 23 to 39.5, inclusive,
52 of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270,
53 inclusive, and the company shall adjust the reserves as required by the

1 Commissioner. The Commissioner may take other disciplinary action as allowed
2 pursuant to regulations adopted by the Commissioner.

3 9. Except as otherwise provided in section 39.5 of this act, the provisions of
4 this section apply only to, or in connection with, policies and contracts issued on
5 or after the operative date of the Valuation Manual.

6 Sec. 33.9. 1. For accident and health insurance policies and contracts
7 issued on or after the operative date of the Valuation Manual, the standard
8 prescribed in the Valuation Manual is the minimum standard of valuation
9 required under section 33.3 of this act.

10 2. Except as otherwise provided in section 39.5 of this act, the provisions of
11 this section apply only to, or in connection with, policies and contracts issued on
12 or after the operative date of the Valuation Manual.

13 Sec. 34. 1. An applicable company using a principle-based valuation
14 must establish reserves ~~(using a principle-based valuation)~~ that:

15 ~~1. Quantifies~~

16 (a) Quantify the benefits and guarantees, and the funding, associated with
17 the contracts and their risks at a level of conservatism that reflects conditions
18 which include unfavorable events that have a reasonable probability of occurring
19 during the lifetime of the contracts. For policies or contracts with significant tail
20 risk, the valuation must reflect conditions appropriately adverse to quantify the
21 tail risk.

22 ~~2. Incorporates~~

23 (b) Incorporate assumptions, risk analysis methods and financial models and
24 management techniques that are consistent with, but not necessarily identical to,
25 those utilized within the company's overall risk assessment process while
26 recognizing potential differences in financial reporting structures and any
27 prescribed assumptions or methods.

28 ~~3. Incorporates~~

29 (c) Incorporate assumptions that are:

30 ~~(a)~~ (1) Prescribed in the Valuation Manual; or

31 ~~(b)~~ (2) Established utilizing the company's available experience, to the
32 extent that it is relevant and statistically credible or established utilizing other
33 relevant, statistically credible experience.

34 ~~4. Provides~~

35 (d) Provide margins for uncertainty, including adverse deviation and
36 estimation error, such that the greater the uncertainty the larger the margin and
37 resulting reserve.

38 2. Except as otherwise provided in section 39.5 of this act, the provisions of
39 this section apply only on or after the operative date of the Valuation Manual.

40 Sec. 35. 1. An applicable company using a principle-based valuation for
41 one or more policies or contracts subject to this chapter, and as specified in the
42 Valuation Manual, shall:

43 ~~1.1~~ (a) Establish procedures for corporate governance and oversight of the
44 actuarial valuation function consistent with those described in the Valuation
45 Manual.

46 ~~1.2~~ (b) Provide to the Commissioner, and the company's board of directors,
47 an annual certification of the effectiveness of the internal controls with respect to
48 the principle-based valuation. Such controls must be designed to ensure that all
49 material risks inherent in the liabilities and associated assets subject to such
50 valuation are included in the valuation, and that valuations are made pursuant to
51 the Valuation Manual. The certification must be based on the controls in place as
52 of the end of the preceding calendar year.

~~3.7~~ (c) Develop and, upon request, provide to the Commissioner a principle-based valuation report that complies with the standards prescribed in the Valuation Manual.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 36. 1. A principle-based valuation may include a prescribed formulaic reserve component.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 37. 1. An applicable company shall submit to the Commissioner, to an appropriately appointed experience reporting agent or to such other person authorized to act on behalf of the Commissioner pursuant to section 37.5 of this act, and as specified in the Valuation Manual, mortality, morbidity, policyholder behavior or expense experience and other data as prescribed in the Valuation Manual.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 37.5. 1. The Commissioner may designate a person to act as the experience reporting agent of the Commissioner and to assist the Commissioner in compiling relevant mortality, morbidity, policyholder behavior or expense experience and other data pursuant to section 37 of this act and as prescribed in the Valuation Manual.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 38. 1. Except as otherwise provided in this section and NRS 239.0115 and sections 33 and 39 of this act, an applicable company's confidential information is confidential by law and privileged, and is not:

(a) Subject to subpoena or other forms of civil discovery; or

(b) Admissible in evidence in any private civil action.

2. Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning the confidential information.

3. To assist in the performance of the Commissioner's duties, the Commissioner may share confidential information with other state, federal and international regulatory agencies and the ~~National Association of Insurance Commissioners~~, NAIC, provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such confidential information in the same manner and to the same extent as required of the Commissioner.

4. To assist in the performance of the Commissioner's duties, the Commissioner may share confidential information specified in paragraphs (a) and (d) of subsection 1 of section 33 of this act with state, federal and international law enforcement officials or the Actuarial Board for Counseling and Discipline, or its successor, if the confidential information is provided for the purpose of professional disciplinary hearings and the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such confidential information in the same manner and to the same extent as required of the Commissioner.

5. The Commissioner may receive documents, materials, data and other information, including, without limitation, confidential information and privileged documents, materials, data or other information from the ~~National~~

~~Association of Insurance Commissioners,~~ NAIC, and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline, or its successor, and shall maintain as confidential or privileged any document, material, data or other information received with notice, or the understanding, that the information is confidential or privileged under the laws of the jurisdiction which is the source of the document, material, data or other information.

6. The Commissioner may enter into agreements governing the sharing and use of confidential information consistent with this section.

7. No waiver of any applicable privilege or claim of confidentiality in confidential information shall occur as a result of the disclosure of the confidential information to the Commissioner pursuant to this section or as a result of sharing as authorized in ~~subsection~~ subsections 3, 4, and 5.

8. A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section may be available and enforced in any proceeding in, and in any court of, this State.

9. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 39. 1. Notwithstanding any provisions of section 38 of this act to the contrary, any confidential information specified in subsections 1 and ~~4~~ 5 of section 38 of this act:

~~4~~ (a) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted in accordance with the provisions of NRS 681B.200 to 681B.260, inclusive, or a principle-based valuation report developed in accordance with paragraph (c) of subsection ~~4~~ 1 of section 35 of this act by reason of an action required by sections 33 to ~~39~~ 39.5, inclusive, of this act ~~4~~

~~2~~ or any regulations adopted pursuant thereto;

~~(b)~~ (b) May otherwise be released by the Commissioner with the written consent of the applicable company; and

~~3~~ (c) Is no longer confidential if any portion of a memorandum in support of an opinion submitted in accordance with the provisions of NRS 681B.200 to 681B.260, inclusive, or a principle-based valuation report developed in accordance with paragraph (c) of subsection ~~4~~ 1 of section 35 of this act, is:

~~(1)~~ (1) Cited by the applicable company in its marketing;

~~(2)~~ (2) Publicly volunteered to or before a government agency other than the Division or an insurance department of another state; or

~~(3)~~ (3) Released by the applicable company to the news media.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 39.5. 1. The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of section 33.7 of this act, if:

(a) The Commissioner has issued to the company a written exemption and has not subsequently revoked that written exemption; and

(b) The company computes reserves using assumptions and methods that were used before the operative date of the Valuation Manual, in addition to complying with any applicable requirements established in regulations adopted by the Commissioner.

2. If a company is granted an exemption as described in subsection 1, the provisions of NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, apply to that company.

3. The provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 40. NRS 681B.020 is hereby amended to read as follows:

681B.020 1. In addition to assets impliedly excluded by the provisions of NRS 681B.010, the following expressly may not be allowed as assets in any determination of the financial condition of an insurer:

(a) Goodwill, trade names and other like intangible assets.

(b) Advances to officers, other than policy loans, whether secured or not, and advances to employees, agents and other persons on personal security only.

(c) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(d) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies, other than data processing, recordkeeping and accounting systems authorized under subsection 13 of NRS 681B.010, except ~~+~~

~~(1) In the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under NRS 682A.220; and~~

~~(2) In the case of any insurer, +~~ such personal property as the insurer is permitted to hold pursuant to chapter 682A of NRS, or which is reasonably necessary for the maintenance and operation of real property lawfully acquired and held by the insurer other than real property used by it for home office, branch office and similar purposes.

(e) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this Code.

2. If any successor organization to the State Industrial Insurance System that was established by section 79 of chapter 642, Statutes of Nevada 1981, at page 1449, wishes to transact in this state property or casualty insurance other than industrial insurance, the money required to be held in trust by that organization pursuant to NRS 616B.042 may not be allowed as assets of the successor organization in determining its financial condition to transact such insurance.

Sec. 40.15. NRS 681B.110 is hereby amended to read as follows:

681B.110 1. The Commissioner shall, in the manner provided by NRS 681B.110 to 681B.150, inclusive, annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, issued on or after January 1, 1972, and before the operative date of the Valuation Manual, except that in the case of an alien insurer, the valuation must be limited to its United States business.

~~2. [The Commissioner may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods used in the calculation of the reserves.~~

~~3. The Commissioner may:~~

(a) Use any method, including group methods and the net level premium method, in the calculation of the reserves.

(b) Use approximate averages for fractions of a year or other period to calculate the reserves.

(c) In lieu of the valuation of the reserves required of any foreign or alien company, accept any valuation made, or caused to be made, by an insurance

supervisory officer of any other state or jurisdiction if the valuation by the insurance supervisory officer complies with the minimum standard required by NRS 681B.110 to 681B.150, inclusive, ~~and if the insurance officer of the other state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.~~

~~4. Any such insurer which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in NRS 681B.110 to 681B.150, inclusive, may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum provided in those sections.~~

3. The provisions set forth in NRS 681B.110 to 681B.150, inclusive, and 681B.270 apply to all policies and contracts, as appropriate, issued on or after January 1, 1972, and before the operative date of the Valuation Manual. The provisions set forth in sections 33.7 to 36, inclusive, of this act do not apply to any such policies and contracts.

4. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

5. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.2. NRS 681B.120 is hereby amended to read as follows:

681B.120 1. Except as otherwise provided in subsection 3 and in NRS 681B.125, the minimum standards for the valuation of all policies and contracts issued before January 1, 1972, are as follows:

(a) The legal minimum standard for valuation of contracts issued before January 1, 1942, is a basis not lower than that used for the annual statement of the year during which the policies were issued, and for contracts issued on and after January 1, 1942, is the American Experience Table of Mortality with either Craig's or Buttolph's Extension for ages under 10, with interest at not more than 3.5 percent per annum. Annuities and pure endowments purchased under group annuity and pure endowment contracts must be valued in the same manner, with interest at not more than 5 percent. Such policies may provide for not more than 1-year preliminary term insurance by incorporating therein a clause plainly showing that the first year's insurance under the contract is term insurance purchased by the whole or part of the premiums to be received during the first year of the contract.

(b) The legal minimum standard for the valuation of group life insurance policies under which the premium rates are not guaranteed for more than 5 years is the American Men Ultimate Table of Mortality with interest at not more than 3.5 percent per annum.

(c) The legal minimum standard for the valuation of industrial policies is the American Experience Table of Mortality or the Standard Industrial Mortality Table or the Substandard Industrial Mortality Table with interest at not more than 3.5 percent per annum by the net level premium method, or in accordance with their terms by the modified preliminary term method described in this section.

(d) Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves than the minimum reserves required by this subsection.

2. Except as otherwise provided in subsection 3 and in NRS 681B.125, the minimum standards for the valuation of all policies and contracts issued on or after

January 1, 1972, are the Commissioners reserve valuation methods defined in NRS 681B.130 and 681B.150, 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts or, in the case of policies and contracts other than annuity and pure endowment contracts issued on or after July 1, 1973, 4 percent interest for such policies issued before July 1, 1977, 5.5 percent interest for single premium life insurance policies and 4.5 percent for all other such policies issued on and after July 1, 1977, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table until the operative date of NRS 688A.340, and, for all such policies issued on and after the operative date of NRS 688A.340 and before the operative date of NRS 688A.325, the Commissioners 1958 Standard Ordinary Mortality Table, except that for any category of such policies issued on female risks all modified net premiums and present values referred to in NRS 681B.110 to 681B.150, inclusive, may be calculated according to an age not more than 6 years younger than the actual age of the insured. For policies issued on or after the operative date of NRS 688A.325:

(1) The Commissioners 1980 Standard Ordinary Mortality Table;

(2) At the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(3) Any ordinary mortality table which is adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC and is approved by a regulation adopted by the Commissioner,

may be used in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued before the operative date of NRS 688A.330, and for such policies issued on or after that date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table which is adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of that table approved by the Commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates which are adopted after 1980 by the ~~National Association of Insurance Commissioners~~ NAIC and are approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such policies; and for policies or contracts

1 issued on or after January 1, 1961, and before January 1, 1966, either such tables or,
2 at the option of the insurer, the Class (3) Disability Table (1926).

3 (f) Benefits for accidental death in or supplementary to policies, for policies
4 issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table, or
5 any accidental death benefits table which is adopted after 1980 by the ~~National~~
6 ~~Association of Insurance Commissioners~~ **NAIC** and is approved by a regulation
7 adopted by the Commissioner for use in determining the minimum standard of
8 valuation for such policies; and for policies issued on or after January 1, 1961, and
9 before January 1, 1966, either such table or, at the option of the insurer, the Inter-
10 Company Double Indemnity Mortality Table. Either table must be combined with a
11 mortality table permitted for calculating the reserves for life insurance policies.

12 (g) For group life insurance, for life insurance issued on the substandard basis
13 and for special benefits, such tables as may be approved by the Commissioner.

14 3. Except as provided in NRS 681B.125, the minimum standards for the
15 valuation of all individual annuity and pure endowment contracts issued on or after
16 the valuation operative date defined in subsection 4 and for all annuities and pure
17 endowments purchased on or after that date, under group annuity and pure
18 endowment contracts, are the Commissioners reserve valuation methods defined in
19 NRS 681B.130 and the following tables and interest rates:

20 (a) For individual annuity and pure endowment contracts issued before July 1,
21 1977, excluding any disability and accidental death benefits in such contracts, the
22 1971 Individual Annuity Mortality Table, or any modification of the table approved
23 by the Commissioner, and 6 percent interest for single premium immediate annuity
24 contracts, and 4 percent interest for all other individual annuity and pure
25 endowment contracts.

26 (b) For individual single premium immediate annuity contracts issued on or
27 after July 1, 1977, excluding any disability and accidental death benefits in such
28 contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity
29 mortality table which is adopted after 1980 by the ~~National Association of~~
30 ~~Insurance Commissioners~~ **NAIC** and is approved by a regulation adopted by the
31 Commissioner for use in determining the minimum standard of valuation for such
32 contracts, or any modification of those tables approved by the Commissioner, and
33 7.5 percent interest.

34 (c) For individual annuity and pure endowment contracts issued on or after
35 July 1, 1977, other than single premium immediate annuity contracts, excluding any
36 disability and accidental death benefits in such contracts, the 1971 Individual
37 Annuity Mortality Table or any individual annuity mortality table which is adopted
38 after 1980 by the ~~National Association of Insurance Commissioners~~ **NAIC** and is
39 approved by a regulation adopted by the Commissioner for use in determining the
40 minimum standard of valuation for such contracts, or any modification of those
41 tables approved by the Commissioner, and 5.5 percent interest for single premium
42 deferred annuity and pure endowment contracts and 4.5 percent interest for all other
43 such individual annuity and pure endowment contracts.

44 (d) For all annuities and pure endowments purchased before July 1, 1977,
45 under group annuity and pure endowment contracts, excluding any disability and
46 accidental death benefits purchased under such contracts, the 1971 Group Annuity
47 Mortality Table, or any modification of that table approved by the Commissioner,
48 and 6 percent interest.

49 (e) For all annuities and pure endowments purchased on or after July 1, 1977,
50 under group annuity and pure endowment contracts, excluding any disability and
51 accidental death benefits purchased under such contracts, the 1971 Group Annuity
52 Mortality Table, or any group annuity mortality table which is adopted after 1980
53 by the ~~National Association of Insurance Commissioners~~ **NAIC** and is approved

by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of those tables approved by the Commissioner, and 7.5 percent interest.

4. After July 1, 1973, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of subsection 3 after a specified date before January 1, 1979, which then becomes the valuation operative date for the insurer, but an insurer may elect a different valuation operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the valuation operative date for the insurer is January 1, 1979.

5. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued before the operative date of the Valuation Manual.

Sec. 40.25. NRS 681B.125 is hereby amended to read as follows:

681B.125 1. This section sets forth the interest rates used in determining the minimum standard for valuation of:

(a) All life insurance policies issued in a particular calendar year on or after the operative date of NRS 688A.325;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984;

(c) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under contract which have guaranteed interest.

2. The interest rates for valuation must be determined as follows, and the results rounded to the nearer one-quarter of 1 percent:

(a) For life insurance:

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09)$$

(b) For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with options for cash settlement and from contracts which have guaranteed interest with options for cash settlement:

$$I = .03 + W (R - .03)$$

where

R_1 is the lesser of R and .09,

R_2 is the greater of R and .09,

R is the reference interest rate defined in this section, and

W is the weighting factor defined in this section.

(c) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), the formula for life insurance set forth in paragraph (a) applies to annuities and contracts which have guaranteed interest with a guaranteed duration in excess of 10 years, and the formula for single-premium immediate annuities stated in paragraph (b) applies to annuities and contracts which have guaranteed interest with guaranteed durations of 10 years or less.

(d) For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no options for cash settlement, the formula for single-premium immediate annuities set forth in paragraph (b) applies.

(e) For other annuities with options for cash settlement and contracts which have guaranteed interest with no options for cash settlement which are valued on the basis of a change in its fund the formula for single-premium immediate annuities stated in paragraph (b) applies.

(f) If the interest rate for valuation for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the interest rate for the valuation of such life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. The interest rate for the valuation of life insurance policies issued in a calendar year must be determined for 1980 using the reference interest rate defined for 1979 and must be determined for each subsequent calendar year regardless of when NRS 688A.325 becomes operative with respect to the insurer.

3. The weighting factors referred to in the formulas set forth in subsection 2 are given in the following tables:

(a) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less.....	.50
More than 10 but not more than 20.....	.45
More than 20.....	.35

For life insurance, the duration of the guarantee is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

(b) The weighting factor for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement is .80; and

(c) Weighting factors for other annuities and for contracts which have guaranteed interest except as stated in paragraph (b), are specified in the tables in subparagraphs (1), (2) and (3), according to the rules and definitions in subparagraphs (4), (5) and (6) as follows:

(1) For annuities and contracts which have guaranteed interest valued on the basis of the year issued:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less.....	.80	.60	.50
More than 5, but not more than 10.....	.75	.60	.50
More than 10, but not more than 20.....	.65	.50	.45
More than 2.....	.45	.35	.35

(2) For annuities and contracts which have guaranteed interest valued on a change in fund basis, the factors shown in subparagraph (1):

	Weighting Factor for Plan Type		
	A	B	C
Increased by	.15	.25	.05

(3) For annuities and contracts which have guaranteed interest valued on the basis of the year issued, (other than those with no options for cash settlement) which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and contracts which have guaranteed interest valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (1) or derived in subparagraph (2) increased by .05.

(4) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, the guaranteed duration is the number of years for which the contract guarantees interest rates in excess of the interest rate for the valuation of life insurance policies with a guaranteed duration in excess of 20 years. For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no options for cash settlement, the guaranteed duration is the number of years from the date of issue or date of purchase to the date on which the annuity benefits are scheduled to commence.

(5) The types of plans listed in this subsection have the following characteristics:

Plan Type A

Under this plan the policyholder:

(I) May withdraw money only with an adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money, or without such an adjustment but in installments payable over 5 years or more;

(II) May withdraw money as an immediate life annuity; or

(III) Is not permitted to withdraw money.

Plan Type B

Under this plan, before expiration of the guaranteed interest rate, the policyholder:

(I) May withdraw money only with an adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money, or without such an adjustment but in installments payable over 5 years or more; or

(II) Is not permitted to withdraw money.

➤ At the end of the guaranteed interest rate, the policyholder may withdraw money without such an adjustment in a single sum or in installments over a period of less than 5 years.

Plan Type C

Under this plan the policyholder may withdraw money before expiration of the guaranteed interest rate in a single sum or in installments over a period of less than 5 years:

(I) Without any adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money; or

(II) Subject only to a fixed charge for surrender which is stipulated in the contract as a percentage of the fund.

(6) An insurer may elect to value contracts which have guaranteed interest with options for cash settlement and annuities with options for cash settlement on the basis of the year issued or a change in fund basis. Contracts which have guaranteed interest but no options for cash settlement and annuities with no options for cash settlement must be valued on the basis of the year issued. As used in this section, “valuation on the basis of the year issued” means a basis of valuation under which the interest rate used to determine the minimum standard of valuation for the entire duration of an annuity or contract with guaranteed interest is the interest rate of valuation for the year of issue or the year of purchase of the annuity or contract, and “change in fund basis of valuation” means a basis of valuation under which the interest rate used to determine the minimum standard of valuation applicable to each change in the fund held under the annuity or contract is the interest rate for valuation for the year of the change in the fund.

4. For purposes of subsection 2, “reference interest rate” means:

(a) For all life insurance, the lesser of the average over 36 months and the average over 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

(b) For single-premium immediate annuities, annuity benefits involving life contingencies arising from other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, the average over 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

(c) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), with a guaranteed duration of more than 10 years, the lesser of the average over 36 months and the average over 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

(d) For other annuities with options for cash settlement and guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), with a guaranteed duration of 10 years or less, the average over 12 months, ending on June 30 of the calendar year issued or purchased, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

(e) For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no option for cash settlement, the average over 12 months, ending on June 30 of the calendar year issued or purchased, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

(f) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement valued on a change in fund basis, except as stated in paragraph (b), the average over 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody’s Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody’s Investors Service, Inc.

5. If the publication of Moody’s Corporate Bond Yield Average—Monthly Average Corporates by Moody’s Investors Service, Inc., ends or the National Association of Insurance Commissioners determines that Moody’s Corporate Bond Yield Average—Monthly Average Corporates is no longer appropriate for determination of the reference interest rate, an alternative method for determination

of the reference interest rate which is adopted by the ~~National Association of Insurance Commissioners~~ NAIC and approved by regulation of the Commissioner may be substituted.

6. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

7. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.3. NRS 681B.130 is hereby amended to read as follows:

681B.130 1. Except as otherwise provided in subsection 4 and in NRS 681B.150, reserves, according to the Commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums must be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies over the then present value of any future modified net premiums therefor. The modified net premiums for the policy must be such a uniform percentage of the respective contract premiums for those benefits that the present value, at the date of issue of the policy, of all the modified net premiums are equal to the sum of the then present value of the benefits provided for by the policy and the excess of the premium set forth in paragraph (a) over that set forth in paragraph (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. The net level annual premium must not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at the time the policy is issued.

(b) A net 1-year term premium for such benefits provided for in the first policy year.

2. If any life insurance policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year, and for which no comparable additional benefit is provided in the first year in return for the excess premium and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the Commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, which is the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, must, except as otherwise provided in NRS 681B.150, be the greater of:

(a) The reserve as of the policy anniversary calculated as described in subsection 1; and

(b) The reserve as of the policy anniversary calculated as described in subsection 1, but with:

(1) The value defined in paragraph (a) of subsection 1 being reduced by 15 percent of the amount of the excess first-year premium;

(2) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

(3) The policy being assumed to mature on such date as an endowment;

(4) The cash surrender value provided on that date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in NRS 681B.120 and 681B.125 must be used.

3. Reserves according to the Commissioners' reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship), by an employee organization or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended;

(c) Disability and accidental death benefits in all policies and contracts; and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts,

must be calculated by a method consistent with the principles of subsection 1 and this subsection, except that any extra premiums charged because of impairments or special hazards must be disregarded in the determination of modified net premiums.

4. This subsection applies to all annuity and pure endowment contracts except those group annuity and pure endowment contracts for which reserves according to the Commissioners' reserve valuation method are to be calculated by a method consistent with the principles of subsections 1, 2 and 3. Reserves according to the Commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts must be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, which become payable before the end of such respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate or rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

5. An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1972, must not be less than the aggregate reserves calculated in accordance with the methods set forth in this section, NRS 681B.145 and 681B.150, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for those policies.

6. An insurer's aggregate reserves for all policies, contracts and benefits must not be less than the aggregate reserves determined by a qualified actuary to be necessary for a favorable opinion under NRS 681B.210 and 681B.220.

7. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

8. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.35. NRS 681B.140 is hereby amended to read as follows:

681B.140 1. Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after January 1, 1972, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standards provided by subsections 2 and 3 of NRS 681B.120 and 681B.125, but the rate or rates of interest used for policies and contracts other than the annuity and pure endowment contracts must not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in such policies.

2. Any insurer which has adopted a standard of valuation producing greater aggregate reserves as described in subsection 1 may, with the approval of the Commissioner, adopt a lower standard of valuation, but not lower than the minimum described in subsection 1.

3. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.4. NRS 681B.145 is hereby amended to read as follows:

681B.145 1. For any plan of life insurance which provides for the determination of a future premium, the amounts of which are to be determined by the insurer based on estimates of future experience, or for any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in NRS 681B.130 and 681B.150, the reserves which are held under the plan must be:

~~1-1~~ (a) Appropriate in relation to the benefits and the pattern of premiums for the plan; and

~~1-2~~ (b) Computed by a method which is consistent with the principles of standard valuation contained in this chapter.

2. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.43. NRS 681B.150 is hereby amended to read as follows:

681B.150 1. If in any contract year the gross premium charged by any life insurer on any policy or contract issued on or after January 1, 1972, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract is the greater of:

~~1-1~~ (a) The reserve calculated according to the mortality table, rate of interest and method actually used for the policy or contract; or

~~1-2~~ (b) The reserve calculated by the method actually used for the policy or contract, but using the minimum valuation standards of mortality and rate of interest, and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this ~~section~~ subsection are the standards stated in NRS 681B.120 and 681B.125.

~~2.~~ 2. If any life insurance policy is issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the second year and no comparable additional benefit is provided in the first year in return for the excess premium, and which provides an endowment benefit or a cash surrender value, or a combination thereof, in an amount greater than the excess premium, the provisions of this section must be applied as if the method actually used in calculating the reserve for the policy were the method described in NRS 681B.130 other than in subsection 2 of that section. The minimum reserve required at each policy anniversary of such a policy is the greater of the minimum reserve calculated in accordance with NRS 681B.130, including subsection 2 of that section, and the minimum reserve calculated in accordance with this ~~section~~ subsection and subsection 1.

3. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.45. NRS 681B.160 is hereby amended to read as follows:

681B.160 1. Except as otherwise provided in subsection 5, all bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made or, in lieu of that method, according to an accepted method of valuation that is approved by the Commissioner.

2. The purchase price must not be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

3. Unless otherwise provided by a valuation established or approved by the Commissioner, the security must not be carried at above the call price for the entire issue during any period within which the security may be so called.

4. The Commissioner has full discretion in determining the method of calculating values pursuant to this section.

5. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the ~~National Association of Insurance Commissioners or its successor organization.~~ NAIC.

Sec. 40.47. NRS 681B.170 is hereby amended to read as follows:

681B.170 1. Except as otherwise provided in subsection 4, securities, other than those specified in NRS 681B.160, held by an insurer must be valued, in the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by the Commissioner as representing their fair market value.

2. Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with a method of computation approved by the Commissioner.

3. The stock of a subsidiary of an insurer must be valued on the basis of the value of only those assets of the subsidiary as would constitute lawful investments of the insurer if acquired or held directly by the insurer.

4. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the ~~[National Association of Insurance Commissioners or its successor organization.] NAIC.~~

Sec. 40.5. NRS 681B.200 is hereby amended to read as follows:

681B.200 1. As used in NRS 681B.200 to 681B.260, inclusive, “qualified actuary” means a *natural* person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.55. NRS 681B.210 is hereby amended to read as follows:

681B.210 1. Every insurer doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.6. NRS 681B.220 is hereby amended to read as follows:

681B.220 1. Every such insurer, unless exempted by or pursuant to regulation, shall also annually submit an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including the earnings on the assets invested and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer’s obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

2. The Commissioner may provide by regulation for a period of transition for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section and NRS 681B.210.

3. The holding of additional reserves determined by a qualified actuary to be necessary to render the opinion required by this section or NRS 681B.210, shall not be deemed to be the adoption of a higher standard of valuation for the purposes of NRS 681B.120 or 681B.140.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.65. NRS 681B.230 is hereby amended to read as follows:

681B.230 1. Each opinion required by NRS 681B.220 must be supported by memorandum, in form and substance acceptable to the Commissioner as specified by regulation.

2. If an insurer fails to provide a supporting memorandum at the request of the Commissioner within a period specified by regulation, or the Commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.

1 3. Except as otherwise provided in section 39.5 of this act, the provisions of
2 this section apply only before the operative date of the Valuation Manual.

3 Sec. 40.7. NRS 681B.240 is hereby amended to read as follows:

4 681B.240 1. Every opinion must:

5 (a) Be submitted with the annual statement reflecting the valuation of reserve
6 liabilities for each year ending on or after December 31, 1996.

7 (b) Apply to all business in force including, without limitation, individual and
8 group health insurance plans, in form and substance acceptable to the
9 Commissioner as specified by regulation.

10 (c) Be based on standards adopted from time to time by the Actuarial
11 Standards Board or a successor organization approved by the Commissioner and on
12 such additional standards as the Commissioner may by regulation prescribe.

13 2. In the case of an opinion required to be submitted by a foreign or alien
14 company, the Commissioner may accept the opinion filed by that company with the
15 commissioner of insurance of another state if the Commissioner determines that the
16 opinion reasonably meets the requirements applicable to an insurer domiciled in
17 this state.

18 3. Except as otherwise provided in section 39.5 of this act, the provisions of
19 this section apply only before the operative date of the Valuation Manual.

20 Sec. 40.75. NRS 681B.250 is hereby amended to read as follows:

21 681B.250 1. Except in a case of fraud or willful misconduct, a qualified
22 actuary who is appointed by an insurer to issue an opinion pursuant to this chapter
23 or any regulation adopted pursuant thereto is not liable for damages to any person
24 other than an affected insurer or the Commissioner for any act, error, omission,
25 decision or conduct with respect to the actuary's opinion.

26 2. Disciplinary action by the Commissioner against an actuary must be
27 prescribed by regulation by the Commissioner.

28 3. Except as otherwise provided in section 39.5 of this act, the provisions of
29 this section apply only before the operative date of the Valuation Manual.

30 Sec. 41. NRS 681B.260 is hereby amended to read as follows:

31 681B.260 1. Except as otherwise provided in this section and NRS
32 239.0115, and sections 33, 38 and 39 of this act, ~~an opinion,~~ any documents and
33 ~~any~~ other material or information provided by an insurer to the Commissioner,
34 which constitute a memorandum in support of an opinion, and any other
35 material provided to the Commissioner in connection ~~therewith,~~ with such a
36 memorandum, must be kept confidential by the Commissioner, is not open to the
37 public, and is not subject to subpoena, except for the purpose of defending an action
38 seeking damages from any person by reason of any action required by NRS
39 681B.200 to 681B.260, inclusive, or by any regulation adopted under those
40 sections.

41 2. A memorandum or other material may be released by the Commissioner
42 with the written consent of the insurer or to the American Academy of Actuaries or
43 its successor organization upon request stating that the memorandum or other
44 material is required for the purpose of professional disciplinary proceedings and
45 setting forth procedures satisfactory to the Commissioner for preserving the
46 confidentiality of the memorandum or other material.

47 3. If any portion of a confidential memorandum is cited by the insurer in its
48 marketing or is cited before any governmental agency other than a state
49 commissioner of insurance or is released by an insurer to the public, all portions of
50 the memorandum are no longer confidential.

51 4. The Commissioner may use the documents, materials and other
52 information described in this section in the furtherance of any regulatory or legal
53 action brought as part of the Commissioner's official duties.

5. Neither the Commissioner nor any other person in receipt of documents, materials or other information obtained while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to this section.

6. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or other information described in this section shall occur as a result of disclosure to the Commissioner pursuant to this section or as a result of sharing as authorized in subsection 8 of NRS 679B.190.

7. A memorandum in support of an opinion, and any other material provided by the applicable company or insurer to the Commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section.

8. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 41.3. NRS 681B.270 is hereby amended to read as follows:

681B.270. ~~The Commissioner shall adopt by regulation minimum standards for the valuation of reserves of other insurers offering:~~

1. For health insurance contracts of any kind ~~++~~ issued on or after January 1, 1972, and before the operative date of the Valuation Manual, by health insurers, corporations for hospital, medical and dental service, health maintenance organizations and plans for dental care ~~++~~, the minimum standard of valuation is the standard adopted by the Commissioner by regulation.

2. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 41.7. NRS 681B.290 is hereby amended to read as follows:

681B.290. 1. Except as otherwise provided in subsection 3, on or before March 1 of each year, each domestic insurer, and each foreign insurer domiciled in a state which does not have requirements for reporting risk-based capital, that transacts property, casualty, life or health insurance in this state shall prepare and submit to the Commissioner, and to each person designated by the Commissioner, a report of the level of the risk-based capital of the insurer as of the end of the immediately preceding calendar year. The report must be in such form and contain such information as required by the regulations adopted by the Commissioner pursuant to this section.

2. The Commissioner shall adopt regulations concerning the amount of risk-based capital required to be maintained by each insurer licensed to do business in this state that is transacting property, casualty, life or health insurance in this state. The regulations must be consistent with the instructions for reporting risk-based capital adopted by the ~~National Association of Insurance Commissioners, NAIC,~~ as those instructions existed on January 1, 1997. If the instructions are amended, the Commissioner may amend the regulations to maintain consistency with the instructions if the Commissioner determines that the amended instructions are appropriate for use in this state.

3. The Commissioner may exempt from the provisions of this section:

(a) A domestic insurer who:

(1) Does not transact insurance in any other state;
(2) Does not assume reinsurance that is more than 5 percent of the direct premiums written by the insurer; and

(3) Writes annual premiums of not more than \$2,000,000.

(b) A prepaid limited health service organization that provides or arranges for the provision of limited health services to fewer than 1,000 enrollees.

4. As used in this section, "prepaid limited health service organization" has the meaning ascribed to it in NRS 695F.050.

Sec. 42. Chapter 682A of NRS is hereby amended by adding thereto the provisions set forth as sections 43 to ~~222~~ 230, inclusive, of this act.

Sec. 43. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 44 to 130, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 44. "Acceptable collateral" means:

1. *As to securities lending transactions, and for the purpose of calculating counterparty exposure amount, cash, cash equivalents, letters of credit, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the Federal Government or any agency thereof, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and, as to lending foreign securities, sovereign debt rated 1 by the SVO;*

2. *As to repurchase transactions, cash, cash equivalents and direct obligations of, or securities that are fully guaranteed as to principal and interest by, the Federal Government or any agency thereof, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and*

3. *As to reverse repurchase transactions, cash and cash equivalents.*

Sec. 45. "Acceptable private mortgage insurance" means insurance written by a private insurer protecting a mortgage lender against loss occasioned by a mortgage loan default and issued by a licensed mortgage insurance company with a rating of 1 by the SVO, or a rating issued by a nationally recognized statistical rating organization equivalent to a rating of 1 by the SVO, that covers losses up to an 80 percent loan-to-value ratio.

Sec. 46. "Accident and health insurance" means protection which provides payment of benefits for covered sickness or accidental injury. The term does not include credit insurance, disability insurance, accidental death and dismemberment insurance and long-term care insurance.

Sec. 47. "Accident and health insurer" means a licensed life or health insurer or health services corporation whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of the total premium considerations or total statutory required reserves, respectively.

Sec. 48. "Admitted asset" means an asset permitted to be reported as an admitted asset on the statutory financial statement of the insurer most recently required to be filed with the Commissioner. The term does not include assets of separate accounts, the investments of which are not subject to the provisions of this chapter.

Sec. 49. "Affiliate" means, as to any person, another person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person.

Sec. 50. "Asset-backed security" means a security or other instrument, excluding a mutual fund, evidencing an interest in, or the right to receive payments from, or payable from distributions on, an asset, a pool of assets or specifically divisible cash flows which are legally transferred to a trust, or another special purpose bankruptcy-remote business entity, which meets the conditions set forth in section 131 of this act.

Sec. 51. "Business entity" includes, without limitation, a sole proprietorship, corporation, limited-liability company, association, partnership,

1 *joint-stock company, joint venture, mutual fund, trust, joint tenancy or other*
2 *similar form of business organization, whether organized for-profit or not-for-*
3 *profit.*

4 Sec. 52. “Cap” means an agreement obligating the seller to make payments
5 to the buyer, with each payment based on the amount by which a reference price
6 or level, or the performance or value of one or more underlying interests, exceeds
7 a predetermined number, sometimes referred to as the strike rate or strike price.

8 Sec. 53. “Capital and surplus” means the sum of the capital and surplus of
9 the insurer which is required to be shown on the statutory financial statement of
10 the insurer most recently required to be filed with the Commissioner.

11 Sec. 54. “Cash equivalents” means short-term, highly rated and highly
12 liquid investments or securities that are readily convertible to known amounts of
13 cash without penalty and so near maturity that they present insignificant risk of
14 change in value. The term includes, without limitation, government money
15 market mutual funds and class one money market mutual funds. As used in this
16 section:

17 1. “Highly rated” means an investment rated:

18 (a) “P-1” by Moody’s Investor Service, Inc., or its successor organization;

19 (b) “A-1” by Standard and Poor’s division of The McGraw Hill Companies,
20 Inc., or its successor organization; or

21 (c) An equivalent rating by a nationally recognized statistical rating
22 organization recognized by the SVO.

23 2. “Short-term” means investments with a remaining term to maturity of 90
24 days or less.

25 Sec. 55. “Class one bond mutual fund” means a mutual fund that at all
26 times qualifies for investment using the bond class one reserve factor contained
27 in the Purposes and Procedures Manual of the SVO.

28 Sec. 56. “Class one money market mutual fund” means a money market
29 mutual fund that at all times qualifies for investment using the bond class one
30 reserve factor under the Purposes and Procedures Manual of the SVO.

31 Sec. 57. “Collar” means an agreement to receive payments as the buyer of
32 an option, cap or floor and to make payments as the seller of a different option,
33 cap or floor.

34 Sec. 58. “Commercial mortgage loan” means any mortgage loan other
35 than a residential mortgage loan.

36 Sec. 59. “Construction loan” means a loan of less than 3 years in term,
37 made for financing the costs of construction of a building or other improvement
38 to real estate and that is secured by the real estate.

39 Sec. 60. “Control” means the possession, directly or indirectly, of the
40 power to direct or cause the direction of the management and policies of a
41 person, whether through ownership of voting securities, by contract, other than a
42 commercial contract for goods or nonmanagement services, or otherwise, unless
43 the power is the result of an official position with or corporate office held by the
44 person.

45 Sec. 61. “Counterparty exposure amount” means the amount calculated
46 pursuant to section 133 of this act.

47 Sec. 62. “Covered” means that an insurer owns or can immediately
48 acquire, through the exercise of options, warrants or conversion rights already
49 owned, the underlying interest to fulfill or secure its obligations under a call
50 option, cap or floor it has written, or has set aside in accordance with a custodial
51 or escrow agreement, cash or cash equivalents with a market value equal to the
52 amount required to fulfill its obligations in accordance with a put option it has
53 written, in an income generation transaction.

1 Sec. 63. *“Credit tenant loan” means a mortgage loan which is made*
2 *primarily in reliance on the credit standing of a major tenant, structured with an*
3 *assignment of the rental payments to the lender with real estate pledged as*
4 *collateral in the form of a first position lien.*

5 Sec. 64. 1. *“Derivative instrument” means an agreement, option or*
6 *instrument, or a series or combination thereof;*

7 (a) *To make or take delivery of, or assume or relinquish, a specified amount*
8 *of one or more underlying interests, or to make a cash settlement in lieu thereof;*
9 *or*

10 (b) *That has a price, performance, value or cash flow based primarily upon*
11 *the actual or expected price, level, performance, value or cash flow of one or*
12 *more underlying interests.*

13 2. *The term includes, without limitation, options, warrants used in a*
14 *hedging transaction and not attached to another financial instrument, caps,*
15 *floors, collars, swaps, forwards, futures and any other agreements, options or*
16 *instruments substantially similar thereto, or any series or combination thereof,*
17 *and any agreements, options or instruments allowed pursuant to the regulations*
18 *adopted under section 158 of this act.*

19 3. *The term does not include an investment authorized by sections 163 to*
20 *183, inclusive, 189, and 203 to 223, inclusive, of this act.*

21 Sec. 65. *“Derivative transaction” means a transaction involving the use of*
22 *one or more derivative instruments.*

23 Sec. 66. *“Direct” or “directly,” when used in connection with an*
24 *obligation, means that the designated obligor is primarily liable on the instrument*
25 *representing the obligation.*

26 Sec. 67. *“Dollar roll transaction” means two simultaneous transactions*
27 *with different settlement dates, not more than 96 days apart, such that in the*
28 *transaction with the earlier settlement date, an insurer sells to a business entity,*
29 *and in the other transaction the insurer is obligated to purchase from the same*
30 *business entity substantially similar securities of the following types:*

31 1. *Asset-backed securities issued, assumed or guaranteed by the*
32 *Government National Mortgage Association, the Federal National Mortgage*
33 *Association or the Federal Home Loan Mortgage Corporation, or their respective*
34 *successors; and*

35 2. *Other asset-backed securities referred to in section 106 of title 1 of the*
36 *Secondary Mortgage Market Enhancement Act of 1984, 15 U.S.C. § 77r-1, as*
37 *amended.*

38 Sec. 68. *“Domestic jurisdiction” means the United States, Canada, any*
39 *state of the United States, any province of Canada or any political subdivision of*
40 *any of the foregoing.*

41 Sec. 69. *“Equity interest” means any of the following that are not rated*
42 *credit instruments:*

43 1. *Common stock;*

44 2. *Preferred stock;*

45 3. *A trust certificate;*

46 4. *An equity investment in an investment company, other than a money*
47 *market mutual fund or a class one bond mutual fund;*

48 5. *An investment in a common trust fund of a bank regulated by a federal*
49 *or state agency;*

50 6. *An ownership interest in minerals, oil or gas, the rights to which have*
51 *been separated from the underlying fee interest in the real estate where the*
52 *minerals, oil or gas are located;*

7. Instruments which are mandatorily, or at the option of the issuer, convertible to equity;

8. Limited partnership interests and those general partnership interests authorized pursuant to paragraph (d) of subsection 1 of section 154 of this act;

9. Member interests in a limited-liability company;

10. Warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; and

11. Instruments that would be rated credit instruments.

Sec. 70. "Equivalent securities" means any securities which meet the qualifications of section 134 of this act.

Sec. 71. "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance or value of one or more underlying interests.

Sec. 72. "Foreign currency" means a currency other than that of a domestic jurisdiction.

Sec. 73. "Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate or asset domiciled in a foreign jurisdiction, that is substantially of the same type as those eligible for investment in accordance with this chapter, other than an investment made in accordance with sections 179 to 183, inclusive, and 219 to 223, inclusive, of this act.

Sec. 74. "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

Sec. 75. "Forward" means an agreement, other than a future, to make or take delivery of or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.

Sec. 76. "Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.

Sec. 77. "Government money market mutual fund" means a money market mutual fund that at all times:

1. Invests only in obligations issued, guaranteed or insured by the Federal Government or collateralized repurchase agreements composed of these obligations; and

2. Qualifies for investment without a reserve in accordance with the Purposes and Procedures Manual of the SVO.

Sec. 78. "Government-sponsored enterprise" means a:

1. Governmental agency; or

2. Corporation, limited-liability company, association, partnership, joint stock company, joint venture, trust or other entity or instrumentality organized in accordance with the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose.

Sec. 79. "Guaranteed or insured," when used in connection with an obligation acquired in accordance with the provisions of this chapter, means that the guarantor or insurer has agreed to:

1. Perform or insure the obligation of the obligor or purchase the obligation; or

2. Be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholder's equity or sufficient liquidity to enable the obligor to pay the obligation in full.

1 Sec. 80. *“Hedging transaction” means a derivative transaction which is*
2 *entered into and maintained to reduce:*

3 1. *The risk of a change in the value, yield, price, cash flow or quantity of*
4 *assets or liabilities which the insurer has acquired or incurred or anticipates*
5 *acquiring or incurring; or*

6 2. *The currency exchange rate risk or the degree of exposure as to assets or*
7 *liabilities which an insurer has acquired or incurred or anticipates acquiring or*
8 *incurring.*

9 Sec. 81. *“High grade investment” means a rated credit instrument rated 1*
10 *or 2 by the SVO.*

11 Sec. 82. *“Income” means, as to a security, interest, accrual of discount,*
12 *dividends or other distributions, including, without limitation, rights, tax or*
13 *assessment credits, warrants and distributions in kind.*

14 Sec. 83. *“Income generation transaction” means a derivative transaction*
15 *involving the writing of covered call options, covered put options, covered caps or*
16 *covered floors that is intended to generate income or enhance returns.*

17 Sec. 84. *“Insurance future” means a future relating to an index or pool*
18 *that is based on insurance-related claims.*

19 Sec. 85. *“Insurance future option” means an option on an insurance*
20 *future.*

21 Sec. 86. *“Investment company” has the meaning ascribed to it in 15 U.S.C.*
22 *§ 80a-3, as amended, and a person described in section 3(c) of that Act.*

23 Sec. 87. *“Investment company series” means an investment portfolio of an*
24 *investment company that is organized as a series company and to which assets of*
25 *the investment company have been specifically allocated.*

26 Sec. 88. *“Investment practices” means transactions of the types described*
27 *in sections 178, 184 to 188, inclusive, 218 and 224 to 228, inclusive, of this act.*

28 Sec. 89. *“Investment strategy” means the techniques and methods used by*
29 *an insurer to meet its investment objectives, including, without limitation, active*
30 *bond portfolio management, passive bond portfolio management, interest rate*
31 *anticipation, growth investing and value investing.*

32 Sec. 90. *“Investment subsidiary” means a subsidiary of an insurer engaged*
33 *or organized to engage exclusively in the ownership and management of assets*
34 *authorized as investments for the insurer where the subsidiary limits its*
35 *investment in any asset so that its investments will not cause the amount of the*
36 *total investment of the insurer to exceed any of the investment limitations or*
37 *avoid any other provisions of this chapter applicable to the insurer. As used in*
38 *this section, “total investment of the insurer” includes:*

39 1. *Direct investment by the insurer in an asset; and*

40 2. *The insurer’s proportionate share of an investment in an asset by an*
41 *investment subsidiary of the insurer, calculated by multiplying the amount of the*
42 *subsidiary’s investment by the percentage of the insurer’s ownership interest in*
43 *the subsidiary.*

44 Sec. 91. *“Letter of credit” means a clean, irrevocable and unconditional*
45 *document that serves as a guaranty for payments made to a specified person*
46 *under specified conditions, issued or confirmed by, and payable and presentable*
47 *at, a financial institution on the list of financial institutions meeting the*
48 *standards for issuing letters of credit in accordance with the Purposes and*
49 *Procedures Manual of the SVO.*

50 Sec. 92. *“Limited-liability company” means a business organization,*
51 *excluding partnerships and ordinary business corporations, that is organized or*
52 *operating in accordance with the laws of the United States, or any state thereof,*

1 *and that limits the personal liability of investors to the equity investment of the*
2 *investor in the business organization.*

3 Sec. 93. *“Lower grade investment” means a rated credit instrument that is*
4 *rated 4, 5 or 6 by the SVO.*

5 Sec. 94. *“Market value” means:*

6 1. *As to cash and letters of credit, the face amounts thereof; and*

7 2. *As to a security as of any date, the price for the security on that date*
8 *obtained from a generally recognized source or the most recent quotation from*
9 *such a source or, to the extent no generally recognized source exists, the price for*
10 *the security as determined in good faith by the parties to a transaction, plus*
11 *accrued but unpaid income thereon to the extent not included in the price on that*
12 *date.*

13 Sec. 95. *“Medium grade investment” means a rated credit instrument that*
14 *is rated 3 by the SVO.*

15 Sec. 96. *“Money market mutual fund” means a mutual fund that meets the*
16 *conditions of 17 C.F.R. § 270.2a-7, adopted in accordance with the provisions of*
17 *the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended.*

18 Sec. 97. *“Mortgage loan” means an obligation secured by a mortgage, deed*
19 *of trust, trust deed or other consensual lien on real estate.*

20 Sec. 98. *“Multilateral development bank” means an international*
21 *development organization of which the United States is a member.*

22 Sec. 99. *“Mutual fund” means an investment company or, in the case of an*
23 *investment company that is organized as a series company, an investment*
24 *company series, that, in either case, is registered with the United States Securities*
25 *and Exchange Commission in accordance with the provisions of the Investment*
26 *Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended.*

27 Sec. 100. *“NAIC” means the National Association of Insurance*
28 *Commissioners, or its successor organization.*

29 Sec. 101. *“Obligation” means evidence of indebtedness for the payment of*
30 *money or other consideration, whether constituting a general obligation of the*
31 *issuer or payable only out of certain revenues or certain funds pledged or*
32 *otherwise dedicated for payment. The term includes, without limitation, a bond,*
33 *note, debenture, trust certificate, including an equipment certificate, production*
34 *payment, negotiable bank certificate of deposit, banker’s acceptance, credit*
35 *tenant loan or loan secured by financing net leases.*

36 Sec. 102. *“Option” means an agreement giving the buyer the right to buy*
37 *or receive, sell or deliver, enter into, extend or terminate, or effect a cash*
38 *settlement based on the actual or expected price, level, performance or value of*
39 *one or more underlying interests.*

40 Sec. 103. *“Over-the-counter derivative instrument” means a derivative*
41 *instrument entered into with a business entity other than through a qualified*
42 *exchange or qualified foreign exchange, or cleared through a qualified*
43 *clearinghouse.*

44 Sec. 104. *“Person” means an individual, a business entity, a multilateral*
45 *development bank or a government or quasi-governmental body, including,*
46 *without limitation, a political subdivision or a government sponsored enterprise.*

47 Sec. 105. *“Potential exposure” means the amount determined in*
48 *accordance with the Annual Statement Instructions for the type of insurer to be*
49 *reported on as adopted by the NAIC.*

50 Sec. 106. *“Preferred stock” means the stock of a business entity authorized*
51 *to issue the stock and that has a preference in liquidation over the common stock*
52 *of the business entity.*

53 Sec. 107. *“Qualified bank” means:*

1 1. A national bank, state bank or trust company that at all times is not less
2 than adequately capitalized as determined by the standards adopted by United
3 States banking regulators and that is either regulated by state banking laws or is
4 a member of the Federal Reserve System; or

5 2. A bank or trust company incorporated or organized in accordance with
6 the laws of a country other than the United States that is regulated as a bank or
7 trust company by that country's government, or an agency thereof, and that at all
8 times is not less than adequately capitalized as determined by the standards
9 adopted by international banking authorities.

10 Sec. 108. "Qualified business entity" means a business entity that is:

11 1. An issuer of obligations or preferred stock that is rated 1 or 2 by the SVO
12 or an issuer of obligations, preferred stock or derivative instruments that are
13 rated the equivalent of 1 or 2 by the SVO or by a nationally recognized statistical
14 rating organization recognized by the SVO; or

15 2. A primary dealer in United States government securities, recognized by
16 the Federal Reserve Bank of New York.

17 Sec. 109. "Qualified clearinghouse" means a clearinghouse for, and
18 subject to the rules of, a qualified exchange or qualified foreign exchange, which
19 provides clearing services, including acting as a counterparty to each of the
20 parties to a transaction such that the parties no longer have credit risk as to each
21 other.

22 Sec. 110. "Qualified exchange" means:

23 1. A securities exchange registered as a national securities exchange or a
24 securities market regulated in accordance with the Securities Exchange Act of
25 1934, 15 U.S.C. §§ 78a et seq., as amended;

26 2. A board of trade or commodities exchange designated as a contract
27 market by the United States Commodity Futures Trading Commission or any
28 successor thereof;

29 3. Private Offerings, Resales and Trading through Automated Linkages,
30 otherwise known as PORTAL;

31 4. A designated offshore securities market as defined in Securities
32 Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or

33 5. A qualified foreign exchange.

34 Sec. 111. "Qualified foreign exchange" means a foreign exchange, board
35 of trade or contract market located outside the United States, its territories or
36 possessions:

37 1. That has received regulatory comparability relief in accordance with
38 Commodity Futures Trading Commission Rule 30.10, as set forth in 17 C.F.R.
39 Part 30, Appendix C, as amended;

40 2. That is, or its members are, subject to the jurisdiction of a foreign futures
41 authority that has received regulatory comparability relief in accordance with
42 Commodity Futures Trading Commission Rule 30.10, as set forth in 17 C.F.R.
43 Part 30, Appendix C, as amended, as to futures transactions in the jurisdiction
44 where the exchange, board of trade or contract market is located; or

45 3. Upon which foreign stock index futures contracts are listed that are the
46 subject of no-action relief issued by the Commodity Futures Trading
47 Commission's Office of General Counsel, provided that an exchange, board of
48 trade or contract market that qualifies as a qualified foreign exchange only in
49 accordance with this section is a qualified foreign exchange as to foreign stock
50 index futures contracts that are the subject of no-action relief.

51 Sec. 112. 1. "Rated credit instrument" means a contractual right to
52 receive cash or another rated credit instrument from another entity which
53 instrument:

(a) *Is rated or required to be rated by the SVO;*

(b) *In the case of an instrument with a maturity of 397 days or less, is issued, guaranteed or insured by an entity that is rated by, or another obligation of such entity is rated by, the SVO or by a nationally recognized statistical rating organization recognized by the SVO;*

(c) *In the case of an instrument with a maturity of 90 days or less, is issued by a qualified bank;*

(d) *Is a share of a class one bond mutual fund; or*

(e) *Is a share of a money market mutual fund.*

2. *The term does not include:*

(a) *An instrument that is mandatorily, or at the option of the issuer, convertible to an equity interest; or*

(b) *A security that has a par value and whose terms provide that the issuer's net obligation to repay all or part of the security's par value is determined by reference to the performance of an equity, a commodity, a foreign currency or an index of equities, commodities, foreign currencies, or any combination thereof.*

Sec. 113. 1. *"Real estate" means:*

(a) *Real property;*

(b) *Interests in real property, including, without limitation, leaseholds, minerals and oil and gas that have not been separated from the underlying fee interest;*

(c) *Improvements and fixtures located on or in real property; and*

(d) *The seller's equity in a contract providing for a deed of real estate.*

2. *As to a mortgage on real estate, the term includes the leasehold estate only if it has an unexpired term, including, without limitation, renewal options exercisable at the option of the lessee, extending beyond the scheduled maturity date of the obligation that is secured by a mortgage on the leasehold estate for the greater of:*

(a) *A period equal to at least 20 percent of the original term of the obligation; or*

(b) *Ten years.*

Sec. 114. *"Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets which an insurer is authorized to acquire in accordance with the provisions of this chapter. The term does not include a derivative transaction that is entered into as a hedging transaction.*

Sec. 115. *"Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities, or equivalent securities, from the insurer at a specified price, either within a specified period of time or upon demand.*

Sec. 116. *"Required liabilities" means the total liabilities required to be reported on the statutory financial statement of the insurer most recently required to be filed with the Commissioner.*

Sec. 117. *"Residential mortgage loan" means a mortgage loan primarily secured by real estate which is improved with at least one but not more than four residential dwelling units.*

Sec. 118. *"Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities, or equivalent securities, from the business entity at a specified price, either within a specified period of time or on demand.*

Sec. 119. *"Secured location" means the contiguous real estate owned by one person.*

1 Sec. 120. “Securities lending transaction” means a transaction in which
2 securities are loaned by an insurer to a business entity that is obligated to return
3 the loaned securities, or equivalent securities, to the insurer, either within a
4 specified period of time or upon demand.

5 Sec. 121. “Series company” means an investment company that is
6 organized as a series company, as defined in 17 C.F.R. § 270.18f-2.

7 Sec. 122. “Sinking fund stock” means preferred stock that:

8 1. Is subject to a mandatory sinking fund or similar arrangement that will
9 provide for the redemption or open market purchase of the entire issue over a
10 period not greater than 40 years after the date of acquisition; and

11 2. Provides for mandatory sinking fund installments or open market
12 purchases commencing not more than 10.5 years after the date of issue, with the
13 sinking fund installments providing for the purchase or redemption, on a
14 cumulative basis commencing 10 years after the date of issue, of at least 2.5
15 percent per year of the original number of shares of that issue of preferred stock.

16 Sec. 123. “Special rated credit instrument” means a rated credit instrument
17 that meets the requirements of section 136 of this act.

18 Sec. 124. “State” means a state, territory or possession of the United States,
19 the District of Columbia or the Commonwealth of Puerto Rico.

20 Sec. 125. “Substantially similar securities” means securities that meet all
21 criteria for “substantially similar” specified in the Accounting Practices and
22 Procedures Manual adopted by the NAIC, as amended, and in an amount that
23 constitutes good delivery form as determined from time to time by the Public
24 Securities Administration, or its successor organization.

25 Sec. 126. “SVO” means the Securities Valuation Office of the NAIC, or
26 any successor office established by the NAIC.

27 Sec. 127. “Swap” means an agreement to exchange or to net payments at
28 one or more times based on the actual or expected price, level, performance or
29 value of one or more underlying interests.

30 Sec. 128. “Underlying interest” means the assets, liabilities, other interests
31 or a combination thereof underlying a derivative instrument, including, without
32 limitation, any one or more securities, currencies, rates, indices, commodities or
33 derivative instruments.

34 Sec. 129. “Unrestricted surplus” means the amount by which total admitted
35 assets exceed 125 percent of the insurer’s required liabilities.

36 Sec. 130. “Warrant” means an instrument that:

37 1. Gives the holder the right to purchase an underlying financial
38 instrument at a given price and time or at a series of prices and times outlined in
39 the warrant agreement; and

40 2. Is issued alone or in connection with the sale of other securities,
41 including, without limitation, as part of a merger or recapitalization agreement,
42 or to facilitate the divestiture of the securities of another business entity.

43 Sec. 131. To qualify as an asset-backed security, a trust or other special
44 purpose bankruptcy-remote business entity must meet the following conditions:

45 1. The trust or other business entity is established solely for the purpose of
46 acquiring specific types of assets or rights to cash flows, issuing securities and
47 other instruments representing an interest in or right to receive cash flows from
48 those assets or rights, and engaging in activities required to service the assets or
49 rights and any credit enhancement or support features held by the trust or other
50 business entity; and

51 2. The assets of the trust or other business entity consist solely of interest-
52 bearing obligations or other contractual obligations representing the right to
53 receive payment from the cash flows from the assets or rights. The existence of

1 *credit enhancements, including, without limitation, letters of credit or*
2 *guarantees, or support features, including, without limitation, swap agreements,*
3 *do not cause a security or other instrument to be ineligible as an asset-backed*
4 *security.*

5 **Sec. 132.** 1. *Control, as defined in section 60 of this act, shall be deemed*
6 *to exist if a person, directly or indirectly, owns, controls, holds with the power to*
7 *vote or holds proxies representing 10 percent or more of the voting securities of*
8 *another person.*

9 2. *A presumption of control may be rebutted by a showing that control does*
10 *not exist in fact.*

11 3. *The Commissioner may determine, after furnishing all interested persons*
12 *notice and an opportunity to be heard and making specific findings of fact to*
13 *support the determination, that control exists in fact, notwithstanding the absence*
14 *of a presumption to that effect.*

15 **Sec. 133.** 1. *Except as otherwise provided in this section, the counterparty*
16 *exposure amount is the net amount of credit risk attributable to an over-the-*
17 *counter derivative instrument. The amount of credit risk equals:*

18 (a) *The market value of the over-the-counter derivative instrument if the*
19 *liquidation of the derivative instrument would result in a final cash payment to*
20 *the insurer; or*

21 (b) *Zero, if the liquidation of the derivative instrument would not result in a*
22 *final cash payment to the insurer.*

23 2. *If over-the-counter derivative instruments are entered into in accordance*
24 *with a written master agreement which provides for netting of payments owed by*
25 *the respective parties, and the domiciliary jurisdiction of the counterparty is*
26 *either within the United States or, if not within the United States, within a foreign*
27 *jurisdiction listed in the Purposes and Procedures Manual of the SVO as eligible*
28 *for netting, the net amount of credit risk is the greater of zero or the net sum of:*

29 (a) *The market value of the over-the-counter derivative instruments entered*
30 *into in accordance with the agreement, the liquidation of which would result in a*
31 *final cash payment to the insurer; and*

32 (b) *The market value of the over-the-counter derivative instruments entered*
33 *into in accordance with the agreement, the liquidation of which would result in a*
34 *cash payment by the insurer to the business entity.*

35 3. *For open transactions, market value must be determined at the end of the*
36 *most recent quarter of the insurer's fiscal year and must be reduced by the*
37 *market value of acceptable collateral held by the insurer or placed in escrow by*
38 *one or both parties.*

39 **Sec. 134.** *To qualify as equivalent securities, the securities must be:*

40 1. *In a securities lending transaction, securities that are identical to the*
41 *loaned securities in all features including the amount of the loaned securities,*
42 *except as to certificate number if held in physical form, but if any different*
43 *security is exchanged for a loaned security by recapitalization, merger,*
44 *consolidation or other corporate action, the different security shall be deemed to*
45 *be the loaned security;*

46 2. *In a repurchase transaction, securities that are identical to the purchased*
47 *securities in all features including the amount of the purchased securities, except*
48 *as to the certificate number if held in physical form; or*

49 3. *In a reverse repurchase transaction, securities that are identical to the*
50 *sold securities in all features including the amount of the sold securities, except*
51 *as to the certificate number if held in physical form.*

1 **Sec. 135. 1.** *An investment shall not be deemed a foreign investment if*
2 *the issuing person, qualified primary credit source or qualified guarantor is a*
3 *domestic jurisdiction or a person domiciled in a domestic jurisdiction unless:*

4 (a) *The issuing person is a shell business entity; and*

5 (b) *The investment is not assumed, accepted, guaranteed or insured or*
6 *otherwise backed by a domestic jurisdiction or a person, that is not a shell*
7 *business entity, domiciled in a domestic jurisdiction.*

8 2. *For the purposes of this section:*

9 (a) *“Qualified guarantor” means a guarantor against which an insurer has a*
10 *direct claim for full and timely payment, evidenced by a contractual right for*
11 *which an enforcement action can be brought in a domestic jurisdiction; and*

12 (b) *“Qualified primary credit source” means the credit source to which an*
13 *insurer looks for payment as to an investment and against which an insurer has a*
14 *direct claim for full and timely payment, evidenced by a contractual right for*
15 *which an enforcement action can be brought in a domestic jurisdiction.*

16 (c) *“Shell business entity” means a business entity having no economic*
17 *substance, except as a vehicle for owning interests in assets issued, owned or*
18 *previously owned by a person domiciled in a foreign jurisdiction;*

19 **Sec. 136. 1.** *To qualify as a special rated credit instrument the instrument*
20 *must be:*

21 (a) *An instrument that is structured so that, if it is held until retired by or on*
22 *behalf of the issuer, its rate of return, based on its purchase cost and any cash*
23 *flow stream possible in accordance with the structure of the transaction, may*
24 *become negative because of reasons other than the credit risk associated with the*
25 *issuer of the instrument. A rated credit instrument is not a special rated credit*
26 *instrument for the purposes of this section if it is:*

27 (1) *A share in a class one bond mutual fund;*

28 (2) *An instrument, other than an asset-backed security, with payments of*
29 *par value fixed as to amount and timing, or callable but in any event payable only*
30 *at par or greater, and interest or dividend cash flows that are based on either a*
31 *fixed or variable rate determined by reference to a specified rate or index;*

32 (3) *An instrument, other than an asset-backed security, that has a par*
33 *value and is purchased at a price not more than 110 percent of par;*

34 (4) *An instrument, including an asset-backed security, whose rate of*
35 *return would become negative only as a result of a prepayment due to casualty,*
36 *condemnation, economic obsolescence of collateral or change of law;*

37 (5) *An asset-backed security that relies on collateral that meets the*
38 *requirements of subparagraph (2), the par value of which collateral:*

39 (I) *Is not allowed to be paid sooner than one-half of the remaining*
40 *term to maturity from the date of acquisition;*

41 (II) *Is allowed to be paid before maturity only at a premium*
42 *sufficient to provide a yield to maturity for the investment, considering the*
43 *amount prepaid and reinvestment rates at the time of early repayment, at least*
44 *equal to the yield to maturity of the initial investment; or*

45 (III) *Is allowed to be paid before maturity at a premium at least equal*
46 *to the yield of a treasury issue of comparable remaining life; or*

47 (6) *An asset-backed security that relies on cash flows from assets that are*
48 *not prepayable at any time at par, but is not otherwise governed by subparagraph*
49 *(5), if the asset-backed security has a par value reflecting principal payments to*
50 *be received if held until retired by or on behalf of the issuer and is purchased at a*
51 *price not more than 105 percent of such par amount.*

52 (b) *An asset-backed security that:*

1 (1) Relies on cash flows from assets that are prepayable at par at any
2 time;

3 (2) Does not make payments of par that are fixed as to amount and
4 timing; and

5 (3) Has a negative rate of return at the time of acquisition if a
6 prepayment threshold assumption is used. As used in this subsection,
7 “prepayment threshold assumption” includes:

8 (I) Two times the prepayment expectation reported by a recognized,
9 publicly available source as being the median of expectations contributed by
10 broker dealers or other entities, except insurers, engaged in the business of
11 selling or evaluating such securities or assets. The prepayment expectation used
12 in this calculation is, at the insurer’s election, the prepayment expectation for
13 pass-through securities of the Federal National Mortgage Association, the
14 Federal Home Loan Mortgage Corporation or the Government National
15 Mortgage Association, or, for other assets of the same type as the assets that
16 underlie the asset-backed security, in either case with a gross weighted average
17 coupon of the assets that underlie the asset-backed security.

18 (II) Another prepayment threshold assumption specified by the
19 Commissioner by regulation adopted pursuant to section 158 of this act.

20 2. For the purposes of paragraph (b) of subsection 1, if the asset-backed
21 security is purchased in combination with one or more other asset-backed
22 securities that are supported by identical underlying collateral, the insurer may
23 calculate the rate of return for these specific combined asset-backed securities in
24 combination. The insurer shall maintain documentation demonstrating that such
25 securities were acquired and are continuing to be held in combination.

26 Sec. 137. Subject to the provisions of section 138 of this act, an insurer
27 shall not acquire or hold an investment as an admitted asset unless at the time of
28 acquisition the investment is:

29 1. Eligible for the payment or accrual of interest or a discount, whether in
30 cash or securities, eligible to receive dividends or other distributions or is
31 otherwise income producing; or

32 2. Acquired in accordance with sections 168, 170, 176 to 180, inclusive, 182
33 to 185, inclusive, 208, 210, 216 to 220, inclusive, or 221 and 222 of this act or
34 pursuant to the authority of this title, other than this chapter.

35 Sec. 138. An insurer may acquire or hold as admitted assets investments
36 that do not otherwise qualify as provided in this chapter if:

37 1. The insurer has not acquired them for the purpose of circumventing any
38 limitations contained in this chapter;

39 2. The insurer complies with the provisions of sections 154 and 157 of this
40 act as to the investments; and

41 3. The insurer acquires the investments in the following circumstances:

42 (a) As payment on account of existing indebtedness or in connection with the
43 refinancing, restructuring or workout of existing indebtedness, if taken to protect
44 the insurer’s interest in that investment;

45 (b) As realization on collateral for an obligation;

46 (c) In connection with an otherwise qualified investment or investment
47 practice, as interest on, or a dividend or other distribution related to, the
48 investment or investment practice, or in connection with the refinancing of the
49 investment, in each case for no additional or only nominal consideration;

50 (d) Under a lawful and bona fide agreement of recapitalization or voluntary
51 or involuntary reorganization in connection with an investment held by the
52 insurer; or

1 (e) Under a bulk reinsurance, merger or consolidation transaction approved
2 by the Commissioner if the assets constitute admissible investments for the
3 ceding, merged or consolidated companies.

4 Sec. 139. 1. An investment, or portion of an investment, acquired by an
5 insurer in accordance with section 138 of this act becomes a nonadmitted asset 3
6 years, or 5 years in the case of mortgage loans and real estate, after the date of its
7 acquisition, unless within that period the investment has become a qualified
8 investment in accordance with a provision of this chapter, other than section 138
9 of this act, but an investment acquired in accordance with an agreement of bulk
10 reinsurance, merger or consolidation may be qualified for a longer period if so
11 provided in the plan for reinsurance, merger or consolidation as approved by the
12 Commissioner.

13 2. Upon application by the insurer, and a showing that the nonadmission of
14 an asset held in accordance with section 138 of this act would materially injure
15 the interests of the insurer, the Commissioner may extend the period of
16 admissibility for an additional reasonable period of time.

17 Sec. 140. Except as otherwise provided in sections 141 and 143 of this act,
18 an investment shall be deemed to qualify pursuant to this chapter if, on the date
19 the insurer committed to acquire the investment or on the date of its acquisition,
20 it would have qualified pursuant to this chapter. For the purposes of determining
21 limitations contained in this chapter, an insurer shall give appropriate
22 recognition to any commitments to acquire investments.

23 Sec. 141. 1. An investment, held as an admitted asset by an insurer on
24 July 1, 2015, which qualified pursuant to this chapter before July 1, 2015, shall
25 be deemed to remain qualified as an admitted asset pursuant to this chapter.

26 2. Each specific transaction constituting an investment practice of the type
27 described in this chapter that was lawfully entered into by an insurer, and was in
28 effect on July 1, 2015, must continue to be allowed in accordance with the
29 provisions of this chapter until its expiration or termination in accordance with
30 its terms.

31 Sec. 142. Unless otherwise specified, an investment limitation computed on
32 the basis of an insurer's admitted assets or capital and surplus shall relate to the
33 amount required to be shown on the statutory balance sheet of the insurer most
34 recently required to be filed with the Commissioner. For purposes of computing
35 any limitation based on admitted assets, the insurer shall deduct from the amount
36 of its admitted assets the amount of the liability recorded on its statutory balance
37 sheet for:

38 1. The return of acceptable collateral received in a reverse repurchase
39 transaction or a securities lending transaction;

40 2. Cash received in a dollar roll transaction; and

41 3. The amount reported as borrowed money in the most recently filed
42 financial statement to the extent not included in subsections 1 and 2.

43 Sec. 143. An investment qualified, in whole or in part, for acquisition or
44 holding as an admitted asset may be qualified or prequalified at the time of
45 acquisition or a later date, in whole or in part, in accordance with any section of
46 this chapter if the relevant conditions contained in that section are satisfied at the
47 time of qualification or requalification.

48 Sec. 144. An insurer shall maintain documentation demonstrating that
49 investments were acquired in accordance with the provisions of this chapter, and
50 specifying the section of this chapter pursuant to which they were acquired.

51 Sec. 145. An insurer shall not enter into an agreement to purchase
52 securities in advance of their issuance for resale to the public as part of a
53 distribution of the securities by the issuer, or otherwise guarantee the

1 *distribution, except that an insurer may acquire privately placed securities with*
2 *registration rights.*

3 *Sec. 146. Notwithstanding the provisions of this chapter, the*
4 *Commissioner, for good cause, may, in accordance with the provisions of chapter*
5 *233B of NRS, order an insurer to nonadmit, limit, dispose of, withdraw from or*
6 *discontinue an investment or investment practice. The authority of the*
7 *Commissioner pursuant to this section is in addition to any other authority of the*
8 *Commissioner.*

9 *Sec. 147. Insurance futures and insurance future options are not*
10 *considered investments or investment practices for the purposes of this chapter.*

11 *Sec. 148. An insurer's board of directors shall adopt a written plan for*
12 *acquiring and holding investments and for engaging in investment practices that*
13 *specifies guidelines as to the quality, maturity and diversification of investments*
14 *and other specifications, including, without limitation, investment strategies*
15 *intended to ensure that the investments and investment practices are appropriate*
16 *for the business conducted by the insurer, its liquidity needs and its capital and*
17 *surplus. The board of directors shall review and assess the insurer's technical*
18 *investment and administrative capabilities and expertise before adopting a written*
19 *plan concerning an investment strategy or practice.*

20 *Sec. 149. Investments acquired and held pursuant to this chapter must be*
21 *acquired and held under the supervision and direction of the board of directors of*
22 *the insurer. The board of directors shall evidence by formal resolution, at least*
23 *annually, that it has determined whether all investments have been made in*
24 *accordance with delegations, standards, limitations and investment objectives*
25 *prescribed by the board or a committee of the board charged with the*
26 *responsibility to direct the insurer's investments.*

27 *Sec. 150. On no less than a quarterly basis, and more often if deemed*
28 *appropriate, an insurer's board of directors or a committee of the board shall:*

29 *1. Receive and review a summary report on the insurer's investment*
30 *portfolio, its investment activities and practices engaged in pursuant to delegated*
31 *authority, in order to determine whether the investment activity or practice of the*
32 *insurer is consistent with its written plan; and*

33 *2. Review and revise, as appropriate, the written plan.*

34 *Sec. 151. In discharging its duties pursuant to sections 148 to 153,*
35 *inclusive, of this act, the board of directors shall require that the records of any*
36 *authorizations or approvals, other documentation as the board may require and*
37 *reports of any action taken pursuant to authority delegated in accordance with*
38 *the written plan referred to in section 148 of this act be made available on a*
39 *regular basis to the board of directors.*

40 *Sec. 152. In discharging its duties pursuant to sections 148 to 153,*
41 *inclusive, of this act, the board of directors of an insurer shall perform its duties*
42 *in good faith and with that degree of care that ordinarily prudent individuals in*
43 *like positions would use under similar circumstances.*

44 *Sec. 153. If an insurer does not have a board of directors, all references to*
45 *the board of directors in this chapter shall be deemed to be references to the*
46 *governing body of the insurer having authority equivalent to that of a board of*
47 *directors.*

48 *Sec. 154. 1. An insurer shall not, directly or indirectly:*

49 *(a) Invest in an obligation or security, or make a guarantee for the benefit of*
50 *or in favor of an officer or director of the insurer, except as provided in sections*
51 *155 and 156 of this act;*

52 *(b) Invest in an obligation or security, make a guarantee for the benefits of*
53 *or in favor of, or make other investments in a business entity of which 10 percent*

1 *or more of the voting securities or equity interests are owned directly or indirectly*
2 *by, or for the benefit of, one or more officers or directors of the insurer, except as*
3 *authorized in chapter 692C of NRS or provided in sections 155 and 156 of this*
4 *act;*

5 *(c) Engage on its own behalf, or through one or more affiliates, in a*
6 *transaction or series of transactions designed to evade the prohibitions of this*
7 *chapter;*

8 *(d) Invest in a partnership as a general partner, except that an insurer may*
9 *make an investment as a general partner:*

10 *(1) If all other partners are subsidiaries of the insurer;*

11 *(2) For the purpose of:*

12 *(I) Meeting cash calls committed to before July 1, 2015;*

13 *(II) Completing those specific projects or activities of the partnership*
14 *in which the insurer was a general partner on July 1, 2015, that had been*
15 *undertaken as of that date; or*

16 *(III) Making capital improvements to property owned by the*
17 *partnership on July 1, 2015, if the insurer was a general partner as of that date;*
18 *or*

19 *(3) Pursuant to section 138 of this act; or*

20 *(e) Invest in or lend its funds upon the security of shares of its own stock,*
21 *except that an insurer may acquire shares of its own stock for the following*
22 *purposes:*

23 *(1) Conversion of a stock insurer into a mutual or reciprocal insurer or a*
24 *mutual or reciprocal insurer into a stock insurer;*

25 *(2) Issuance to the insurer's officers, employees or agents in connection*
26 *with a plan approved by the Commissioner for converting a publicly held insurer*
27 *into a privately held insurer pursuant to NRS 693A.400 to 693A.540, inclusive, or*
28 *in connection with other stock option and employee benefit plans; or*

29 *(3) In accordance with any other plan approved by the Commissioner.*

30 *2. Nothing contained in paragraph (d) of subsection 1 shall be construed to*
31 *prohibit a subsidiary or other affiliate of the insurer from becoming a general*
32 *partner.*

33 *3. Any investment or loan made by an insurer in accordance with the*
34 *provisions of paragraph (e) of subsection 1 must not be an admitted asset of the*
35 *insurer.*

36 **Sec. 155. 1. Except as otherwise provided in section 156 of this act, an**
37 **insurer shall not, without the prior written approval of the Commissioner, directly**
38 **or indirectly:**

39 *(a) Make a loan to, or another investment in, an officer or director of the*
40 *insurer, or a person in which the officer or director has any direct or indirect*
41 *financial interest;*

42 *(b) Make a guarantee for the benefit of, or in favor of, an officer or director*
43 *of the insurer, or a person in which the officer or director has any direct or*
44 *indirect financial interest; or*

45 *(c) Enter into an agreement for the purchase or sale of property from or to*
46 *an officer or director of the insurer, or a person in which the officer or director*
47 *has any direct or indirect financial interest.*

48 *2. For the purposes of this section, an officer or director shall not be*
49 *deemed to have a financial interest by reason of an interest that is held directly or*
50 *indirectly through the ownership of equity interests representing less than 2*
51 *percent of all outstanding equity interests issued by a person that is a party to the*
52 *transaction, or solely by reason of that individual's position as a director or*
53 *officer of a person that is a party to the transaction.*

3. This section does not allow an investment that is prohibited by section 154 of this act.

4. This section does not apply to a transaction between an insurer and any of its subsidiaries or affiliates that is entered into in compliance with the provisions of chapter 692C of NRS, other than a transaction between an insurer and its officer or director.

Sec. 156. An insurer may, without the prior written approval of the Commissioner, make:

1. Policy loans in accordance with the terms of the policy or contract and section 189 of this act;

2. Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued, or credit extended, for the purpose of financing these expenses;

3. Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans comply with the requirements of sections 174 to 177, inclusive, or 214 to 217, inclusive, of this act and the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

4. Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

(a) Do not have a term exceeding 2 years;

(b) Are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

(c) Do not exceed an amount equal to the equity of the officer in the prior residence; and

(d) Are required to be fully repaid upon the earlier of the end of the 2-year period or the sale of the prior residence; or

5. Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms not more favorable than available to other customers of the entity.

Sec. 157. For the purposes of this chapter, the value or amount of an investment acquired or held, or an investment practice engaged in, pursuant to this chapter, unless otherwise specified in this title, is the value at which assets of an insurer are required to be reported for statutory accounting purposes as determined in accordance with procedures prescribed in published accounting and valuation standards of the NAIC, including, without limitation, the Purposes and Procedures Manual of the SVO and the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the Annual Statement Instructions or any successor valuation procedures officially adopted by the NAIC.

Sec. 158. The Commissioner may, pursuant to chapter 233B of NRS, adopt regulations to carry out the provisions of this chapter.

Sec. 159. Sections 159 to 193, inclusive, of this act apply to the investments and investment practices of life and health insurers.

Sec. 160. 1. Except as otherwise specified in this chapter, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of this chapter if, as a result of and after giving effect to the investment, the insurer would hold more than 3 percent of its admitted assets in investments of all kinds issued, assumed, accepted,

1 *insured or guaranteed by a single person, or 5 percent of its admitted assets in*
2 *investments in the voting securities of a depository institution or any company*
3 *that controls the institution.*

4 2. *The limitations in subsection 1 do not apply to the aggregate amounts*
5 *insured by a single financial guaranty insurer with the highest generic rating*
6 *issued by a nationally recognized statistical rating organization.*

7 3. *Asset-backed securities are not subject to the limitations in subsection 1.*
8 *However, an insurer shall not acquire an asset-backed security if, as a result of*
9 *and after giving effect to the investment, the aggregate amount of asset-backed*
10 *securities secured by, or evidencing an interest in, a single asset or single pool of*
11 *assets held by a trust or other business entity held by the insurer would exceed 3*
12 *percent of its admitted assets.*

13 **Sec. 161.** 1. *An insurer shall not acquire, directly or indirectly through*
14 *an investment subsidiary, an investment in accordance with the provisions of*
15 *sections 163, 169 to 173, inclusive, or 179 to 183, inclusive, of this act, or*
16 *counterparty exposure in accordance with the provisions of section 187 of this act*
17 *if, as a result of and after giving effect to the investment:*

18 (a) *The aggregate amount of medium and lower grade investments held by*
19 *the insurer would exceed 20 percent of its admitted assets;*

20 (b) *The aggregate amount of lower grade investments held by the insurer*
21 *would exceed 10 percent of its admitted assets;*

22 (c) *The aggregate amount of investments rated 5 or 6 by the SVO held by the*
23 *insurer would exceed 3 percent of its admitted assets;*

24 (d) *The aggregate amount of investments rated 6 by the SVO held by the*
25 *insurer would exceed 1 percent of its admitted assets;*

26 (e) *The aggregate amount of medium and lower grade investments held by*
27 *the insurer that receive as cash income less than the equivalent yield for United*
28 *States Treasury issues with a comparative average life, would exceed 1 percent of*
29 *its admitted assets;*

30 (f) *The aggregate amount of medium and lower grade investments issued,*
31 *assumed, guaranteed, accepted or insured by any one person or, as to asset-*
32 *backed securities secured by or evidencing an interest in a single asset or pool of*
33 *assets, held by the insurer would exceed 1 percent of its admitted assets; or*

34 (g) *The aggregate amount of lower grade investments issued, assumed,*
35 *guaranteed, accepted or insured by any one person or, as to asset-backed*
36 *securities secured by or evidencing an interest in a single asset or pool of assets,*
37 *held by the insurer would exceed 0.5 percent of its admitted assets.*

38 2. *If an insurer attains or exceeds the limit of any one rating category*
39 *referred to in this section, the insurer is not precluded from acquiring*
40 *investments in other rating categories subject to the specific and multicategory*
41 *limits applicable to those investments.*

42 **Sec. 162.** 1. *An insurer shall not acquire, directly or indirectly through*
43 *an investment subsidiary, a Canadian investment authorized by the provisions of*
44 *this chapter if, as a result of and after giving effect to the investment, the*
45 *aggregate amount of these investments held by the insurer would exceed 40*
46 *percent of its admitted assets, or if the aggregate amount of Canadian*
47 *investments not acquired in accordance with the provisions of paragraph (c) or*
48 *(d) of subsection 2 of section 163 of this act held by the insurer would exceed 25*
49 *percent of its admitted assets.*

50 2. *As to an insurer that is authorized to do business in Canada or that has*
51 *outstanding insurance, annuity or reinsurance contracts on lives or risks resident*
52 *or located in Canada and denominated in Canadian currency, the limitations in*
53 *subsection 1 must be increased by the greater of:*

1 (a) *The amount the insurer is required by Canadian law to invest in Canada*
2 *or to be denominated in Canadian currency; or*

3 (b) *An amount not to exceed 115 percent of the amount of its reserves and*
4 *other obligations under contracts on lives or risks resident or located in Canada.*

5 **Sec. 163.** 1. *Subject to the limitations of section 161 of this act, but not to*
6 *the limitations of section 160 of this act, an insurer may acquire rated credit*
7 *instruments issued, assumed, guaranteed or insured by:*

8 (a) *The United States;*

9 (b) *A government-sponsored enterprise of the United States, if the*
10 *instruments of the government-sponsored enterprise are assumed, guaranteed or*
11 *insured by the United States or are otherwise backed or supported by the full faith*
12 *and credit of the United States;*

13 (c) *Canada; or*

14 (d) *A government-sponsored enterprise of Canada, if the instruments of the*
15 *government-sponsored enterprise are assumed, guaranteed or insured by Canada*
16 *or are otherwise backed or supported by the full faith and credit of Canada.*

17 2. *An insurer shall not acquire an instrument in accordance with*
18 *paragraph (c) or (d) of subsection 1 if, as a result of and after giving effect to the*
19 *investment, the aggregate amount of investments held by the insurer in*
20 *accordance with paragraph (c) or (d) of subsection 1 would exceed 40 percent of*
21 *its admitted assets.*

22 3. *Subject to the limitations of section 161 of this act, but not to the*
23 *limitations of section 160 of this act, an insurer may acquire credit rated*
24 *instruments, excluding asset-backed securities:*

25 (a) *Issued by a government money market mutual fund, a class one money*
26 *market mutual fund or a class one bond mutual fund;*

27 (b) *Issued, assumed, guaranteed or insured by a government-sponsored*
28 *enterprise of the United States other than those eligible under subsection 1;*

29 (c) *Issued, assumed, guaranteed or insured by a state, if the instruments are*
30 *general obligations of the state; or*

31 (d) *Issued by a multilateral development bank.*

32 4. *An insurer shall not acquire an instrument of any one fund, any one*
33 *enterprise or entity or any one state as described in subsection 3 if, as a result of*
34 *and after giving effect to the investment, the aggregate amount of investments*
35 *held in any one fund, enterprise or entity, or state would exceed 10 percent of the*
36 *insurer's admitted assets.*

37 5. *Subject to the limitations of sections 160, 161 and 162 of this act, an*
38 *insurer may acquire preferred stocks that are not foreign investments and which*
39 *meet the requirements of rated credit instruments if, as a result of and after*
40 *giving effect to the investment:*

41 (a) *The aggregate amount of preferred stocks held by the insurer in*
42 *accordance with this section does not exceed 20 percent of the insurer's admitted*
43 *assets; and*

44 (b) *The aggregate amount of preferred stocks held by the insurer in*
45 *accordance with this section which are not sinking fund stocks or rated P1 or P2*
46 *by the SVO does not exceed 10 percent of the insurer's admitted assets.*

47 6. *Subject to the limitations of sections 160, 161 and 162 of this act, in*
48 *addition to those investments eligible pursuant to subsections 1 to 5, inclusive, an*
49 *insurer may acquire rated credit instruments that are not foreign investments.*

50 7. *An insurer shall not acquire special rated credit instruments as described*
51 *in this section if, as a result of and after giving effect to the investment, the*
52 *aggregate amount of special rated credit instruments held by the insurer would*
53 *exceed 5 percent of the insurer's admitted assets.*

1 **Sec. 164.** 1. *An insurer may acquire investments in investment pools that*
2 *invest only in:*

3 (a) *Obligations with an SVO rating of 1 or 2, or the equivalent of an SVO*
4 *rating of 1 or 2 by a nationally recognized statistical rating organization*
5 *recognized by the SVO, or, in the absence of an equivalent rating, the issuer has*
6 *outstanding obligations with the equivalent of an SVO rating of 1 or 2, or an*
7 *equivalent rating, and have:*

8 (1) *A remaining maturity of 397 days or less or a put option that entitles*
9 *the holder to receive the principal amount of the obligation with the ability to*
10 *exercise the put option through maturity at specified intervals not exceeding 397*
11 *days; or*

12 (2) *A remaining maturity less than or equal to 3 years and a floating*
13 *interest rate that resets not less frequently than quarterly on the basis of a current*
14 *short-term index and is not subject to a maximum limit, if the obligations do not*
15 *have an interest rate that varies inversely to market interest rate changes. For the*
16 *purposes of this subparagraph, qualifying short-term indexes include, without*
17 *limitation, the federal funds rate, prime rate, treasury bills rates, the London*
18 *Interbank Offered Rate or commercial paper rates.*

19 (b) *Government money market mutual funds or class one money market*
20 *mutual funds.*

21 (c) *Securities lending, repurchase and reverse repurchase transactions that*
22 *meet all the requirements of section 178 of this act, except the quantitative*
23 *limitations of subsection 4 of section 178 of this act.*

24 (d) *Investments which an insurer may acquire pursuant to this chapter if the*
25 *insurer's proportionate interest in the amount invested in these investments does*
26 *not exceed the applicable limits of this chapter.*

27 2. *For an investment in an investment pool to be qualified pursuant to this*
28 *chapter, the investment pool must not:*

29 (a) *Acquire securities issued, assumed, guaranteed or insured by the insurer*
30 *or an affiliate of the insurer;*

31 (b) *Borrow or incur any indebtedness for borrowed money, except for*
32 *securities lending and reverse repurchase transactions that meet the*
33 *requirements of section 178 of this act, except the quantitative limitations of*
34 *subsection 4 of section 178 of this act; or*

35 (c) *Permit the aggregate value of securities loaned or sold to, purchased from*
36 *or invested in any one business entity in accordance with this section to exceed 10*
37 *percent of the total assets of the investment pool.*

38 3. *The limitations of section 160 of this act do not apply to an insurer's*
39 *investment in an investment pool, however an insurer shall not acquire an*
40 *investment in an investment pool in accordance with this section if, as a result of*
41 *and after giving effect to the investment, the aggregate amount of investments*
42 *held by the insurer in accordance with this section:*

43 (a) *In any one investment pool would exceed 10 percent of its admitted*
44 *assets;*

45 (b) *In all investment pools investing in investments permitted in accordance*
46 *with paragraph (d) of subsection 1 would exceed 25 percent of its admitted assets;*
47 *or*

48 (c) *In all investment pools would exceed 35 percent of its admitted assets.*

49 4. *For an investment in an investment pool to be qualified pursuant to this*
50 *chapter, the manager of the investment pool must:*

51 (a) *Be organized in accordance with the laws of the United States or a state*
52 *and designated as the pool manager in a pooling agreement;*

1 (b) Be the insurer, an affiliated insurer or a business entity affiliated with the
2 insurer, a qualified bank, a business entity registered in accordance with the
3 provisions of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as
4 amended, or, in the case of a reciprocal insurer or interinsurance exchange, its
5 attorney-in-fact, or in the case of a United States branch of an alien insurer, its
6 United States manager or affiliates or subsidiaries of its United States manager;

7 (c) Compile and maintain detailed accounting records setting forth:

8 (1) The cash receipts and disbursements reflecting each participant's
9 proportionate investments in the investment pool;

10 (2) A complete description of all underlying assets of the investment pool,
11 including, without limitation, amount, interest rate, maturity date, if any, and
12 other appropriate designations; and

13 (3) Other records which, on a daily basis, allow third parties to verify
14 each participant's investment in the investment pool; and

15 (d) Maintain the assets of the investment pool in one or more accounts, in
16 the name of or on behalf of the investment pool, in accordance with a custody
17 agreement with a qualified bank. The custody agreement must:

18 (1) State and recognize the claims and rights of each participant;

19 (2) Acknowledge that the underlying assets of the investment pool are
20 held solely for the benefit of each participant in proportion to the aggregate
21 amount of its investments in the investment pool; and

22 (3) Contain an agreement that the underlying assets of the investment
23 pool must not be commingled with the general assets of the custodian qualified
24 bank or any other person.

25 5. The pooling agreement for each investment pool must be in writing and
26 must provide that:

27 (a) An insurer and its affiliated insurers or, in the case of an investment pool
28 investing solely in investments allowed in accordance with paragraph (a) of
29 subsection 1, the insurer and its subsidiaries, affiliates or any pension or profit-
30 sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a
31 United States branch of an alien insurer, affiliates or subsidiaries of its United
32 States manager, shall at all times hold 100 percent of the interests in the
33 investment pool.

34 (b) The underlying assets of the investment pool must not be commingled
35 with the general assets of the pool manager or any other person.

36 (c) In proportion to the aggregate amount of each pool participant's interest
37 in the investment pool:

38 (1) Each participant owns an undivided interest in the underlying assets
39 of the investment pool; and

40 (2) The underlying assets of the investment pool are held solely for the
41 benefit of each participant.

42 (d) A participant, or in the event of the participant's insolvency, bankruptcy
43 or receivership, its trustee, receiver or other successor-in-interest, may withdraw
44 all or any portion of its investment from the investment pool in accordance with
45 the terms of the pooling agreement.

46 (e) Withdrawals may be made on demand without penalty or other
47 assessment on any business day, but settlements of funds must occur within a
48 reasonable and customary period thereafter not to exceed 5 business days.
49 Distributions in accordance with this paragraph must be calculated in each case
50 net of all applicable fees and expenses of the investment pool. The pooling
51 agreement must provide that the pool manager shall distribute to a participant, at
52 the discretion of the pool manager:

1 (1) In cash, the then fair market value of the participant's pro rata share
2 of each underlying asset of the investment pool;

3 (2) In kind, a pro rata share of each underlying asset; or

4 (3) In a combination of cash and in-kind distributions, a pro rata share
5 in each underlying asset.

6 (f) The pool manager shall make the records of the investment pool available
7 for inspection by the Commissioner.

8 **Sec. 165.** Subject to the limitations of sections 160, 161 and 162 of this act,
9 an insurer may acquire equity interests in business entities organized in
10 accordance with the laws of any domestic jurisdiction.

11 **Sec. 166.** An insurer shall not acquire an investment in accordance with
12 the provisions of sections 165 to 168, inclusive, of this act if, as a result of and
13 after giving effect to the investment, the aggregate amount of investments held by
14 the insurer in accordance with those sections would exceed 20 percent of the
15 insurer's admitted assets, or the amount of equity interests held by the insurer
16 that are not listed on a qualified exchange would exceed 5 percent of the
17 insurer's admitted assets. An accident and health insurer is not subject to the
18 provisions of sections 165 to 168, inclusive, of this act, but is subject to the same
19 aggregate limitation on equity interests as a property and casualty insurer in
20 accordance with the provisions of sections 195 to 199, inclusive, and 205 to 208,
21 inclusive, of this act.

22 **Sec. 167.** An insurer shall not acquire in accordance with the provisions of
23 sections 165 to 168, inclusive, of this act any investments that the insurer may
24 acquire in accordance with the provisions of sections 174 to 177, inclusive, of this
25 act.

26 **Sec. 168.** An insurer shall not short sell equity investments unless the
27 insurer covers the short sale by owning the equity investment or an unrestricted
28 right to the equity investment exercisable within 6 months after the short sale.

29 **Sec. 169.** 1. Subject to the limitations of sections 160, 161 and 162 of this
30 act, an insurer may acquire tangible personal property or equity interests therein
31 located or used wholly or in part within a domestic jurisdiction either directly or
32 indirectly through limited partnership interests and general partnership interests
33 not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this
34 act, joint ventures, stock of an investment subsidiary or membership interests in a
35 limited-liability company, trust certificates or other similar instruments.

36 2. Investments acquired as described in subsection 1 are eligible only if:

37 (a) The property is subject to a lease or other agreement with a person whose
38 rated credit instruments in the amount of the purchase price of the personal
39 property the insurer could acquire in accordance with the provisions of section
40 163 of this act; and

41 (b) The lease or other agreement provides the insurer the right to receive
42 rental, purchase or other fixed payments for the use or purchase of the property,
43 and the aggregate value of the payments, together with the estimated residual
44 value of the property at the end of its useful life and the estimated tax benefits to
45 the insurer resulting from ownership of the property, must be adequate to return
46 the cost of the insurer's investment in the property, plus a return deemed
47 adequate by the insurer.

48 **Sec. 170.** The insurer shall compute the amount of each investment
49 acquired in accordance with the provisions of sections 169 to 173, inclusive, of
50 this act on the basis of the out-of-pocket purchase price and applicable related
51 expenses paid by the insurer for the investment, net of each borrowing made to
52 finance the purchase price and expenses, to the extent the borrowing is without
53 recourse to the insurer.

1 **Sec. 171.** *An insurer shall not acquire an investment in accordance with*
2 *the provisions of sections 169 to 173, inclusive, of this act if, as a result of and*
3 *after giving effect to the investment, the aggregate amount of all investments held*
4 *by the insurer in accordance with the provisions of sections 169 to 173, inclusive,*
5 *of this act would exceed:*

6 1. *Two percent of its admitted assets; or*

7 2. *One half of one percent of its admitted assets as to any single item of*
8 *tangible personal property.*

9 **Sec. 172.** *For the purposes of determining compliance with the limitations*
10 *of sections 160, 161 and 162 of this act, investments acquired by an insurer in*
11 *accordance with the provisions of sections 169 to 173, inclusive, of this act must*
12 *be aggregated with those acquired in accordance with the provisions of section*
13 *163 of this act, and each lessee of the property under a lease referred to in*
14 *sections 169 to 173, inclusive, of this act shall be deemed the issuer of an*
15 *obligation in the amount of the investment of the insurer in the property*
16 *determined as provided in section 170 of this act.*

17 **Sec. 173.** *Nothing in sections 169 to 173, inclusive, of this act applies to*
18 *tangible personal property lease arrangements between an insurer and its*
19 *subsidiaries and affiliates in accordance with a cost-sharing arrangement or*
20 *agreement permitted in accordance with the provisions of chapter 692C of NRS.*

21 **Sec. 174.** 1. *Subject to the limitations of sections 160, 161 and 162 of this*
22 *act, an insurer may acquire, either directly or indirectly through limited*
23 *partnership interests and general partnership interests not otherwise prohibited*
24 *by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of*
25 *an investment subsidiary or membership interests in a limited-liability company,*
26 *trust certificates or other similar instruments, obligations secured by mortgages*
27 *on real estate situated within a domestic jurisdiction.*

28 2. *A mortgage loan which is secured by other than a first lien must not be*
29 *acquired unless the insurer is the holder of the first lien.*

30 3. *The obligations held by the insurer and any obligations with an equal*
31 *lien priority shall not, at the time of acquisition of the obligation, exceed:*

32 (a) *Ninety percent of the fair market value of the real estate, if the mortgage*
33 *loan is secured by a purchase money mortgage or like security received by the*
34 *insurer upon disposition of the real estate.*

35 (b) *Eighty percent of the fair market value of the real estate, if the mortgage*
36 *loan requires immediate scheduled payment in periodic installments of principal*
37 *and interest, has an amortization period of not more than 30 years and periodic*
38 *payments made not less frequently than annually. Each periodic payment must be*
39 *sufficient to ensure that at all times the outstanding principal balance of the*
40 *mortgage loan is not greater than the outstanding principal balance that would*
41 *be outstanding under a mortgage loan with the same original principal balance,*
42 *with the same interest rate and requiring equal payments of principal and interest*
43 *with the same frequency over the same amortization period. Mortgage loans*
44 *allowed in accordance with this section are allowed notwithstanding the fact that*
45 *they provide for a payment of the principal balance before the end of the period*
46 *of amortization of the loan. For residential mortgage loans, the 80-percent*
47 *limitation may be increased to 97 percent if acceptable private mortgage*
48 *insurance has been obtained.*

49 (c) *Seventy-five percent of the fair market values of the real estate for*
50 *mortgage loans that do not meet the requirements of paragraph (a) or (b).*

51 4. *For purposes of subsections 1, 2 and 3, the amount of an obligation*
52 *required to be included in the calculation of the loan-to-value ratio may be*
53 *reduced to the extent the obligation is insured by the Federal Housing*

1 *Administration or guaranteed by the Administrator of Veterans Affairs, or their*
2 *successors.*

3 5. *A mortgage loan that is held by an insurer pursuant to section 141 of this*
4 *act or acquired in accordance with the provisions of sections 174 to 177,*
5 *inclusive, of this act, and is restructured in a manner that meets the requirements*
6 *of a restructured mortgage loan in conformance with the Accounting Practices*
7 *and Procedures Manual adopted by the NAIC will continue to qualify as a*
8 *mortgage loan in accordance with the provisions of this chapter.*

9 6. *Subject to the limitations of sections 160, 161 and 162 of this act, credit*
10 *lease transactions that do not qualify for investment pursuant to section 163 of*
11 *this act are exempt from the provisions of subsections 1, 2 and 3 if they meet the*
12 *following criteria:*

13 (a) *The loan amortizes over the initial fixed lease term at least in an amount*
14 *sufficient so that the loan balance at the end of the lease term does not exceed the*
15 *original appraised value of the real estate;*

16 (b) *The lease payments cover or exceed the total debt service over the life of*
17 *the loan;*

18 (c) *A tenant or its affiliated entity whose rated credit instruments have an*
19 *SVO rating of 1 or 2, or a comparable rating from a nationally recognized*
20 *statistical rating organization recognized by the SVO, has a full faith and credit*
21 *obligation to make the lease payments;*

22 (d) *The insurer holds or is the beneficial holder of a first lien mortgage on*
23 *the real estate;*

24 (e) *The expenses of the real estate are passed through to the tenant,*
25 *excluding exterior, structural, parking and heating, ventilation and air*
26 *conditioning replacement expenses, unless annual escrow contributions, from*
27 *cash flows derived from the lease payments, cover the expense shortfall; and*

28 (f) *There is a perfected assignment of the rents due pursuant to the lease to,*
29 *or for the benefit of, the insurer.*

30 Sec. 175. 1. *An insurer may acquire, manage and dispose of real estate*
31 *situated in a domestic jurisdiction either directly or indirectly through limited*
32 *partnership interests and general partnership interests not otherwise prohibited*
33 *by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of*
34 *an investment subsidiary or membership interests in a limited-liability company,*
35 *trust certificates or other similar instruments. The real estate must be income*
36 *producing or intended for improvement or development for investment purposes*
37 *under an existing program, in which case the real estate shall be deemed to be*
38 *income producing.*

39 2. *The real estate may be subject to mortgages, liens or other*
40 *encumbrances, the amount of which must, to the extent that the obligations*
41 *secured by the mortgages, liens or encumbrances are without recourse to the*
42 *insurer, be deducted from the amount of the investment of the insurer in the real*
43 *estate for purposes of determining compliance with subsections 2 and 3 of section*
44 *177 of this act.*

45 Sec. 176. 1. *An insurer may acquire, manage and dispose of real estate*
46 *for the convenient accommodation of the insurer's, and its affiliates, business*
47 *operations, including home office, branch office and filed office operations.*

48 2. *Real estate acquired as described in this section may include excess space*
49 *for rent to others, if the excess space, valued at its fair market value, would*
50 *otherwise be an allowed investment in accordance with the provisions of section*
51 *175 of this act and is so qualified by the insurer.*

52 3. *The real estate acquired as described in this section may be subject to one*
53 *or more mortgages, liens or other encumbrances, the amount of which must, to*

1 *the extent that the obligations secured by the mortgages, liens or encumbrances*
2 *are without recourse to the insurer, be deducted from the amount of the*
3 *investment of the insurer in the real estate for purposes of determining*
4 *compliance with subsection 4 of section 177 of this act.*

5 4. *For the purposes of this section, business operations must not include*
6 *that portion of real estate used for the direct provision of health care services by*
7 *an accident and health insurer for its insureds. An insurer may acquire real*
8 *estate used for these purposes under section 175 of this act.*

9 **Sec. 177. 1.** *An insurer shall not acquire an investment in accordance*
10 *with the provisions of section 174 of this act if, as a result of and after giving*
11 *effect to the investment, the aggregate amount of all investments held by the*
12 *insurer pursuant to that section would exceed:*

13 (a) *One percent of its admitted assets in mortgage loans covering any one*
14 *secured location;*

15 (b) *One-quarter of one percent of its admitted assets in construction loans*
16 *covering any one secured location; or*

17 (c) *Two percent of its admitted assets in construction loans in the aggregate.*

18 2. *An insurer shall not acquire an investment under section 175 of this act*
19 *if, as a result of and after giving effect to the investment and any outstanding*
20 *guarantees made by the insurer in connection with the investment, the aggregate*
21 *amount of investments held by the insurer under section 175 of this act plus the*
22 *guarantees outstanding would exceed:*

23 (a) *One percent of its admitted assets in one parcel or group of contiguous*
24 *parcels of real estate, except that this limitation does not apply to that portion of*
25 *real estate used for the direct provision of health care services by an accident and*
26 *health insurer for its insureds, such as hospitals, medical clinics, medical*
27 *professional buildings or other health facilities used for the purpose of providing*
28 *health services; or*

29 (b) *Fifteen percent of its admitted assets in the aggregate, but not more than*
30 *5 percent of its admitted assets as to properties that are to be improved or*
31 *developed.*

32 3. *An insurer shall not acquire an investment pursuant to sections 174 and*
33 *175 of this act if, as a result of and after giving effect to the investment and any*
34 *guarantees made by the insurer in connection with the investment, the aggregate*
35 *amount of all investments held by the insurer in accordance with those sections*
36 *plus the guarantees outstanding would exceed 45 percent of the insurer's*
37 *admitted assets. An insurer may exceed this limitation by not more than 30*
38 *percent of the insurer's admitted assets if:*

39 (a) *This increased amount is invested only in residential mortgage loans;*

40 (b) *The insurer has not more than 10 percent of the insurer's admitted assets*
41 *invested in mortgage loans other than residential mortgage loans;*

42 (c) *The loan-to-value ratio of each residential mortgage loan does not exceed*
43 *60 percent at the time the mortgage loan is qualified pursuant to this increased*
44 *authority, and the fair market value is supported by an appraisal that is not more*
45 *than 2 years old and prepared by an independent appraiser;*

46 (d) *A single mortgage loan qualified pursuant to this increased authority*
47 *does not exceed 0.5 percent of the insurer's admitted assets;*

48 (e) *The insurer files with the Commissioner, and receives approval from the*
49 *Commissioner for, a plan that is designed to result in a portfolio of residential*
50 *mortgage loans that is sufficiently geographically diversified; and*

51 (f) *The insurer agrees to file annually with the Commissioner records which*
52 *demonstrate that the insurer's portfolio of residential mortgage loans is*
53 *geographically diversified in accordance with the plan.*

1 4. The limitations of sections 160, 161 and 162 of this act do not apply to an
2 insurer's acquisition of real estate under section 175 of this act. An insurer shall
3 not acquire real estate under section 175 of this act if, as a result of and after
4 giving effect to the acquisition, the aggregate amount of real estate held by the
5 insurer in accordance with that section would exceed 10 percent of its admitted
6 assets. With the approval of the Commissioner, additional amounts of real estate
7 may be acquired under section 175 of this act.

8 Sec. 178. An insurer may enter into securities lending, repurchase, reverse
9 repurchase and dollar roll transactions with business entities, subject to the
10 following requirements:

11 1. The insurer's board of directors shall adopt a written plan that is
12 consistent with the requirements of the written plan in section 148 of this act
13 which specifies the guidelines and objectives to be followed, including, without
14 limitation:

15 (a) A description of how cash received will be invested or used for general
16 corporate purposes of the insurer;

17 (b) Operational procedures to manage interest rate risk, counterparty default
18 risk, the conditions under which proceeds from reverse repurchase transactions
19 may be used in the ordinary course of business and the use of acceptable
20 collateral in a manner that reflects the liquidity needs of the transactions; and

21 (c) The extent to which the insurer may engage in these transactions.

22 2. The insurer shall enter into a written agreement for all transactions
23 authorized by this section other than dollar roll transactions. The written
24 agreement must require that each transaction terminate not more than 1 year
25 after its inception or upon the earlier demand of the insurer. The agreement must
26 be with the business entity counterparty, but for securities lending transactions,
27 the agreement may be with an agent acting on behalf of the insurer, if the agent
28 is a qualified business entity and if the agreement:

29 (a) Requires the agent to enter into separate agreements with each
30 counterparty that are consistent with the requirements of this section; and

31 (b) Prohibits securities lending transactions under the agreement with the
32 agent or its affiliates.

33 3. Cash received in a transaction as described in this section must be
34 invested in accordance with the provisions of this chapter and in a manner that
35 recognizes the liquidity needs of the transaction or used by the insurer for its
36 general corporate purposes. For so long as the transaction remains outstanding,
37 the insurer, its agent or custodian shall maintain, as to acceptable collateral
38 received in a transaction in accordance with this section, either physically or
39 through book entry systems of the Federal Reserve, the Depository Trust
40 Company, the Participants Trust Company or any other securities depositories
41 approved by the Commissioner:

42 (a) Possession of the acceptable collateral;

43 (b) A perfected security interest in the acceptable collateral; or

44 (c) In the case of a jurisdiction outside of the United States, title to, or rights
45 of a secured creditor to, the acceptable collateral.

46 4. The limitations of sections 160, 161, 162 and 179 to 183, inclusive, of this
47 act do not apply to the business entity counterparty exposure created by
48 transactions entered into under this section. For purposes of calculations made to
49 determine compliance with this subsection, no effect will be given to the insurer's
50 future obligation to resell securities, in the case of a repurchase transaction, or to
51 repurchase securities, in the case of a reverse repurchase transaction. An insurer
52 shall not enter into a transaction under this section if, as a result of and after
53 giving effect to the transaction:

1 (a) The aggregate amount of securities loaned, sold or purchased from any
2 one business entity counterparty under this section would exceed 5 percent of its
3 admitted assets. In calculating the amount sold to or purchased from a business
4 entity counterparty in accordance with repurchase or reverse purchase
5 transactions, effect may be given to netting provisions under a master written
6 agreement.

7 (b) The aggregate amount of all securities loaned, sold to or purchased from
8 all business entities under this section would exceed 40 percent of its admitted
9 assets.

10 5. In a securities lending transaction, the insurer shall receive acceptable
11 collateral having a market value on the transaction date equal to 102 percent or
12 more of the market value of the securities loaned by the insurer in the transaction
13 on that date. If at any time the market value of the acceptable collateral is less
14 than the market value of the loaned securities, the business entity counterparty is
15 obligated to deliver additional acceptable collateral, the market value of which,
16 together with the market value of all acceptable collateral held in connection with
17 the transaction, equals 102 percent or more of the market value of the loaned
18 securities.

19 6. In a reverse repurchase transaction, other than a dollar roll transaction,
20 the insurer shall receive acceptable collateral having a market value on the
21 transaction date equal to 95 percent or more of the market value of the securities
22 transferred by the insurer in the transaction on that date. If at any time the
23 market value of the acceptable collateral is less than 95 percent of the market
24 value of the securities so transferred, the business entity counterparty is obligated
25 to deliver additional acceptable collateral, the market value of which, together
26 with the market value of all acceptable collateral held in connection with the
27 transaction, equals 95 percent or more of the market value of the transferred
28 securities.

29 7. In a dollar roll transaction, the insurer shall receive cash in an amount
30 equal to at least the market value of the securities transferred by the insurer in
31 the transaction on the transaction date.

32 8. In a repurchase transaction, the insurer shall receive as acceptable
33 collateral transferred securities having a market value equal to 102 percent or
34 more of the purchase price paid by the insurer for the securities. If at any time
35 the market value of the acceptable collateral is less than 100 percent of the
36 purchase price paid by the insurer, the business entity counterparty is obligated to
37 provide additional acceptable collateral, the market value of which, together with
38 the market value of all acceptable collateral held in connection with the
39 transaction, equals 102 percent or more of the purchase price. Securities
40 acquired by an insurer in a repurchase transaction may not be sold in a reverse
41 repurchase transaction, loaned in a securities lending transaction or otherwise
42 pledged.

43 9. To constitute acceptable collateral for the purposes of this section, a
44 letter of credit must have an expiration date beyond the term of the subject
45 transaction.

46 Sec. 179. Subject to the limitations of sections 160, 161 and 162 of this act,
47 an insurer may acquire foreign investments, or engage in investment practices
48 with persons of or in foreign jurisdictions, of substantially the same type as those
49 that an insurer is allowed to acquire pursuant to this chapter, other than of the
50 type allowed under section 164 of this act if, as a result of and after giving effect
51 to the investments:

1 1. The aggregate amount of foreign investments held by the insurer in
2 accordance with this section does not exceed 20 percent of its admitted assets;
3 and

4 2. The aggregate amount of foreign investments held by the insurer in
5 accordance with this section in a single foreign jurisdiction does not exceed 10
6 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt
7 rating of SVO 1 or 3 percent of its admitted assets as to any other foreign
8 jurisdiction.

9 Sec. 180. 1. Subject to the limitations of sections 160, 161 and 162 of this
10 act, an insurer may acquire investments, or engage in investment practices
11 denominated in foreign currencies, whether or not they are foreign investments
12 acquired as described in section 179 of this act, or additional foreign currency
13 exposure as a result of the termination or expiration of a hedging transaction
14 with respect to investments denominated in a foreign currency if:

15 (a) The aggregate amount of investments held by the insurer in accordance
16 with this section denominated in foreign currencies does not exceed 10 percent of
17 its admitted assets; and

18 (b) The aggregate amount of investments held by the insurer in accordance
19 with this section denominated in the foreign currency of a single foreign
20 jurisdiction does not exceed 10 percent of its admitted assets as to a foreign
21 jurisdiction that has a sovereign debt rating of SVO 1 or 3 percent of its admitted
22 assets as to any other foreign jurisdiction.

23 2. An investment must not be considered denominated in a foreign currency
24 if the acquiring insurer enters into one or more contracts in transactions allowed
25 under sections 184 to 188, inclusive, of this act and the business entity
26 counterparty agrees in the contract or contracts to exchange all payments made
27 on the foreign currency denominated investment for United States currency at a
28 rate which effectively insulates the investment cash flows against future changes
29 in currency exchange rates during the period the contract or contracts are in
30 effect.

31 Sec. 181. In addition to investments allowed under sections 179 and 180 of
32 this act, an insurer that is authorized to do business in a foreign jurisdiction, and
33 that has outstanding insurance, annuity or reinsurance contracts on lives or risks
34 resident or located in that foreign jurisdiction and denominated in a foreign
35 currency of that jurisdiction, may acquire foreign investments respecting that
36 foreign jurisdiction, and may acquire investments denominated in the currency of
37 that jurisdiction, subject to the limitations of sections 160, 161 and 162 of this act.
38 Investments made in accordance with this section in obligations of foreign
39 governments, their political subdivisions and government-sponsored enterprises
40 are not subject to the limitations of sections 160, 161 and 162 of this act if those
41 investments carry an SVO rating of 1 or 2. The aggregate amount of investments
42 acquired by the insurer in accordance with this section must not exceed the
43 greater of:

44 1. The amount the insurer is required by the law of the foreign jurisdiction
45 to invest in the foreign jurisdiction; or

46 2. One hundred fifteen percent of the amount of the insurer's reserves, net
47 of reinsurance, and other obligations under the contracts on lives or risks
48 resident or located in the foreign jurisdiction.

49 Sec. 182. In addition to investments allowed under sections 179 and 180 of
50 this act, an insurer that is not authorized to do business in a foreign jurisdiction,
51 but which has outstanding insurance, annuity or reinsurance contracts on lives
52 or risks resident or located in that foreign jurisdiction and denominated in
53 foreign currency of that jurisdiction, may acquire foreign investments respecting

1 *that foreign jurisdiction, and may acquire investments denominated in the*
2 *currency of that jurisdiction subject to the limitations of sections 160, 161 and*
3 *162 of this act. Investments made in accordance with this section in obligations of*
4 *foreign governments, their political subdivisions and government-sponsored*
5 *enterprises are not subject to the limitations of sections 160, 161 and 162 of this*
6 *act if those investments carry an SVO rating of 1 or 2. The aggregate amount of*
7 *investments acquired by the insurer in accordance with this section must not*
8 *exceed 105 percent of the amount of the insurer's reserves, net of reinsurance,*
9 *and other obligations under the contracts on lives or risks resident or located in*
10 *the foreign jurisdiction.*

11 **Sec. 183.** *Investments acquired in conformance with sections 179 to 183,*
12 *inclusive, of this act must be aggregated with investments of the same types made*
13 *under this chapter, and in a similar manner, for purposes of determining*
14 *compliance with the limitations, if any, contained in this chapter. Investments in*
15 *obligations of foreign governments, their political subdivisions and government-*
16 *sponsored enterprises of these persons, except for those exempted by sections 181*
17 *and 182 of this act, are subject to the limitations of sections 160, 161 and 162 of*
18 *this act.*

19 **Sec. 184.** *An insurer may, directly or indirectly through an investment*
20 *subsidiary, engage in derivative transactions as described in sections 184 to 188,*
21 *inclusive, of this act pursuant to the following conditions:*

22 *1. An insurer may use derivative instruments under sections 184 to 188,*
23 *inclusive, of this act to engage in hedging transactions and certain income*
24 *generation transactions, as these terms may be further defined in regulations*
25 *adopted by the Commissioner pursuant to section 158 of this act; and*

26 *2. An insurer must be able to demonstrate to the Commissioner the intended*
27 *hedging characteristics and the ongoing effectiveness of the derivative*
28 *transaction or combination of the transactions through cash flow testing or other*
29 *appropriate analyses.*

30 **Sec. 185.** *An insurer may enter into hedging transactions under sections*
31 *184 to 188, inclusive, of this act if, as a result of and after giving effect to the*
32 *transaction:*

33 *1. The aggregate statement value of options, caps, floors and warrants not*
34 *attached to another financial instrument purchased and used in hedging*
35 *transactions does not exceed 7.5 percent of its admitted assets;*

36 *2. The aggregate statement value of options, caps and floors written in*
37 *hedging transactions does not exceed 3 percent of its admitted assets; and*

38 *3. The aggregate potential exposure of collars, swaps, forwards and futures*
39 *used in hedging transactions does not exceed 6.5 percent of its admitted assets.*

40 **Sec. 186.** *An insurer may only enter into the following types of income*
41 *generation transactions if, as a result of and after giving effect to the*
42 *transactions, the aggregate statement value of the fixed income assets that are*
43 *subject to call or which generate the cash flows for payments under the caps or*
44 *floors, plus the face value of fixed income securities underlying a derivative*
45 *instrument subject to call, plus the amount of the purchase obligations under the*
46 *puts, does not exceed 10 percent of its admitted assets:*

47 *1. Sales of covered call options on noncallable fixed income securities,*
48 *callable fixed income securities if the option expires by its terms before the end of*
49 *the noncallable period or derivative instruments based on fixed income securities;*

50 *2. Sales of covered call options on equity securities, if the insurer holds in*
51 *its portfolio, or can immediately acquire through the exercise of options,*
52 *warrants or conversion rights already owned, the equity securities subject to call*
53 *during the complete term of the call option sold;*

3. Sales of covered puts on investments that the insurer is allowed to acquire pursuant to this chapter, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

4. Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

Sec. 187. An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of sections 160, 161 and 162 of this act.

Sec. 188. In accordance with the regulations adopted pursuant to section 158 of this act, the Commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of section 185 of this act for other risk-management purposes, but replication transactions must not be allowed for other than risk-management purposes.

Sec. 189. A life insurer may lend to a policyholder on the security of the cash surrender value of the policyholder's policy a sum not exceeding the legal reserve that the insurer is required to maintain on the policy.

Sec. 190. Solely for the purpose of acquiring investments that exceed the quantitative limitations of sections 160 to 183, inclusive, of this act, an insurer may acquire in accordance with this section an investment, or engage in investment practices described in section 178 of this act, but an insurer shall not acquire an investment or engage in investment practices described in section 178 of this act in accordance with this section if, as a result of and after giving effect to the transaction:

1. The aggregate amount of investments held by the insurer would exceed 3 percent of its admitted assets; or

2. The aggregate amount of investments as to one limitation in sections 160 to 183, inclusive, of this act held by the insurer would exceed 1 percent of its admitted assets.

Sec. 191. 1. In addition to the authority provided in section 190 of this act, an insurer may acquire in accordance with this section an investment of any kind, or engage in investment practices described in section 178 of this act that are not specifically prohibited by the provisions of this chapter, without regard to the categories, conditions, standards or other limitations of sections 160 to 183, inclusive, of this act if, as a result of and after giving effect to the transaction, the aggregate amount of investments held would not exceed the lesser of:

(a) Ten percent of its admitted assets; or

(b) Seventy-five percent of its capital and surplus.

2. An insurer shall not acquire any investment or engage in any investment practice in accordance with this section if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one person held by the insurer would exceed 3 percent of its admitted assets.

Sec. 192. In addition to the investments acquired as described in sections 190 and 191 of this act, an insurer may acquire in accordance with this section an investment of any kind, or engage in investment practices described in section 178 of this act, that are not specifically prohibited by the provisions of this chapter, without regard to any limitations of sections 160 to 183, inclusive, of this act if:

1. The Commissioner grants prior approval;

2. *The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and*

3. *As a result of and after giving effect to the transaction the aggregate amount of investments held by the insurer is not greater than:*

(a) *Twenty-five percent of its capital and surplus; or*

(b) *One hundred percent of capital and surplus less 10 percent of its admitted assets.*

Sec. 193. *An investment prohibited by section 154 of this act, not allowed by sections 184 to 188, inclusive, of this act or additional derivative instruments acquired under sections 184 to 188, inclusive, of this act must not be acquired pursuant to sections 190 to 193, inclusive, of this act.*

Sec. 194. *Sections 194 to 230, inclusive, of this act apply to the investments and investment practices of property and casualty, financial guaranty and mortgage guarantee insurers.*

Sec. 195. *Subject to all other limitations and requirements of this chapter, a property and casualty, financial guaranty, mortgage guaranty or accident and health insurer shall maintain an amount not less than 100 percent of adjusted loss reserves and loss adjustment expense reserves, 100 percent of adjusted unearned premium reserves and 100 percent of statutorily required policy and contract reserves in:*

1. *Cash and cash equivalents;*

2. *High and medium grade investments that qualify pursuant to sections 203 and 204 of this act;*

3. *Equity interests that qualify pursuant to sections 205 to 208, inclusive, of this act and which are traded on a qualified exchange;*

4. *Investments of the type set forth in sections 219 to 223, inclusive, of this act, if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;*

5. *Qualifying investments of the type set forth in subsections 2, 3 and 4 that are acquired pursuant to sections 229 and 230 of this act;*

6. *Interest and dividends receivable on qualifying investments of the type set forth in subsections 1 to 5, inclusive; or*

7. *Reinsurance recoverable on paid losses.*

Sec. 196. 1. *For the purposes of determining the amount of assets to be maintained in accordance with this section, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves and statutorily required policy and contract reserves must be based on the amounts reported as of the most recent annual or quarterly statement date.*

2. *Adjusted loss reserves and loss adjustment expense reserves must be, for each individual line of business, equal to the sum derived by multiplying the amount obtained pursuant to paragraph (a) by the amount obtained pursuant to paragraph (b), and subtracting from the product obtained by way of that multiplication the amount obtained pursuant to paragraph (c), as follows:*

(a) *The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business.*

(b) *The discount factor that is applicable to the line of business and accident year published by the Internal Revenue Service in accordance with the provisions of section 846 of the Internal Revenue Code, 26 U.S.C. § 846, as amended, for*

1 *the calendar year that corresponds to the most recent annual statement of the*
2 *insurer.*

3 *(c) Accrued retrospective premiums discounted by an average discount*
4 *factor. The discount factor used in this paragraph must be calculated by dividing*
5 *the losses and loss adjustment expenses unpaid after discounting by loss and loss*
6 *adjustment expense reserves before discounting the amount obtained pursuant to*
7 *paragraph (a).*

8 *3. For purposes of the calculations required pursuant to subsection 2, the*
9 *losses and loss adjustment expenses unpaid must be determined net of anticipated*
10 *salvage and subrogation, and gross of any discount for the time value of money*
11 *or tabular discount.*

12 *4. Adjusted unearned premium reserves must be equal to the sum derived by*
13 *subtracting the amount obtained pursuant to paragraph (b) from the amount*
14 *obtained pursuant to paragraph (a), as follows:*

15 *(a) The amount reported by the insurer as unearned premium reserves.*

16 *(b) The admitted asset amounts reported by the insurer as:*

17 *(1) Premiums in and agent's balances in the course of collection,*
18 *accident and health premiums due and unpaid and uncollected premiums for*
19 *accident and health premiums;*

20 *(2) Premiums, agent's balances and installments booked but deferred*
21 *and not yet due; and*

22 *(3) Bills receivable, taken for premium.*

23 *5. Statutorily required policy and contract reserves also must include,*
24 *without limitation, any required contingency reserves, including, without*
25 *limitation, in the case of a mortgage guaranty insurer, the amounts required by*
26 *NRS 681B.100.*

27 **Sec. 197.** *A property and casualty, financial guaranty, mortgage guaranty*
28 *or accident and health insurer shall supplement its annual statement with a*
29 *reconciliation and summary of its assets and reserve requirements as required in*
30 *sections 195 and 196 of this act. A reconciliation and summary showing that an*
31 *insurer's assets as required in sections 195 and 196 of this act are greater than or*
32 *equal to its undiscounted reserves referred to in sections 195 and 196 of this act is*
33 *sufficient to satisfy this requirement. Upon prior notification, the Commissioner*
34 *may require an insurer to submit such a reconciliation and summary with any*
35 *quarterly statement filed during the calendar year.*

36 **Sec. 198.** *If a property and casualty, financial guaranty, mortgage*
37 *guaranty or accident and health insurer's assets and reserves do not comply with*
38 *sections 195 and 196 of this act, the insurer shall notify the Commissioner*
39 *immediately of the amount by which the reserve requirements exceed the annual*
40 *statement value of the qualifying assets, explain why the deficiency exists and,*
41 *within 30 days after the date of the notice, propose a plan of action to remedy the*
42 *deficiency.*

43 **Sec. 199.** *1. If the Commissioner determines that an insurer is not in*
44 *compliance with sections 195 and 196 of this act, the Commissioner shall require*
45 *the insurer to eliminate the condition causing the noncompliance within a*
46 *specified time after the date on which the notice of the Commissioner's*
47 *requirements is mailed or delivered to the insurer.*

48 *2. If an insurer fails to comply with the Commissioner's requirements that*
49 *are imposed pursuant to subsection 1, the insurer is deemed to be in hazardous*
50 *financial condition and the Commissioner shall take one or more of the actions*
51 *authorized by law as to insurers in hazardous financial condition.*

52 **Sec. 200.** *1. Except as otherwise specified in this chapter, an insurer shall*
53 *not acquire, directly or indirectly through an investment subsidiary, an*

1 *investment in accordance with the provisions of this chapter if, as a result of and*
2 *after giving effect to the investment, the insurer would hold more than 5 percent*
3 *of its admitted assets in investments of all kinds issued, assumed, accepted,*
4 *insured or guaranteed by a single person.*

5 2. *The limitation in subsection 1 does not apply to the aggregate amounts*
6 *insured by a single financial guaranty insurer with the highest generic rating*
7 *issued by a nationally recognized statistical rating organization.*

8 3. *Asset-backed securities are not subject to the limitation in subsection 1.*
9 *However, an insurer shall not acquire an asset-backed security if, as a result of*
10 *and after giving effect to the investment, the aggregate amount of asset-backed*
11 *securities secured by, or evidencing an interest in, a single asset or single pool of*
12 *assets held by a trust or other business entity held by the insurer would exceed 5*
13 *percent of its admitted assets.*

14 **Sec. 201.** 1. *An insurer shall not acquire, directly or indirectly through*
15 *an investment subsidiary, an investment in accordance with the provisions of*
16 *sections 203, 209 to 213, inclusive, or 219 to 223, inclusive, of this act or*
17 *counterparty exposure in accordance with the provisions of section 227 of this act*
18 *if, as a result of and after giving effect to the investment:*

19 (a) *The aggregate amount of all medium and lower grade investments held*
20 *by the insurer would exceed 20 percent of its admitted assets;*

21 (b) *The aggregate amount of lower grade investments held by the insurer*
22 *would exceed 10 percent of its admitted assets;*

23 (c) *The aggregate amount of investments rated 5 or 6 by the SVO held by the*
24 *insurer would exceed 5 percent of its admitted assets;*

25 (d) *The aggregate amount of investments rated 6 by the SVO held by the*
26 *insurer would exceed 1 percent of its admitted assets; or*

27 (e) *The aggregate amount of medium and lower grade investments held by*
28 *the insurer that receive as cash income less than the equivalent yield for United*
29 *States Treasury issues with a comparative average life, would exceed 1 percent of*
30 *its admitted assets.*

31 2. *An insurer shall not acquire, directly or indirectly through an investment*
32 *subsidiary, an investment in accordance with the provisions of sections 203, 209*
33 *to 213, inclusive, or 219 to 223, inclusive, of this act or counterparty exposure in*
34 *accordance with the provisions of section 227 of this act if, as a result of and*
35 *after giving effect to the investment:*

36 (a) *The aggregate amount of medium and lower grade investments issued,*
37 *assumed, guaranteed, accepted or insured by any one person or, as to asset-*
38 *backed securities by or evidencing an interest in a single asset or pool of assets,*
39 *held by the insurer, would exceed 1 percent of its admitted assets; or*

40 (b) *The aggregate amount of lower grade investments issued, assumed,*
41 *guaranteed, accepted or insured by any one person or, as to asset-backed*
42 *securities by or evidencing an interest in a single asset or pool of assets, held by*
43 *the insurer, would exceed 0.5 percent of its admitted assets.*

44 3. *If an insurer attains or exceeds the limit of any one rating category*
45 *referred to in this section, the insurer must not be precluded from acquiring*
46 *investments in other rating categories subject to the specific and multicategory*
47 *limits applicable to those investments.*

48 **Sec. 202.** 1. *An insurer shall not acquire, directly or indirectly through*
49 *an investment subsidiary, any Canadian investments authorized by the provisions*
50 *of this chapter if, as a result of and after giving effect to the investment, the*
51 *aggregate amount of these investments held by the insurer would exceed 40*
52 *percent of its admitted assets, or if the aggregate amount of Canadian*
53 *investments not acquired in accordance with paragraph (c) or (d) of subsection 1*

1 *of section 203 of this act held by the insurer would exceed 25 percent of its*
2 *admitted assets.*

3 2. *As to an insurer that is authorized to do business in Canada or that has*
4 *outstanding insurance, annuity or reinsurance contracts on lives or risks resident*
5 *or located in Canada and denominated in Canadian currency, the limitations in*
6 *subsection 1 must be increased by the greater of:*

7 (a) *The amount the insurer is required by Canadian law to invest in Canada*
8 *or to be denominated in Canadian currency; or*

9 (b) *One hundred twenty-five percent of the amount of its reserves and other*
10 *obligations under contracts on risks resident or located in Canada.*

11 **Sec. 203. 1.** *Subject to the limitations of section 201 of this act, but not to*
12 *the limitations of section 200 of this act, an insurer may acquire rated credit*
13 *instruments issued, assumed, guaranteed or insured by:*

14 (a) *The United States;*

15 (b) *A government-sponsored enterprise of the United States, if the*
16 *instruments of the government-sponsored enterprise are assumed, guaranteed or*
17 *insured by the United States or are otherwise backed or supported by the full faith*
18 *and credit of the United States;*

19 (c) *Canada; or*

20 (d) *A government-sponsored enterprise of Canada, if the instruments of the*
21 *government-sponsored enterprise are assumed, guaranteed or insured by Canada*
22 *or are otherwise backed or supported by the full faith and credit of Canada.*

23 2. *An insurer shall not acquire an instrument in accordance with*
24 *paragraph (c) or (d) of subsection 1 if, as a result of and after giving effect to the*
25 *investment, the aggregate amount of investments held by the insurer in*
26 *accordance with paragraph (c) or (d) of subsection 1 would exceed 40 percent of*
27 *its admitted assets.*

28 3. *Subject to the limitations of section 201 of this act, but not to the*
29 *limitations of section 200 of this act, an insurer may acquire rated credit*
30 *instruments, excluding asset-backed securities:*

31 (a) *Issued by a government money market mutual fund, a class one money*
32 *market mutual fund or a class one bond mutual fund;*

33 (b) *Issued, assumed, guaranteed or insured by a government-sponsored*
34 *enterprise of the United States other than those eligible in accordance with*
35 *subsection 1;*

36 (c) *Issued, assumed, guaranteed or insured by a state, if the instruments are*
37 *general obligations of the state; or*

38 (d) *Issued by a multilateral development bank.*

39 4. *An insurer shall not acquire an instrument of any one fund, any one*
40 *enterprise or entity, or any one state as described in subsection 3 if, as a result of*
41 *and after giving effect to the investment, the aggregate amount of investments*
42 *held in any one fund, enterprise or entity or state would exceed 10 percent of the*
43 *insurer's admitted assets.*

44 5. *Subject to the limitations of sections 200, 201 and 202 of this act, an*
45 *insurer may acquire preferred stocks that are not foreign investments and which*
46 *meet the requirements of rated credit instruments if, as a result of and after*
47 *giving effect to the investments:*

48 (a) *The aggregate amount of preferred stocks held by the insurer in*
49 *accordance with this section does not exceed 20 percent of the insurer's admitted*
50 *assets; and*

51 (b) *The aggregate amount of preferred stocks held by the insurer in*
52 *accordance with this section which are not sinking fund stocks or rated P1 or P2*
53 *by the SVO does not exceed 10 percent of the insurer's admitted assets.*

6. Subject to the limitations of sections 200, 201 and 202 of this act, in addition to those investments eligible pursuant to subsections 1 to 5, inclusive, an insurer may acquire rated credit instruments that are not foreign investments.

7. An insurer shall not acquire special rated credit instruments as described in this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments held by the insurer would exceed 5 percent of the insurer's admitted assets.

Sec. 204. 1. An insurer may acquire investments in investment pools that invest only in:

(a) Obligations that are rated 1 or 2 by the SVO or have an equivalent of an SVO 1 or 2 rating, or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 equivalent rating, by a nationally recognized statistical rating organization recognized by the SVO, and have:

(1) A remaining maturity of 397 days or less or a put option that entitles the holder to receive the principal amount of the obligation with the ability to exercise the put option through maturity at specified intervals not exceeding 397 days; or

(2) A remaining maturity of less than or equal to 3 years and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes. For the purpose of this subparagraph, qualifying short-term indexes include, without limitation, the federal funds rate, prime rate, treasury bills rates, the London Interbank Offered Rate or commercial paper rates.

(b) Government money market mutual funds or class one money market mutual funds.

(c) Securities lending, repurchase and reverse repurchase transactions that meet all the requirements of section 218 of this act, except the quantitative limitations of subsection 4 of that section.

(d) Investments which an insurer may acquire pursuant to this chapter if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this chapter.

2. For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool must not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of section 218 of this act except the quantitative limitations of subsection 4 of that section; or

(c) Permit the aggregate value of securities loaned or sold to, purchased from or invested in any one business entity in accordance with this section to exceed 10 percent of the total assets of the investment pool.

3. The limitations of section 200 of this act do not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool in accordance with this section if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with this section:

(a) In any one investment pool would exceed 10 percent of its admitted assets;

1 (b) In all investment pools investing in investments permitted in accordance
2 with paragraph (d) of subsection 1 would exceed 25 percent of its admitted assets;
3 or

4 (c) In all investment pools would exceed 40 percent of its admitted assets.

5 4. For an investment in an investment pool to be qualified pursuant to this
6 chapter, the manager of the investment pool must:

7 (a) Be organized in accordance with the laws of the United States or a state
8 and designated as the pool manager in a pooling agreement;

9 (b) Be the insurer, an affiliated insurer or a business entity affiliated with the
10 insurer, a qualified bank, a business entity registered in accordance with the
11 provisions of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as
12 amended, or, in the case of a United States branch of an alien insurer, its United
13 States manager or affiliates or subsidiaries of its United States manager;

14 (c) Compile and maintain detailed accounting records setting forth:

15 (1) The cash receipts and disbursements reflecting each participant's
16 proportionate investments in the investment pool;

17 (2) A complete description of all underlying assets of the investment pool,
18 including, without limitation, amount, interest rate, maturity date, if any, and
19 other appropriate designations; and

20 (3) Other records which, on a daily basis, allow third parties to verify
21 each participant's investment in the investment pool; and

22 (d) Maintain the assets of the investment pool in one or more accounts, in
23 the name of or on behalf of the investment pool, in accordance with a custody
24 agreement with a qualified bank. The custody agreement must:

25 (1) State and recognize the claims and rights of each participant;

26 (2) Acknowledge that the underlying assets of the investment pool are
27 held solely for the benefit of each participant in proportion to the aggregate
28 amount of its investments in the investment pool; and

29 (3) Contain an agreement that the underlying assets of the investment
30 pool must not be commingled with the general assets of the custodian qualified
31 bank or any other person.

32 5. The pooling agreement for each investment pool must be in writing and
33 must provide that:

34 (a) An insurer and its affiliated insurers or, in the case of an investment pool
35 investing solely in investments allowed in accordance with paragraph (a) of
36 subsection 1, the insurer and its subsidiaries, affiliates or any pension or profit-
37 sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a
38 United States branch of an alien insurer, affiliates or subsidiaries of its United
39 States manager, shall at all times hold 100 percent of the interests in the
40 investment pool.

41 (b) The underlying assets of the investment pool must not be commingled
42 with the general assets of the pool manager or any other person.

43 (c) In proportion to the aggregate amount of each pool participant's interest
44 in the investment pool:

45 (1) Each participant owns an undivided interest in the underlying assets
46 of the investment pool; and

47 (2) The underlying assets of the investment pool are held solely for the
48 benefit of each participant.

49 (d) A participant, or in the event of the participant's insolvency, bankruptcy
50 or receivership, its trustee, receiver or other successor-in-interest, may withdraw
51 all or any portion of its investment from the investment pool in accordance with
52 the terms of the pooling agreement.

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlements of funds shall occur within a reasonable and customary period thereafter not to exceed 5 business days. Distributions in accordance with this paragraph must be calculated in each case net of all applicable fees and expenses of the investment pool. The pooling agreement must provide that the pool manager shall distribute to a participant at the discretion of the pool manager:

(1) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(2) In kind, a pro rata share of each underlying asset; or

(3) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset.

(f) The pool manager shall make the records of the investment pool available for inspection by the Commissioner.

Sec. 205. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire equity interests in business entities organized in accordance with the laws of any domestic jurisdiction.

Sec. 206. An insurer shall not acquire an investment in accordance with the provisions of sections 205 to 208, inclusive, of this act if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with the provisions of those sections would exceed the greater of 25 percent of the insurer's admitted assets or 100 percent of the insurer's surplus as regards policyholders.

Sec. 207. An insurer shall not acquire in accordance with the provisions of sections 205 to 208, inclusive, of this act any investments that the insurer may acquire in accordance with the provisions of sections 214 to 217, inclusive, of this act.

Sec. 208. An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within 6 months after the short sale.

Sec. 209. 1. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar instruments.

2. Investments acquired as described in subsection 1 are eligible only if:

(a) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could acquire in accordance with the provisions of section 203 of this act; and

(b) The lease or other agreement provides the insurer the right to receive rental, purchase or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, must be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.

Sec. 210. The insurer shall compute the amount of each investment entered into in accordance with the provisions of sections 209 to 213, inclusive, of this act on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the

1 *purchase price and expenses, to the extent the borrowing is without recourse to*
2 *the insurer.*

3 **Sec. 211.** *An insurer shall not acquire an investment in accordance with*
4 *the provisions of sections 209 to 213, inclusive, of this act if, as a result of and*
5 *after giving effect to the investment, the aggregate amount of all investments held*
6 *by the insurer in accordance with the provisions of sections 209 to 213, inclusive,*
7 *of this act would exceed:*

8 *1. Two percent of its admitted assets; or*

9 *2. One half of one percent of its admitted assets as to any single item of*
10 *tangible personal property.*

11 **Sec. 212.** *For the purposes of determining compliance with the limitations*
12 *of sections 200, 201 and 202 of this act, investments acquired by an insurer in*
13 *accordance with the provisions of sections 209 to 213, inclusive, of this act must*
14 *be aggregated with those acquired in accordance with the provisions of section*
15 *203 of this act, and each lessee of the property in accordance with a lease*
16 *referred to in sections 209 to 213, inclusive, of this act shall be deemed the issuer*
17 *of an obligation in the amount of the investment of the insurer in the property*
18 *determined as provided in section 210 of this act.*

19 **Sec. 213.** *Nothing in sections 209 to 213, inclusive, of this act applies to*
20 *tangible personal property lease arrangements between an insurer and its*
21 *subsidiaries and affiliates in accordance with a cost-sharing arrangement or*
22 *agreement permitted in accordance with the provisions of chapter 692C of NRS.*

23 **Sec. 214.** *1. Subject to the limitations of sections 200, 201 and 202 of this*
24 *act, an insurer may acquire, either directly, or indirectly through limited*
25 *partnership interests and general partnership interests not otherwise prohibited*
26 *by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of*
27 *an investment subsidiary or membership interests in a limited-liability company,*
28 *trust certificates, or other similar instruments, obligations secured by mortgages*
29 *on real estate situated within a domestic jurisdiction. A mortgage loan which is*
30 *secured by other than a first lien must not be acquired unless the insurer is the*
31 *holder of the first lien.*

32 *2. The obligations held by the insurer and any obligations with an equal*
33 *lien priority must not, at the time of acquisition of the obligation, exceed:*

34 *(a) Ninety percent of the fair market value of the real estate, if the mortgage*
35 *loan is secured by a purchase money mortgage or like security received by the*
36 *insurer upon disposition of the real estate.*

37 *(b) Eighty percent of the fair market value of the real estate, if the mortgage*
38 *loan requires immediate scheduled payment in periodic installments of principal*
39 *and interest, has an amortization period of 30 years or less and periodic payments*
40 *made not less frequently than annually. Each periodic payment must be sufficient*
41 *to ensure that at all times the outstanding principal balance of the mortgage loan*
42 *is not greater than the outstanding principal balance that would be outstanding*
43 *under a mortgage loan with the same original principal balance, the same*
44 *interest rate and requiring equal payments of principal and interest with the same*
45 *frequency over the same amortization period. Mortgage loans allowed in*
46 *accordance with this section are allowed notwithstanding the fact that they*
47 *provide for a payment of the principal balance before the end of the period of*
48 *amortization of the loan. For residential mortgage loans, the 80-percent*
49 *limitation may be increased to 97 percent if acceptable private mortgage*
50 *insurance has been obtained.*

51 *(c) Seventy-five percent of the fair market value of the real estate for*
52 *mortgage loans that do not meet the requirements of paragraph (a) or (b).*

3. For the purposes of subsection 2, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration or guaranteed by the Administrator of Veterans Affairs, or their successors.

4. A mortgage loan that is held by an insurer pursuant to section 141 of this act or acquired in accordance with the provisions of sections 214 to 217, inclusive, of this act and is restructured in a manner that meets the requirements of a restructured mortgage loan in conformance with the Accounting Practices and Procedures Manual adopted by the NAIC, will continue to qualify as a mortgage loan in accordance with the provisions of this chapter.

5. Subject to the limitations of sections 200, 201 and 202 of this act, credit lease transactions that do not qualify for investment pursuant to section 203 of this act are exempt from the provisions of subsections 1, 2 and 3 if they meet the following criteria:

(a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

(b) The lease payments cover or exceed the total debt service over the life of the loan;

(c) A tenant or its affiliated entity whose rated credit instruments have an SVO 1 or 2 rating or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO, has a full faith and credit obligation to make the lease payments;

(d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

(e) The expenses of the real estate are passed through to the tenant excluding exterior, structural, parking and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and

(f) There is a perfected assignment of the rents due pursuant to the lease to, or for the benefit of, the insurer.

Sec. 215. 1. An insurer may acquire, manage and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar interests. The real estate must be income producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be deemed to be income producing.

2. The real estate may be subject to mortgages, liens or other encumbrances, the amount of which must, to the extent that the obligations secured by the mortgages, liens or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsections 2 and 3 of section 217 of this act.

Sec. 216. 1. An insurer may acquire, manage and dispose of real estate for the convenient accommodation of the insurer's, and its affiliates, business operations, including home office, branch office and filed office operations.

2. Real estate acquired as described in this section may include excess space for rent to others, if the excess space, valued at its fair market value, would otherwise be an allowed investment in accordance with the provisions of section 215 of this act and is so qualified by the insurer.

1 3. The real estate acquired as described in this section may be subject to one
2 or more mortgages, liens or other encumbrances, the amount of which must, to
3 the extent that the obligations secured by the mortgages, liens or encumbrances
4 are without recourse to the insurer, be deducted from the amount of the
5 investment of the insurer in the real estate for purposes of determining
6 compliance with subsection 4 of section 217 of this act.

7 4. For purposes of this section, business operations must not include that
8 portion of real estate used for the direct provision of health care services by an
9 insurer whose insurance premiums and required statutory reserves for accident
10 and health insurance constitute at least 95 percent of total premium
11 considerations or total statutory required reserves, respectively. An insurer may
12 acquire real estate used for these purposes under section 215 of this act.

13 Sec. 217. 1. An insurer shall not acquire an investment in accordance
14 with the provisions of section 214 of this act if, as a result of and after giving
15 effect to the investment, the aggregate amount of all investments held by the
16 insurer pursuant to that section would exceed:

17 (a) One percent of its admitted assets in mortgage loans covering any one
18 secured location;

19 (b) One-quarter of one percent of its admitted assets in construction loans
20 covering any one secured location; or

21 (c) One percent of its admitted assets in construction loans in the aggregate.

22 2. An insurer shall not acquire an investment under section 215 of this act
23 if, as a result of and after giving effect to the investment and any outstanding
24 guarantees made by the insurer in connection with the investment, the aggregate
25 amount of investments held by the insurer under section 215 of this act plus the
26 guarantees outstanding would exceed:

27 (a) One percent of its admitted assets in any one parcel or group of
28 contiguous parcels of real estate, except that this limitation does not apply to that
29 portion of real estate used for the direct provision of health care services by an
30 insurer whose insurance premiums and required statutory reserves for accident
31 and health insurance constitute at least 95 percent of total premium
32 considerations or total statutory required reserves, respectively, including,
33 without limitation, hospitals, medical clinics, medical professional buildings or
34 other health facilities used for the purpose of providing health services; or

35 (b) The lesser of 10 percent of its admitted assets or 40 percent of its surplus
36 as regards policyholders in the aggregate, except for an insurer whose insurance
37 premiums and required statutory reserves for accident and health insurance
38 constitute at least 95 percent of total premium considerations or total statutory
39 required reserves, respectively, this limitation must be increased to 15 percent of
40 its admitted assets in the aggregate.

41 3. An insurer shall not acquire an investment pursuant to sections 214 and
42 215 of this act if, as a result of and after giving effect to the investment and any
43 guarantees it has made in connection with the investment, the aggregate amount
44 of all investments held by the insurer in accordance with the provisions of those
45 sections plus the guarantees outstanding would exceed 25 percent of the insurer's
46 admitted assets.

47 4. The limitations of sections 200, 201 and 202 of this act do not apply to an
48 insurer's acquisition of real estate under section 216 of this act. An insurer shall
49 not acquire real estate under section 216 of this act if, as a result of and after
50 giving effect to the acquisition, the aggregate amount of real estate held by the
51 insurer in accordance with that section would exceed 10 percent of its admitted
52 assets. With the permission of the Commissioner, additional amounts of real
53 estate may be acquired under section 216 of this act.

1 **Sec. 218.** *An insurer may enter into securities lending, repurchase, reverse*
2 *repurchase and dollar roll transactions with business entities, subject to the*
3 *following requirements:*

4 1. *The insurer's board of directors shall adopt a written plan that is*
5 *consistent with the requirements of the written plan in section 148 of this act*
6 *which specifies the guidelines and objectives to be followed, including, without*
7 *limitation:*

8 (a) *A description of how cash received will be invested or used for general*
9 *corporate purposes of the insurer;*

10 (b) *Operational procedures to manage interest rate risk, counterparty default*
11 *risk, the conditions under which proceeds from reverse repurchase transactions*
12 *may be used in the ordinary course of business and the use of acceptable*
13 *collateral in a manner that reflects the liquidity needs of the transaction; and*

14 (c) *The extent to which the insurer may engage in these transactions.*

15 2. *The insurer shall enter into a written agreement for all transactions*
16 *authorized in this section other than dollar roll transactions. The written*
17 *agreement must require that each transaction terminate not more than 1 year*
18 *after its inception or upon the earlier demand of the insurer. The agreement must*
19 *be with the business entity counterparty, but for securities lending transactions,*
20 *the agreement may be with an agent acting on behalf of the insurer, if the agent*
21 *is a qualified business entity and if the agreement:*

22 (a) *Requires the agent to enter into separate agreements with each*
23 *counterparty that are consistent with the requirements of this section; and*

24 (b) *Prohibits securities lending transactions under the agreement with the*
25 *agent or its affiliates.*

26 3. *Cash received in a transaction entered into as described in this section*
27 *must be invested in accordance with the provisions of this chapter and in a*
28 *manner that recognizes the liquidity needs of the transaction or used by the*
29 *insurer for its general corporate purposes. For so long as the transaction remains*
30 *outstanding, the insurer, its agent or custodian shall maintain, as to acceptable*
31 *collateral received in a transaction entered into in accordance with this section,*
32 *either physically or through the book entry systems of the Federal Reserve, the*
33 *Depository Trust Company, the Participants Trust Company or any other*
34 *securities depositories approved by the Commissioner:*

35 (a) *Possession of the acceptable collateral;*

36 (b) *A perfected security interest in the acceptable collateral; or*

37 (c) *In the case of a jurisdiction outside of the United States, title to, or rights*
38 *of a secured creditor to, the acceptable collateral.*

39 4. *The limitations of sections 200, 201, 202 and 219 to 223, inclusive, of this*
40 *act do not apply to the business entity counterparty exposure created by*
41 *transactions entered into under this section. For purposes of calculations made to*
42 *determine compliance with this subsection, no effect will be given to the insurer's*
43 *future obligation to resell securities, in the case of a repurchase transaction, or to*
44 *repurchase securities, in the case of a reverse repurchase transaction. An insurer*
45 *shall not enter into a transaction under this section if, as a result of and after*
46 *giving effect to the transaction:*

47 (a) *The aggregate amount of securities loaned, sold to or purchased from*
48 *any one business entity counterparty under this section would exceed 5 percent of*
49 *its admitted assets. In calculating the amount sold to or purchased from a*
50 *business entity counterparty under repurchase or reverse repurchase*
51 *transactions, effect may be given to netting provisions contained within a master*
52 *written agreement.*

1 (b) The aggregate amount of all securities loaned, sold to or purchased from
2 all business entities under this section would exceed 40 percent of its admitted
3 assets.

4 ↪ The limitation in this subsection does not apply to reverse repurchase
5 transactions for so long as the borrowing is used to meet operational liquidity
6 requirements resulting from an officially declared catastrophe and subject to a
7 plan approved by the Commissioner.

8 5. In a securities lending transaction, the insurer shall receive acceptable
9 collateral having a market value on the transaction date, equal to 102 percent or
10 more of the market value of the securities loaned by the insurer in the transaction
11 on that date. If at any time the market value of the acceptable collateral is less
12 than the market value of the loaned securities, the business entity counterparty is
13 obligated to deliver additional acceptable collateral, the market value of which,
14 together with the market value of all acceptable collateral held in connection with
15 the transaction, equals 102 percent or more of the market value of the loaned
16 securities.

17 6. In a reverse repurchase transaction, other than a dollar roll transaction,
18 the insurer shall receive acceptable collateral having a market value on the
19 transaction date equal to 95 percent or more of the market value of the securities
20 transferred by the insurer in the transaction on that date. If at any time the
21 market value of the acceptable collateral is less than 95 percent of the market
22 value of the securities so transferred, the business entity counterparty is obligated
23 to deliver additional acceptable collateral, the market value of which, together
24 with the market value of all acceptable collateral held in connection with the
25 transaction, equals 95 percent or more of the market value of the transferred
26 securities.

27 7. In a dollar roll transaction, the insurer shall receive cash in an amount
28 equal to at least the market value of the securities transferred by the insurer in
29 the transaction on the transaction date.

30 8. In a repurchase transaction, the insurer shall receive as acceptable
31 collateral transferred securities having a market value equal to 102 percent or
32 more of the purchase price paid by the insurer for the securities. If at any time
33 the market value of the acceptable collateral is less than 100 percent of the
34 purchase price paid by the insurer, the business entity counterparty is obligated to
35 provide additional acceptable collateral, the market value of which, together with
36 the market value of all acceptable collateral held in connection with the
37 transaction, equals 102 percent or more of the purchase price. Securities
38 acquired by an insurer in a repurchase transaction must not be sold in a reverse
39 repurchase transaction, loaned in a securities lending transaction or otherwise
40 pledged.

41 9. To constitute acceptable collateral for the purposes of this section, a
42 letter of credit must have an expiration date beyond the term of the subject
43 transaction.

44 Sec. 219. Subject to the limitations of sections 200, 201 and 202 of this act,
45 an insurer may acquire foreign investments, or engage in investment practices
46 with persons of, or in, foreign jurisdictions, of substantially the same types as
47 those that an insurer is allowed to acquire pursuant to this chapter, other than of
48 the type allowed under section 204 of this act if, as a result of and after giving
49 effect to the investment:

50 1. The aggregate amount of foreign investments held by the insurer in
51 accordance with this section does not exceed 20 percent of its admitted assets;
52 and

1 2. *The aggregate amount of foreign investments held by the insurer in*
2 *accordance with this section in a single foreign jurisdiction does not exceed 10*
3 *percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt*
4 *rating of SVO 1 or 5 percent of its admitted assets as to any other foreign*
5 *jurisdiction.*

6 Sec. 220. 1. *Subject to the limitations of sections 200, 201 and 202 of this*
7 *act, an insurer may acquire investments, or engage in investment practices*
8 *denominated in foreign currencies, whether or not they are foreign investments*
9 *acquired as described in section 219 of this act, or additional foreign currency*
10 *exposure as a result of the termination or expiration of a hedging transaction*
11 *with respect to investments denominated in a foreign currency if:*

12 (a) *The aggregate amount of investments held by the insurer in accordance*
13 *with this section denominated in foreign currencies does not exceed 15 percent of*
14 *its admitted assets; and*

15 (b) *The aggregate amount of investments held by the insurer in accordance*
16 *with this section denominated in the foreign currency of a single foreign*
17 *jurisdiction does not exceed 10 percent of its admitted assets as to a foreign*
18 *jurisdiction that has a sovereign debt rating of SVO 1 or 5 percent of its admitted*
19 *assets as to any other foreign jurisdiction.*

20 2. *An investment must not be considered denominated in a foreign currency*
21 *if the acquiring insurer enters into one or more contracts in transactions allowed*
22 *under sections 224 to 228, inclusive, of this act and the business entity*
23 *counterparty agrees, in accordance with the contract or contracts, to exchange all*
24 *payments made on the foreign currency denominated investment for United*
25 *States currency at a rate which effectively insulates the investment cash flows*
26 *against future changes in currency exchange rates during the period the contract*
27 *or contracts are in effect.*

28 Sec. 221. *In addition to investments allowed under sections 219 and 220 of*
29 *this act, an insurer that is authorized to do business in a foreign jurisdiction, and*
30 *that has outstanding insurance, annuity or reinsurance contracts on lives or risks*
31 *resident or located in that foreign jurisdiction and denominated in foreign*
32 *currency of that jurisdiction, may acquire foreign investments respecting that*
33 *foreign jurisdiction, and may acquire investments denominated in the currency of*
34 *that jurisdiction, subject to the limitations of sections 200, 201 and 202 of this act.*
35 *Investments made in accordance with this section in obligations of foreign*
36 *governments, their political subdivisions and government-sponsored enterprises*
37 *are not subject to the limitations of sections 200, 201 and 202 of this act if those*
38 *investments carry an SVO rating of 1 or 2. The aggregate amount of investments*
39 *acquired by the insurer in accordance with this section must not exceed the*
40 *greater of:*

41 1. *The amount the insurer is required by law to invest in the foreign*
42 *jurisdiction; or*

43 2. *One hundred twenty-five percent of the amount if the insurer's reserves,*
44 *net of reinsurance and other obligations under the contracts.*

45 Sec. 222. *In addition to investments allowed under sections 219 and 220 of*
46 *this act, an insurer that is not authorized to do business in a foreign jurisdiction*
47 *but which has outstanding insurance, annuity or reinsurance contracts on lives*
48 *or risks resident or located in a foreign jurisdiction and denominated in foreign*
49 *currency of that jurisdiction, may acquire foreign investments respecting that*
50 *foreign jurisdiction, and may acquire investments denominated in the currency of*
51 *that jurisdiction subject to the limitations set forth in sections 200, 201 and 202 of*
52 *this act. Investments made in accordance with this section in obligations of*
53 *foreign governments, their political subdivisions and government-sponsored*

enterprises are not subject to the limitations of sections 200, 201 and 202 of this act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer in accordance with this section must not exceed 105 percent of the amount of the insurer's reserves, net of reinsurance, and other obligations under the contracts on risks resident or located in the foreign jurisdiction.

Sec. 223. Investments acquired in conformance with sections 219 to 223, inclusive, of this act must be aggregated with investments of the same types made under this chapter, and in a similar manner, for purposes of determining compliance with the limitations, if any, contained in this chapter. Investments in obligations of foreign governments, their political subdivisions and government-sponsored enterprises of these persons, except for those exempted in accordance with the provisions of sections 221 and 222 of this act, are subject to the limitations of sections 200, 201 and 202 of this act.

Sec. 224. An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions as described in sections 224 to 228, inclusive, of this act pursuant to the following conditions:

1. An insurer may use derivative instruments under sections 224 to 228, inclusive, of this act to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in regulations adopted by the Commissioner pursuant to section 158 of this act; and

2. An insurer must be able to demonstrate to the Commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analyses.

Sec. 225. An insurer may enter into hedging transactions under sections 224 to 228, inclusive, of this act if, as a result of and after giving effect to the transaction:

1. The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7.5 percent of its admitted assets;

2. The aggregate statement value of options, caps and floors written in hedging transactions does not exceed 3 percent of its admitted assets; and

3. The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions does not exceed 6.5 percent of its admitted assets.

Sec. 226. An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed 10 percent of its admitted assets:

1. Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms before the end of the noncallable period or derivative instruments based on fixed income securities;

2. Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold; or

3. Sales of covered puts on investments that the insurer is allowed to acquire pursuant to this chapter if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.

1 Sec. 227. *An insurer shall include all counterparty exposure amounts in*
2 *determining compliance with the limitations of sections 200, 201 and 202 of this*
3 *act.*

4 Sec. 228. *In accordance with the regulations adopted pursuant to section*
5 *158 of this act, the Commissioner may approve additional transactions involving*
6 *the use of derivative instruments in excess of the limits of section 225 of this act*
7 *or for other risk-management purposes, but replication transactions must not be*
8 *allowed for other than risk-management purposes.*

9 Sec. 229. *An insurer may acquire investments, or engage in investment*
10 *practices, in accordance with the provisions of this section and section 230 of this*
11 *act, of any kind that are not specifically prohibited by this chapter, or engage in*
12 *investment practices, without regard to any limitation in sections 200 to 223,*
13 *inclusive, of this act, but an insurer shall not acquire an investment or engage in*
14 *an investment practice in accordance with the provisions of this section and*
15 *section 230 of this act if, as a result of and after giving effect to the transaction,*
16 *the aggregate amount of the investments held by the insurer in accordance with*
17 *the provisions of this section and section 230 of this act would exceed the greater*
18 *of:*

19 1. *Its unrestricted surplus; or*

20 2. *The lesser of:*

21 (a) *Ten percent of its admitted assets; or*

22 (b) *Fifty percent of its surplus as regards policy holders.*

23 Sec. 230. *An insurer shall not acquire any investment or engage in any*
24 *investment practice in accordance with subsection 2 of section 229 of this act if,*
25 *as a result of and after giving effect to the transaction, the aggregate amount of*
26 *all investments in any one person held by the insurer in accordance with*
27 *subsection 1 of section 229 would exceed 5 percent of its admitted assets.*

28 Sec. 231. NRS 682A.020 is hereby amended to read as follows:

29 682A.020 ~~1.-1~~ Insurers may *acquire, hold or* invest in ~~for lend their funds~~
30 ~~on the security of, and may hold as invested assets, only eligible investments as~~
31 ~~prescribed in this chapter.~~

32 ~~2. Any particular investment held by an insurer on January 1, 1972, which~~
33 ~~was a legal investment at the time it was made, and which the insurer was legally~~
34 ~~entitled to possess immediately before January 1, 1972, shall be deemed to be an~~
35 ~~eligible investment.~~

36 ~~3. Any particular investment held by a successor organization to the State~~
37 ~~Industrial Insurance System that was established by section 79 of chapter 642,~~
38 ~~Statutes of Nevada 1981, at page 1449, which was a legal investment of the System~~
39 ~~made before January 1, 2000, and which the successor organization is legally~~
40 ~~entitled to possess on or after January 1, 2000, shall be deemed to be an eligible~~
41 ~~investment of the successor organization.~~

42 ~~4. Eligibility of an investment must be determined as of the date of its making~~
43 ~~or acquisition, except as stated in subsections 2 and 3.~~

44 ~~5. Any investment limitation based upon the amount of the insurer's assets or~~
45 ~~particular funds must relate to such assets or funds as shown by the insurer's annual~~
46 ~~statement as of December 31 next preceeding the date of acquisition of the~~
47 ~~investment by the insurer, or as shown by a current financial statement resulting~~
48 ~~from merger of another insurer, bulk reinsurance or change in capitalization.~~

49 ~~6. No insurer may pay any commission or brokerage for the purchase or sale~~
50 ~~of property in excess of that usual and customary at the time and in the locality~~
51 ~~where such purchases or sales are made, and complete information regarding all~~
52 ~~payments of commission and brokerage must be reported in the next annual~~
53 ~~statement.~~ *investments or engage in investment practices as set forth in this*

chapter. Investments not conforming to the provisions of this chapter are not admitted assets.

Sec. 232. NRS 682B.130 is hereby amended to read as follows:

682B.130 1. An alien insurer may use Nevada as a state of entry to transact insurance in the United States of America by making and maintaining in this state a deposit of assets in trust with a bank, credit union or trust company approved by the Commissioner.

2. The deposit, together with other trust deposits of the insurer held in the United States of America for the same purpose, must be in an amount not less than as required of an alien insurer under NRS 680A.140, deposit requirement in general, and must consist of United States money, public obligations of the government or states or political subdivisions of the United States of America, and obligations of corporations and institutions in the United States of America, all as eligible for the investment of money of domestic insurers under ~~NRS 682A.060, 682A.070 and 682A.080.~~ sections 159 to 193, inclusive, of this act.

3. Such a deposit may be referred to as "trusteed assets."

Sec. 233. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than ~~July 1 of each year,~~ 90 days after the expiration of the fiscal year of the administrator, or within such other period as the Commissioner may allow, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for ~~the most recently completed~~ that fiscal year. ~~of the administrator.~~ Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) A financial statement of the administrator that has been reviewed by an independent certified public accountant.

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the ~~most recently completed~~ fiscal year. ~~of the administrator.~~

(c) A statement regarding the total ~~consideration received~~ money handled by the administrator on behalf of contracted entities in connection with his or her activities as an administrator. The statement must be on a form prescribed or approved by the Commissioner for the purpose of calculating the amount of the bond required by NRS 683A.0857.

(d) Any other information required by the Commissioner.

3. ~~Has~~ Except as otherwise provided in subsection 4, in addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include ~~a columnar or combining worksheet~~ supplemental exhibits that:

(a) ~~Includes the amounts shown on the consolidated financial statement accompanying the annual report.~~ Have been reviewed by an independent certified public accountant; and

(b) ~~Separately sets forth the amounts for each entity included in the worksheet; and~~

~~(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.~~ Include a balance sheet and income statement for each holder of a certificate of registration as an administrator in this State.

4. In lieu of complying with the requirements set forth in paragraphs (a) and (b) of subsection 3, an administrator who is a wholly owned subsidiary of a parent company and who does not hold a certificate of registration in this State may submit to the Commissioner:

(a) The financial statement of the parent company that has been audited by an independent certified public accountant; and

(b) A parental guaranty that is signed by an officer of the parent company and which guarantees the financial solvency of the administrator.

5. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

~~5.4~~ 6. The Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 234. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; ~~and~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization ~~H~~; and

(d) Established and maintains a valid electronic mail address at the applicant's own expense.

3. A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; ~~and~~

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary ~~H~~; and

(c) Establish and maintain a valid electronic mail address.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

5. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 235. 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, the Commissioner 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 income.

(b) Accident and health insurance for sickness, bodily injury or accidental death, which may include benefits for disability income.

(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. For the purposes of a producer of insurance, this line of insurance includes surety indemnifying financial

1 institutions or providing bonds for fidelity, performance of contracts or financial
2 guaranty.

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

5 (f) Credit insurance, including credit life, credit accident and health, credit
6 property, credit involuntary unemployment, guaranteed asset protection, and any
7 other form of insurance offered in connection with an extension of credit that is
8 limited to wholly or partially extinguishing the obligation which the Commissioner
9 determines should be considered as limited-line credit insurance.

10 (g) Personal lines, consisting of automobile and motorcycle insurance and
11 residential property insurance, including coverage for flood, of personal watercraft
12 and of excess liability, written over one or more underlying policies of automobile
13 or residential property insurance.

14 (h) Fixed annuities, including, without limitation, indexed annuities, as a
15 limited line.

16 (i) Travel and baggage as a limited line.

17 (j) Rental car agency as a limited line.

18 (k) Portable electronics as a limited line.

19 (l) Crop as a limited line.

20 2. A license as a producer of insurance remains in effect unless revoked,
21 suspended or otherwise terminated if a request for a renewal is submitted on or
22 before the date for the renewal specified on the license, all applicable fees for
23 renewal and a fee established by the Commissioner of not more than \$15 for
24 deposit in the Insurance Recovery Account are paid for each license and each
25 authorization to transact business on behalf of a business organization licensed
26 pursuant to subsection 2 of NRS 683A.251, and any requirement for education or
27 any other requirement to renew the license is satisfied by the date specified on the
28 license for the renewal. A producer of insurance may submit a request for a renewal
29 of his or her license within 30 days after the date specified on the license for the
30 renewal if the producer of insurance otherwise complies with the provisions of this
31 subsection and pays, in addition to any fee paid pursuant to this subsection, a
32 penalty of 50 percent of all applicable renewal fees, except for any fee required
33 pursuant to NRS 680C.110. A license as a producer of insurance expires if the
34 Commissioner receives a request for a renewal of the license more than 30 days
35 after the date specified on the license for the renewal. A fee paid pursuant to this
36 subsection is nonrefundable.

37 3. A natural person who allows his or her license as a producer of insurance to
38 expire may reapply for the same license within 12 months after the date specified
39 on the license for a renewal without passing a written examination or completing a
40 course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a
41 penalty of twice all applicable renewal fees, except for any fee required pursuant to
42 NRS 680C.110, is required for any request for a renewal of the license that is
43 received after the date specified on the license for the renewal.

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

48 5. A license must state the licensee's name, address, personal identification
49 number, the date of issuance, the lines of authority and the date of expiration and
50 must contain any other information the Commissioner considers necessary. The
51 license must be made available for public inspection upon request.

52 6. A licensee shall inform the Commissioner of each change of business, ~~for~~
53 residence *or electronic mail* address, in writing or by other means acceptable to the

Commissioner, within 30 days after the change. If a licensee changes his or her business, ~~his~~ residence *or electronic mail* address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 236. NRS 683A.271 is hereby amended to read as follows:

683A.271 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a nonresident person if the nonresident person:

(a) Is currently licensed as a resident and in good standing in his or her home state;

(b) Has made the proper request for licensure and paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account;

(c) Has sent to the Commissioner the application for licensure that the nonresident person made in his or her home state, or a completed uniform application; ~~and~~

(d) Has a home state which issues nonresident licenses as producers of insurance to residents of this State pursuant to substantially the same procedure ~~+~~;

and
(e) *Establishes and maintains a valid electronic mail address at the applicant's own expense.*

2. The Commissioner may participate with the National Association of Insurance Commissioners or a subsidiary in a centralized registry in which licensing and appointment of producers of insurance may be effected for all states that require licensing and participate in the registry. If the Commissioner finds that participation is in the public interest, the Commissioner may adopt by regulation any uniform standards and procedures necessary for participation, including central collection of fees for licensing and appointment that are handled through the registry.

3. A nonresident producer who moves from one state to another state shall file a change of address and certification from the new state of residence within 30 days after the change of legal residence. No fee or application for license is required.

4. A nonresident licensed as a producer for surplus lines in his or her home state must be issued a nonresident license of that kind in this State pursuant to subsection 1, subject in all other respects to chapter 685A of NRS. A nonresident licensed as a producer for limited lines in his or her home state is entitled to a nonresident license of that kind in this State pursuant to subsection 1, granting the same scope of authority as the license issued in the home state. As used in this subsection, insurance for limited lines is authority granted by the home state which is restricted to less than the total authority prescribed for the associated major lines pursuant to NRS 683A.261.

5. A nonresident firm or corporation maintaining a physical business location in this State shall notify the Commissioner of each physical location in this State from which it transacts business. A nonresident firm or corporation shall maintain a list identifying the locations outside this State from which it transacts business and provide the list to the Commissioner upon request.

Sec. 237. NRS 683A.378 is hereby amended to read as follows:

683A.378 1. A person shall not conduct utilization review unless the person is:

(a) Registered with the Commissioner as an agent who performs utilization review and has a medical director who is a physician or, in the case of an agent who reviews dental services, a dentist, licensed in any state; or

(b) Employed by a registered agent who performs utilization review.

2. A person may apply for registration by filing with the Commissioner a \$250 fee and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 and the following information on a form provided by the Commissioner:

(a) The applicant's name, address, telephone number, *valid electronic mail address* and normal business hours;

(b) The name and telephone number of a person the Commissioner may contact for information concerning the applicant;

(c) The name of the medical director of the applicant and the state in which he or she is licensed to practice medicine or dentistry; and

(d) A summary of the plan for utilization review, including procedures for appealing determinations made through utilization review.

3. An agent who performs utilization review shall file with the Commissioner any material changes in the information provided pursuant to subsection 1 within 30 days after the change occurs.

4. The Commissioner shall not evaluate the plan submitted pursuant to paragraph (d) of subsection 2. The Commissioner shall make the plan available upon request and shall charge a reasonable fee for providing a copy of the plan.

5. Registration pursuant to this section must be renewed on or before March 1 of each year by providing the information specified in subsection 2 and paying a renewal fee of \$250 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

Sec. 238. NRS 683A.451 is hereby amended to read as follows:

683A.451 The Commissioner may refuse to issue a license or certificate pursuant to this chapter or may place any person to whom a license or certificate is issued pursuant to this chapter on probation, suspend the person for not more than 12 months, or revoke or refuse to renew his or her license or certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the following causes:

1. Providing incorrect, misleading, incomplete or partially untrue information in his or her application for a license.

2. Violating a law regulating insurance, or violating a regulation, order or subpoena of the Commissioner or an equivalent officer of another state.

3. Obtaining or attempting to obtain a license through misrepresentation or fraud.

4. Misappropriating, converting or improperly withholding money or property received in the course of the business of insurance.

5. Intentionally misrepresenting the terms of an actual or proposed contract of or application for insurance.

6. Conviction of a felony *or a crime which involves theft, fraud, dishonesty or moral turpitude.*

7. Admitting or being found to have committed an unfair trade practice or fraud.

8. Using fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business, *or otherwise*, in this State or elsewhere.

9. Denial, suspension or revocation of a license as a producer of insurance, or its equivalent, in any other state, territory or province.

10. Forging another's name to an application for insurance or any other document relating to the transaction of insurance.

11. Improperly using notes or other reference material to complete an examination for a license related to insurance.

12. Knowingly accepting business related to insurance from an unlicensed person.

13. Failing to comply with an administrative or judicial order imposing an obligation of child support.

14. Failing to pay a tax as required ~~pursuant to the provisions of chapter 363A of NRS~~ *by law.*

Sec. 239. NRS 686B.080 is hereby amended to read as follows:

686B.080 1. Except as otherwise provided in subsections 2 ~~and 3~~ *to 5, inclusive*, each filing and any supporting information filed under NRS 686B.010 to 686B.1799, inclusive, must, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

2. All ~~approved~~ rates for health benefit plans available for purchase by individuals *and small employers* are considered proprietary and ~~to~~ constitute trade secrets, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

3. The provisions of subsection 2 expire annually on the date 30 days before open enrollment.

4. *Except in cases of violations of NRS 689A.010 to 689A.740, inclusive, or 689C.015 to 689C.355, inclusive, the unified rate review template and rate filing documentation used by carriers servicing the individual and small employer markets are considered proprietary and constitute a trade secret, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.*

5. *An insurer providing blanket health insurance in accordance with the provisions of chapter 689B of NRS shall make all information concerning rates available to the Commissioner upon request. Such information is considered proprietary and constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside the Division except as agreed by the insurer or as ordered by a court of competent jurisdiction.*

6. For the purposes of this section ~~the "open~~ :

(a) *"Open* enrollment" has the meaning ascribed to it in 45 C.F.R. § 147.104(b)(1)(ii).

(b) *"Rate filing documentation" and "unified rate review template" have the meanings ascribed to them in 45 C.F.R. § 154.215.*

Sec. 240. Chapter 686C of NRS is hereby amended by adding thereto the provisions set forth as sections 241 to 246, inclusive, of this act.

Sec. 241. 1. *At any time within 180 days after the date of an order of liquidation, the Association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies or annuities covered, in whole or in part, by the Association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the Association. Any such assumption must be effective on the date of the order of liquidation. The election must be carried out by the Association sending written notice, return receipt requested, to the affected reinsurers.*

2. *To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and to protect the financial position of the estate, the receiver and each reinsurer of the ceding insurer shall make available*

1 upon request to the Association as soon as possible after commencement of
2 formal delinquency proceedings:

3 (a) Copies of in-force contracts of reinsurance and all related files and
4 records relevant to the determination of whether such contracts should be
5 assumed; and

6 (b) Notices of any defaults under the reinsurance contracts or any known
7 event or condition which with the passage of time could become a default under
8 the reinsurance contracts.

9 3. The following apply to reinsurance contracts assumed by the
10 Association:

11 (a) The Association is responsible for all unpaid premiums due pursuant to
12 the reinsurance contracts for periods both before and after the date of the order
13 of liquidation, and is responsible for the performance of all other obligations to
14 be performed after the date of the order of liquidation, in each case which relates
15 to policies or annuities covered, in whole or in part, by the Association. The
16 Association may charge policies or annuities covered in part by the Association,
17 through reasonable allocation methods, the costs for reinsurance in excess of the
18 obligations of the Association and shall provide notice and an accounting of
19 these changes to the liquidator.

20 (b) The Association may be entitled to any amounts payable by the reinsurer
21 pursuant to the reinsurance contracts with respect to losses or events that occur
22 in periods after the date of the order of liquidation and which relate to policies or
23 annuities covered, in whole or in part, by the Association, provided that, upon
24 receipt of any such amounts, the Association is obligated to pay to the
25 beneficiary, under the policy or annuity on account of which the amounts were
26 paid, a portion of the amount equal to the lesser of:

27 (1) The amount received by the Association; or

28 (2) The excess of the amount received by the Association over the
29 amount equal to the benefits paid by the Association on account of the policy or
30 annuity, less the retention of the insurer applicable to the loss or event.

31 (c) Within 30 days after the Association's election, the Association and each
32 reinsurer under the contracts assumed by the Association shall calculate the net
33 balance due to or from the Association pursuant to each reinsurance contract on
34 the election date with respect to policies or annuities covered, in whole or in part,
35 by the Association, which calculation must give full credit to all items paid by
36 either the insurer or its receiver or the reinsurer before the election date. The
37 reinsurer shall pay the receiver any amounts due for losses or events before the
38 date of the order of liquidation, subject to any set-off for premiums unpaid for
39 periods before the date, and the Association or reinsurer shall pay any remaining
40 balance due to the other, in each case within 5 days after the completion of the
41 aforementioned calculation. Any disputes over the amounts due to either the
42 Association or the reinsurer must be resolved by arbitration pursuant to the terms
43 of the affected reinsurance contracts or, if the contracts contain no arbitration
44 clause, as otherwise prescribed by law. If the receiver has received any amounts
45 due to the Association under paragraph (d), the receiver shall remit the same to
46 the Association as promptly as practicable.

47 (d) If the Association or receiver, on the Association's behalf, within 60 days
48 after the election date, pays the unpaid premiums due for periods both before and
49 after the election date that relate to policies or annuities covered, in whole or in
50 part, by the Association, the reinsurer is not entitled to terminate the reinsurance
51 contracts for failure to pay premiums insofar as the reinsurance contracts relate
52 to policies or annuities covered, in whole or in part, by the Association, and is not
53 entitled to set off any unpaid amounts due pursuant to the other contracts, or

unpaid amounts due from parties other than the Association, against amounts due to the Association.

Sec. 242. 1. During the period after the date of an order of liquidation until the election date, or, if the election date does not occur, until 180 days after the date of the order of liquidation:

(a) Neither the Association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the Association has the right to assume under section 241 of this act, whether for periods before or after the date of the order of liquidation.

(b) The reinsurer, the receiver and the Association shall, to the extent practicable, provide each other data and records as reasonably requested.

2. Once the Association has elected to assume a reinsurance contract, the parties' rights and obligations are governed by the provisions of section 241 of this act.

Sec. 243. If the Association does not elect to assume a reinsurance contract by the election date under section 241 of this act, the Association has no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.

Sec. 244. When policies or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies or annuities may also be transferred by the Association, in the case of contracts assumed under section 241 of this act, subject to the following:

1. Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred must not cover any new policies of insurance or annuities in addition to those transferred.

2. The obligations described in section 241 of this act no longer apply with respect to matters arising after the effective date of the transfer.

3. Notice must be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than 30 days before the effective date of the transfer.

Sec. 245. The provisions of sections 241 to 246, inclusive, of this act supersede the provisions of any state law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of an order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer pursuant to the reinsurance contracts with respect to losses or events that occur in periods before the date of the order of liquidation, subject to applicable set-off provisions.

Sec. 246. 1. Except as otherwise provided in NRS 686C.130 to 686C.226, inclusive, nothing in sections 241 to 246, inclusive, of this act shall alter or modify the terms and conditions of any reinsurance contract.

2. Nothing in this section shall:

(a) Abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract;

(b) Give a policyholder or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract;

(c) Limit or affect the Association's rights as a creditor of the estate against the assets of the estate; or

(d) Apply to reinsurance agreements covering property or casualty risks.

Sec. 247. NRS 686C.030 is hereby amended to read as follows:

686C.030 1. This chapter provides coverage for the policies or contracts described in subsection 4 to persons who are:

(a) Owners of or certificate holders under such policies or contracts, other than structured settlement annuities, and who:

(1) Are residents of this state; or

(2) Are not residents, but only if:

(I) The insurer that issued the policies or contracts is domiciled in this state;

(II) The states in which the persons reside have associations similar to the Association created by this chapter; and

(III) The persons are not eligible for coverage by an association in another state because the insurer was not authorized in the other state at the time specified in that state's law governing guaranty associations; and

(b) Beneficiaries, assignees or payees of the persons covered under paragraph (a), wherever they reside, except for nonresident certificate holders under group policies or contracts.

2. For structured settlement annuities, except as otherwise provided in subsection 3, this chapter provides coverage to a payee under the annuity, or beneficiary of a payee if the payee is deceased, if the payee or beneficiary:

(a) Is a resident of this state, regardless of the residence of the owner of the annuity; or

(b) Is not a resident of this state, but:

(1) The owner of the annuity is a resident of this state, or the issuer of the annuity is domiciled in this state and the state in which the owner resides has an association similar to the Association created by this chapter; and

(2) Neither the payee or beneficiary nor the owner of the annuity is eligible for coverage by the association of the state in which the payee, beneficiary or owner resides.

3. This chapter does not provide coverage for a payee or beneficiary of a structured settlement annuity if the owner of the annuity is a resident of this state and the payee or beneficiary is afforded any coverage by the association of another state. In determining the application of the provisions of this chapter to a situation where a person could be covered by the association of more than one state, this chapter must be construed in conjunction with the laws of other states to result in coverage by only one association.

4. This chapter provides coverage to the persons described in subsections 1 and 2 for direct, nongroup life, health and ~~supplemental~~ *annuity* policies or contracts, ~~and annuities, and~~ *for* certificates under direct group policies and contracts, and ~~annuities,~~ *for supplemental contracts to any of these, in each case issued by member insurers,* except as limited by this chapter.

Sec. 248. NRS 686C.090 is hereby amended to read as follows:

686C.090 "Impaired insurer" means ~~an~~ *a member* insurer which is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

Sec. 249. NRS 686C.095 is hereby amended to read as follows:

686C.095 "Insolvent insurer" means ~~an~~ *a member* insurer which is ordered to liquidate by a court of competent jurisdiction after a finding of insolvency.

Sec. 250. ~~NRS 686C.100 is hereby amended to read as follows:~~

~~686C.100 "Member insurer" means an insurer which is licensed or holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided in this chapter and includes an insurer whose license or certificate of authority in this state has been suspended, revoked, not renewed or voluntarily withdrawn. The term does not include:~~

~~1. A hospital or medical organization, whether or not for profit;~~

~~2. A health maintenance organization;~~

~~3.] A fraternal benefit society;~~
~~[4.] 2. A mandatory state pooling plan;~~
~~[5.] 3. A mutual assessment company or other person that operates on the basis of assessments;~~
~~[6.] 4. An insurance exchange;~~
~~[7.] 5. An organization that is authorized only to issue charitable gift annuities under NRS 688A.281 to 688A.285, inclusive; or~~
~~[8.] 6. An organization similar to any of those listed in subsections 1 to [7.] 5, inclusive.] (Deleted by amendment.)~~

Sec. 251. NRS 686C.110 is hereby amended to read as follows:

686C.110 "Premiums" means amounts received in any calendar year on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and credits for experience thereon. The term does not include:

1. Any amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under NRS 686C.030 except that the assessable premium is not reduced on account of paragraph (c) of subsection 1 of NRS 686C.035 relating to limitations on interest and subsection 2 or paragraph (b) of subsection 1 of NRS 686C.210 relating to limitations with respect to any one life.

2. Premiums for an unallocated annuity contract ~~H~~, *except those issued in accordance with the provisions of a governmental retirement plan, established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.*

3. Premiums that exceed \$5,000,000 for several nongroup policies of life insurance owned by one owner, regardless of:

(a) Whether the owner is a natural person, firm, corporation or other person;

(b) Whether any person insured under the policies is an officer, manager, employee or other person; or

(c) The number of policies or contracts held by the owner.

Sec. 252. NRS 686C.120 is hereby amended to read as follows:

686C.120 "Resident" means any person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be impaired or insolvent. ~~†, whichever determination is first made.~~ A person may be a resident of but one state, which in the case of a person other than a natural person is its principal place of business. A citizen of the United States who is a resident of a foreign country or of a territory or insular possession subject to the jurisdiction of the United States which does not have an association similar to the Association created by this chapter shall be deemed to be a resident of the state of domicile of the insurer that issued the policy or contract.

Sec. 253. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors of the Association shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~†\$300†~~ *\$500* for each member insurer for any 1 calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each

1 account or subaccount for the 3 most recent calendar years for which information is
2 available preceding the year in which the insurer became impaired or insolvent
3 bears to premiums received on business in this State for those calendar years by all
4 assessed member insurers.

5 4. Assessments for money to meet the requirements of the Association with
6 respect to an impaired or insolvent insurer must not be authorized or called until
7 necessary to carry out the purposes of this chapter. Classification of assessments
8 under subsection 2 of NRS 686C.230 and computation of assessments under this
9 section must be made with a reasonable degree of accuracy, recognizing that exact
10 determinations may not always be possible. The Association shall notify each
11 member insurer of its anticipated prorated share of an assessment authorized but not
12 yet called within 180 days after it is authorized.

13 **Sec. 254.** Chapter 687A of NRS is hereby amended by adding thereto a new
14 section to read as follows:

15 *“Assumed claims transaction” includes:*

16 1. *A policy obligation that has been assumed by an insolvent insurer, before*
17 *the entry of a final order of liquidation, through a merger between the insolvent*
18 *insurer and another entity obligated under the policy.*

19 2. *An assumption reinsurance transaction in which:*

20 (a) *The insolvent insurer assumed, before the entry of a final order of*
21 *liquidation, the claim or policy obligations of another insurer or entity obligated*
22 *under a claim or policy;*

23 (b) *The assumption of the claim or policy obligations has been approved by*
24 *the Commissioner, if such approval is required; and*

25 (c) *As a result of the assumption, the claim or policy obligation became the*
26 *direct obligation of the insolvent insurer through a novation of the claim or*
27 *policy.*

28 **Sec. 255.** NRS 687A.030 is hereby amended to read as follows:

29 687A.030 As used in this chapter, unless the context otherwise requires, the
30 words and terms defined in NRS 687A.031 to 687A.039, inclusive, *and section 254*
31 *of this act* have the meanings ascribed to them in those sections.

32 **Sec. 256.** NRS 687A.033 is hereby amended to read as follows:

33 687A.033 1. “Covered claim” means an unpaid claim or judgment,
34 including a claim for unearned premiums, which arises out of and is within the
35 coverage of an insurance policy to which this chapter applies ~~issued by an insurer~~
36 ~~which~~ *if the insurer* becomes an insolvent insurer, ~~if~~ *the policy was issued by the*
37 *insurer or assumed by the insurer in an assumed claims transaction, and* one of
38 the following conditions exists:

39 (a) The claimant or insured, if a natural person, is a resident of this State at the
40 time of the insured event.

41 (b) The claimant or insured, if other than a natural person, maintains its
42 principal place of business in this State at the time of the insured event.

43 (c) The property from which the first party property damage claim arises is
44 permanently located in this State.

45 (d) The claim is not a covered claim pursuant to the laws of any other state and
46 the premium tax imposed on the insurance policy is payable in this State pursuant
47 to NRS 680B.027.

48 2. The term does not include:

49 (a) An amount that is directly or indirectly due a reinsurer, insurer, insurance
50 pool or underwriting association, as recovered by subrogation, indemnity or
51 contribution, or otherwise.

52 (b) That part of a loss which would not be payable because of a provision for a
53 deductible or a self-insured retention specified in the policy.

(c) Except as otherwise provided in this paragraph, any claim filed with the Association:

(1) More than 18 months after the date of the order of liquidation; or

(2) After the final date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer,

whichever is earlier. The provisions of this paragraph do not apply to a claim for workers' compensation that is reopened pursuant to the provisions of NRS 616C.390 or 616C.392.

(d) A claim filed with the Association for a loss that is incurred but is not reported to the Association before the expiration of the period specified in subparagraph (1) or (2) of paragraph (c).

(e) An obligation to make a supplementary payment for adjustment or attorney's fees and expenses, court costs or interest and bond premiums incurred by the insolvent insurer before the appointment of a liquidator, unless the expenses would also be a valid claim against the insured.

(f) A first party or third party claim brought by or against an insured, if the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than \$25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer. The provisions of this paragraph do not apply to a claim for workers' compensation. As used in this paragraph, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 257. NRS 687B.420 is hereby amended to read as follows:

687B.420 ~~{An}~~

1. ~~{Except as provided in subsection 2, an}~~ An insurer shall not cancel, fail to renew or renew with altered terms a policy or contract issued pursuant to chapter 688B, 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS unless notice in writing of the proposal is given to the insured at least 60 days before the date the proposed action becomes effective. The notice must include, without limitation, any changes in specific rates by line of coverage.

2. ~~An insurer shall not cancel, fail to renew or renew with altered terms~~ an individual health benefit plan that is not grandfathered pursuant to applicable law unless notice in writing of the proposal is given to the insured at least 30 days before the beginning of the open enrollment period described in NRS 686B.080. The notice must include the specific changes in terms or rates, as applicable.

Sec. 258. NRS 688A.305 is hereby amended to read as follows:

688A.305 1. This section applies to all policies issued on or after January 1, 1987.

Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary must be in an amount which does not differ by more than two-tenths of 1 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(a) The greater of zero and the basic cash value specified in this section; and

(b) The present value of any existing paid-up additions less the amount of any indebtedness to the ~~insurer,~~ company under the policy.

2. The basic cash value must be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the ~~insurer,~~ company, if there had been no default, less the present value of the

nonforfeiture factors, ~~for corresponding to premiums which would have fallen due on and after the anniversary~~ as defined in NRS 688A.290 to 688A.360, inclusive. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in this section or NRS 688A.300 or 688A.320, whichever is applicable, must be the same as the effects specified in this section or NRS 688A.300 or 688A.320, on the cash surrender values defined in ~~that~~ the applicable section.

3. The nonforfeiture factor for each policy year must be an amount equal to a percentage of the adjusted premium for the policy year, as defined in NRS 688A.320 or 688A.325, whichever is applicable. Except as is required in this subsection, the percentage must be:

(a) The same for each policy year between the second policy anniversary and the later of:

(1) The fifth policy anniversary; and

(2) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of 1 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(b) Such that no percentage after the later of the two policy anniversaries specified in paragraph (a) may apply to fewer than 5 consecutive policy years.

➤ No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in NRS 688A.320 or 688A.325, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

4. All adjusted premiums and present values referred to in this section for a particular policy must be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with NRS 688A.290 to 688A.360, inclusive. The cash surrender values referred to in this section must include any endowment benefits provided for by the policy.

5. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment must be determined by methods consistent with those specified for determining the analogous minimum amounts in NRS 688A.290 688A.300, 688A.310, 688A.325 and 688A.350. ~~to 688A.340, inclusive.~~ The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in paragraphs (a) to (f), inclusive, of subsection 4 of NRS 688A.350, must conform with the principles of this section.

Sec. 259. ~~NRS 688A.315 is hereby amended to read as follows:~~

~~688A.315 1. In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in NRS 688A.290 to 688A.340, inclusive:~~

~~[1.] (a) The Commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by NRS 688A.290 to 688A.340, inclusive;~~

~~[2.] (b) The Commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and~~

~~[2.] (e) The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of the Standard Nonforfeiture Law for Life Insurance, as determined by regulations adopted by the Commissioner.~~

~~2. Notwithstanding any other provision of the laws of this State, any policy, contract or certificate providing life insurance under any plan must be approved affirmatively by the Commissioner before it can be marketed, issued for delivery, delivered or used in this State. (Deleted by amendment.)~~

Sec. 259.5. NRS 688A.325 is hereby amended to read as follows:

688A.325 1. This section applies to all policies issued by an insurer on or after the operative date of this section as it relates to that insurer. Except as otherwise provided in subsection 7, the adjusted premiums for any policy must be calculated on an annual basis and be the uniform percentage of the respective premium specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits. The present value, at the date of issue of the policy, of all adjusted premiums must be equal to the sum of:

(a) The value of the future guaranteed benefits provided for by the policy;

(b) One percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(c) One hundred twenty-five percent of the nonforfeiture net level premium. In applying the percentage specified in paragraph (c), no nonforfeiture net level premium may be deemed to exceed 4 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section must be the date as of which the rated age of the insured is determined.

2. The nonforfeiture net level premium must be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

3. In the case of policies which cause unscheduled changes in benefits or premiums on a basis guaranteed in the policy, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values must initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values must be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

4. Except as otherwise provided in subsection 7, the recalculated future adjusted premiums for any such policy must be a uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, which results in the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums

1 being equal to the excess of the sum of the present value of the future guaranteed
2 benefits provided for by the policy and the additional expense allowance, if any,
3 over the cash surrender value, if any, or present value of any paid-up nonforfeiture
4 benefit under the policy.

5 5. The additional expense allowance, at the time of the change to the newly
6 defined benefits or premiums, must be the sum of:

7 (a) One percent of the excess, if positive, of the average amount of insurance at
8 the beginning of each of the first 10 policy years after the change, over the average
9 amount of insurance before the change at the beginning of each of the first 10
10 policy years after the most recent previous change, or, if there has been no previous
11 change, the date of issue of the policy; and

12 (b) One hundred twenty-five percent of the increase, if positive, in the
13 nonforfeiture net level premium.

14 6. The recalculated nonforfeiture net level premium must be equal to the
15 result obtained by dividing amount "A" by amount "B" where:

16 (a) "A" equals the sum of:

17 (1) The nonforfeiture net level premium applicable before the change,
18 multiplied by the present value of an annuity of one per annum payable on each
19 anniversary of the policy on or after the date of the change on which a premium
20 would have fallen due if the change had not occurred; and

21 (2) The present value of the increase in future guaranteed benefits provided
22 for by the policy.

23 (b) "B" equals the present value of an annuity of one per annum payable on
24 each anniversary of the policy on or after the date of change on which a premium
25 falls due.

26 7. In the case of a policy issued on a substandard basis which provides
27 reduced graded amounts of insurance so that, in each policy year, the policy has the
28 same tabular mortality cost as an otherwise similar policy issued on the standard
29 basis which provides higher uniform amounts of insurance, adjusted premiums and
30 present values for the substandard policy may be calculated as if it were issued to
31 provide the higher uniform amounts of insurance on the standard basis.

32 8. All adjusted premiums and present values referred to in NRS 688A.290 to
33 688A.360, inclusive, must be calculated for all policies of ordinary insurance on the
34 basis of the Commissioners 1980 Standard Ordinary Mortality Table or, at the
35 election of the insurer for any one or more specified plans of life insurance, the
36 Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select
37 Mortality Factors; all policies of industrial insurance must be calculated on the
38 basis of the Commissioners 1961 Standard Industrial Mortality Table; and all
39 policies issued in a particular calendar year must be calculated on the basis of a rate
40 of interest not exceeding the nonforfeiture interest rate established in this section
41 for policies issued in that calendar year, except as follows:

42 (a) At the option of the insurer, calculations for all policies issued in a
43 particular calendar year may be made on the basis of a rate of interest not exceeding
44 the nonforfeiture interest rate, established in this section, for policies issued in the
45 immediately preceding calendar year.

46 (b) Under any paid-up nonforfeiture benefit, including any paid-up dividend
47 additions, any cash surrender value available, whether or not required by NRS
48 688A.290, must be calculated on the basis of the mortality table and rate of interest
49 used in determining the amount of the paid-up nonforfeiture benefit and paid-up
50 dividend additions, if any.

51 (c) An insurer may calculate the amount of any guaranteed paid-up
52 nonforfeiture benefit including any paid-up additions under the policy on the basis

of an interest rate which is not lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(e) For insurance issued on a substandard basis or a special underwriting basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of the tables specified in this subsection.

(f) ~~Any~~ For policies issued:

(1) Before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, any Commissioners Standard ordinary mortality tables which are adopted after 1980 by the National Association of Insurance Commissioners and are approved by a regulation adopted by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(2) On or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the Valuation Manual must set forth the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the Valuation Manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard specified in the Valuation Manual.

(g) ~~Any~~ For policies issued:

(1) Before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, any Commissioners Standard industrial mortality tables which are adopted after 1980 by the National Association of Insurance Commissioners and are approved by a regulation adopted by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(2) On or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the Valuation Manual must set forth the Commissioners Standard industrial mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the Valuation Manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard specified in the Valuation Manual.

9. ~~The~~ For the purposes of this section:

(a) For policies issued before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the nonforfeiture interest rate for any policy issued in a particular calendar year must be equal to ~~125~~ the greater of:

(1) One hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law, rounded to the nearer one-fourth of 1 percent.

(2) Four percent.

(b) For policies issued on or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be as specified in the Valuation Manual.

10. Any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

11. After July 1, 1983, any insurer may file with the Commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989. A date so specified is the operative date of this section for that insurer. If an insurer makes no election, the operative date of this section for that insurer is January 1, 1989.

12. As used in this section, "Valuation Manual" has the meaning ascribed to it in section 32 of this act.

Sec. 260. NRS 688A.390 is hereby amended to read as follows:

688A.390 1. A domestic life insurer may establish one or more separate accounts, and may allocate thereto amounts (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life insurance or annuities (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

(a) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the company.

(b) Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in paragraph (c):

(1) Amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; and

(2) The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(c) Except with the approval of the Commissioner and under such conditions as to investments and other matters as the Commissioner may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for:

(1) Benefits guaranteed as to dollar amount and duration; and

(2) Funds guaranteed as to principal amount or stated rate of interest,

shall not be maintained in a separate account.

(d) Unless otherwise approved by the Commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; but unless otherwise approved by the Commissioner, the portion if any of the assets of such separate account equal to the company's reserve liability with regard to the

1 guaranteed benefits and funds referred to in paragraph (c) shall be valued in
2 accordance with the rules otherwise applicable to the company's assets.

3 (e) Amounts allocated to a separate account in the exercise of the power
4 granted by this section shall be owned by the company, and the company shall not
5 be, nor hold itself out to be, a trustee with respect to such amounts. If and to the
6 extent so provided under the applicable contracts, that portion of the assets of any
7 such separate account equal to the reserves and other contract liabilities with
8 respect to such account shall not be chargeable with liabilities arising out of any
9 other business the company may conduct.

10 (f) No sale, exchange or other transfer of assets may be made by a company
11 between any of its separate accounts or between any other investment account and
12 one or more of its separate accounts unless, in case of a transfer into a separate
13 account, such transfer is made solely to establish the account pursuant to subsection
14 6 or to support the operation of the contracts with respect to the separate account to
15 which the transfer is made, and unless such transfer, whether into or from a separate
16 account, is made:

17 (1) By a transfer of cash; or

18 (2) By a transfer of securities having a readily determinable market value,
19 provided that such transfer of securities is approved by the Commissioner.

20 ➤ The Commissioner may approve other transfers among such accounts if, in the
21 opinion of the Commissioner, such transfers would not be inequitable.

22 (g) To the extent such company deems it necessary to comply with any
23 applicable federal or state laws, such company, with respect to any separate
24 account, including without limitation any separate account which is a management
25 investment company or a unit investment trust, may provide for persons having an
26 interest therein appropriate voting and other rights and special procedures for the
27 conduct of the business of such account, including without limitation special rights
28 and procedures relating to investment policy, investment advisory services,
29 selection of independent public accountants and the selection of a committee, the
30 members of which need not be otherwise affiliated with such company, to manage
31 the business of such account.

32 2. Any contract providing benefits payable in variable amounts delivered or
33 issued for delivery in this state, including a group contract and any certificate issued
34 thereunder, shall contain a statement of the essential features of the procedures to
35 be followed by the insurance company in determining the dollar amount of such
36 variable benefits. Any such contract under which the benefits vary to reflect
37 investment experience, including a group contract and any certificate in evidence of
38 variable benefits issued thereunder, shall state that such dollar amount will so vary
39 and shall contain on its first page a statement to the effect that the benefits
40 thereunder are on a variable basis.

41 3. No company shall deliver or issue for delivery within this state variable
42 contracts unless it is licensed or organized to do a life insurance or annuity business
43 in this state, and the Commissioner is satisfied that its condition or method of
44 operation in connection with the issuance of such contracts will not render its
45 operation hazardous to the public or its policyholders in this state. In this
46 connection, the Commissioner shall consider among other things:

47 (a) The history and financial condition of the company;

48 (b) The character, responsibility and fitness of the officers and directors of the
49 company; and

50 (c) The law and regulations under which the company is authorized in the state
51 of domicile to issue variable contracts.

52 ➤ If the company is a subsidiary of an admitted life insurance company, or
53 affiliated with such company through common management or ownership, it may

be deemed by the Commissioner to have met the provisions of this subsection if either it or the parent or the affiliated company meets the requirements hereof.

4. Notwithstanding any other provision of law, the Commissioner has sole authority to regulate the issuance and sale of variable contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this section.

5. Except for NRS 688A.190, 688A.240 and 688A.250 in the case of a variable annuity contract and NRS 688A.060, 688A.110, 688A.120, 688A.130, 688A.290 to 688A.360, inclusive, and 688B.050 in the case of a variable life insurance policy and except as otherwise provided in this Code, all pertinent provisions of this Code shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain grace, reinstatement and nonforfeiture provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery in this state, shall contain grace and reinstatement provisions appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

6. A domestic life insurer which establishes one or more separate accounts pursuant to this section may participate therein by allocating and contributing to such separate account funds which otherwise might be invested pursuant to ~~subsection 1 of NRS 682A.050 and NRS 682A.110.~~ *sections 164 and 201 of this act.* The insurer shall have a proportionate interest in any such account, along with all other participating contract holders, to the extent of its participation therein. ~~†, and with respect thereto shall also be subject to all the provisions of NRS 682A.210 applicable to separate account contract holders generally. ‡~~ The aggregate amount so allocated or contributed by such an insurer to one or more separate accounts shall not, without the consent of the Commissioner, exceed the greater of:

(a) One hundred thousand dollars;

(b) One percent of its admitted assets as of December 31 next preceding; or

(c) Five percent of its surplus as to policyholders as of December 31 next preceding.

➤ All funds allocated or contributed by the insurer to a separate account for the purpose of participation therein shall be included in applying the limitations upon investments otherwise specified in this Code. The insurer shall be entitled to withdraw at any time in whole or in part its participation in any separate account to which funds have been allocated or contributed and to receive upon withdrawal its proportional share of the value of the assets of the separate account at the time of withdrawal.

Sec. 261. NRS 689A.700 is hereby amended to read as follows:

689A.700 The Commissioner may adopt regulations to carry out the provisions of this section and NRS 689A.690 ~~and 689A.695~~ and to ensure that the practices used by individual carriers relating to the establishment of rates are consistent with the purposes of NRS 689A.470 to 689A.740, inclusive.

Sec. 262. NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, a plan for coverage of a bona fide association must:

1. Conform with NRS 689A.690 ~~†, 689A.695~~ and 689A.700 concerning rates.

2. Provide for the renewability of coverage for members of the bona fide association, and their dependents, if such coverage meets the criteria set forth in NRS 689A.630.

1 **Sec. 263.** NRS 690B.023 is hereby amended to read as follows:
2 690B.023 If insurance for the operation of a motor vehicle required pursuant
3 to NRS 485.185 is provided by a contract of insurance, the insurer shall:

4 1. Provide evidence of insurance , *which may be provided in paper or*
5 *electronic format*, to the insured on a form *or in a format* approved by the
6 Commissioner. The evidence of insurance must include:

- 7 (a) The name and address of the policyholder;
8 (b) The name and address of the insurer;
9 (c) Vehicle information, consisting of:

10 (1) The year, make and complete identification number of the insured
11 vehicle or vehicles; or

12 (2) The word "Fleet" and the name of the registered owner if the vehicle is
13 covered under a fleet policy written on an any auto basis or blanket policy basis;

14 (d) The term of the insurance, including the day, month and year on which the
15 policy:

16 (1) Becomes effective; and

17 (2) Expires;

18 (e) The number of the policy;

19 (f) A statement that the coverage meets the requirements set forth in NRS
20 485.185; and

21 (g) The statement "This ~~leard~~ *evidence of insurance* must be carried in the
22 insured motor vehicle for production upon demand." The statement must be
23 prominently displayed.

24 2. Provide new evidence of insurance if:

25 (a) The information regarding the insured vehicle or vehicles required pursuant
26 to paragraph (c) of subsection 1 no longer is accurate;

27 (b) An additional motor vehicle is added to the policy;

28 (c) A new number is assigned to the policy; or

29 (d) The insured notifies the insurer that the original evidence of insurance has
30 been lost.

31 **Sec. 264.** Chapter 692C of NRS is hereby amended by adding thereto the
32 provisions set forth as sections 265 to 289, inclusive, of this act.

33 **Sec. 265.** *"Insurance group" means, for the purpose of conducting an*
34 *ORSA, those insurers and affiliates included within an insurance holding*
35 *company system.*

36 **Sec. 266.** *"NAIC" means the National Association of Insurance*
37 *Commissioners.*

38 **Sec. 267.** *"Own Risk and Solvency Assessment" or "ORSA" means a*
39 *confidential internal assessment, appropriate to the nature, scale and complexity*
40 *of an insurer or insurance group, conducted by that insurer or insurance group,*
41 *of the material and relevant risks associated with the insurer or insurance*
42 *group's current business plan, and the sufficiency of capital resources to support*
43 *those risks.*

44 **Sec. 268.** *"ORSA Guidance Manual" means the current version of the*
45 *NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual developed*
46 *and adopted by the NAIC, as amended. A change in the ORSA Guidance Manual*
47 *is effective on the first day of January following the calendar year in which the*
48 *changes were adopted by the NAIC.*

49 **Sec. 269.** *"ORSA Summary Report" means a confidential high-level*
50 *summary of an ORSA.*

51 **Sec. 270.** *An insurer shall maintain a risk management framework to assist*
52 *the insurer with identifying, assessing, monitoring, managing and reporting on*
53 *its material relevant risks. This requirement shall be deemed satisfied if the*

1 *insurance group of which the insurer is a member maintains a risk management*
2 *framework applicable to the operations of the insurer.*

3 *Sec. 271. Subject to the provisions of sections 275 to 280, inclusive, of this*
4 *act, an insurer, or the insurance group of which the insurer is a member, shall*
5 *regularly conduct an ORSA consistent with a process comparable to that set forth*
6 *in the ORSA Guidance Manual. An ORSA must be conducted not less than*
7 *annually but also at any time when there are significant changes to the risk*
8 *profile of the insurer or the insurance group of which the insurer is a member.*

9 *Sec. 272. Upon the request of the Commissioner, and not more than once*
10 *each year, an insurer shall submit to the Commissioner an ORSA Summary*
11 *Report or any combination of reports that together contain the information*
12 *described in the ORSA Guidance Manual, applicable to the insurer and the*
13 *insurance group of which the insurer is a member. Notwithstanding any request*
14 *from the Commissioner, if the insurer is a member of an insurance group, the*
15 *insurer shall submit the report required by this section if the Commissioner is the*
16 *lead state commissioner of the insurance group as determined by the procedures*
17 *within the Financial Analysis Handbook, published by the NAIC.*

18 *Sec. 273. The report required by section 272 of this act must include a*
19 *signature of the insurer or insurance group's chief risk officer, or other executive*
20 *having responsibility for the oversight of the insurer's enterprise risk*
21 *management process, attesting to the best of his or her belief and knowledge that*
22 *the insurer applies the enterprise risk management processes described in the*
23 *ORSA Summary Report and that a copy of the Report has been provided to the*
24 *insurer's board of directors or the appropriate committee thereof.*

25 *Sec. 274. An insurer may comply with the requirements of section 272 of*
26 *this act by providing the most recent and substantially similar report provided by*
27 *the insurer or another member of an insurance group of which the insurer is a*
28 *member to the commissioner of another state or to a supervisor or regulator of a*
29 *foreign jurisdiction, if that report provides information that is comparable to the*
30 *information described in the ORSA Guidance Manual. Any such report in a*
31 *language other than English must be accompanied by a translation of that report*
32 *into the English language.*

33 *Sec. 275. An insurer is exempt from the requirements of sections 270 to*
34 *289, inclusive, of this act, if:*

35 *1. The insurer has annual direct written and unaffiliated assumed*
36 *premiums, including international direct and assumed premiums, but excluding*
37 *premiums reinsured with the Federal Crop Insurance Corporation and the*
38 *National Flood Insurance Program, of less than \$500,000,000; and*

39 *2. The insurance group of which the insurer is a member has annual direct*
40 *written and unaffiliated assumed premiums, including international direct and*
41 *assumed premiums but excluding premiums reinsured with the Federal Crop*
42 *Insurance Corporation and the National Federal Flood Insurance Program, of*
43 *less than \$1 billion.*

44 *Sec. 276. If an insurer qualifies for an exemption pursuant to subsection 1*
45 *of section 275 of this act and the insurance group of which the insurer is a*
46 *member does not qualify for an exemption pursuant to subsection 2 of that*
47 *section, the ORSA Summary Report that may be required under sections 272, 273*
48 *and 274 of this act must include every insurer within the insurance group. This*
49 *requirement shall be deemed satisfied by the submission of more than one ORSA*
50 *Summary Report for any combination of insurers, provided that any combination*
51 *of reports includes every insurer within the insurance group.*

52 *Sec. 277. If an insurer does not qualify for an exemption pursuant to*
53 *subsection 1 of section 275 of this act and the insurance group of which the*

insurer is a member qualifies for an exemption pursuant to subsection 2 of that section, the ORSA Summary Report that may be required under sections 272, 273 and 274 of this act is the report applicable to that insurer.

Sec. 278. An insurer that does not qualify for an exemption pursuant to section 275 of this act may apply to the Commissioner for a waiver from the requirements of sections 270 to 289, inclusive, of this act based on unique circumstances. In deciding whether to grant the insurer's request for a waiver, the Commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the Commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the Commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

Sec. 279. Notwithstanding the provisions of sections 275 to 278, inclusive, of this act:

1. The Commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report based on unique circumstances, including, without limitation, the type and volume of business written, ownership and organizational structure, federal agency requests and international supervisor requests.

2. The Commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report if the insurer has risk-based capital for company action level event, as defined in regulations adopted by the Commissioner, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, as defined in NRS 680A.205, or otherwise exhibits qualities of a troubled insurer as determined by the Commissioner.

Sec. 280. If an insurer that qualifies for an exemption pursuant to section 275 of this act subsequently no longer qualifies for that exemption as a result of changes in premium as reflected in the insurer's most recent annual statement, or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have 1 year after the date on which the threshold is exceeded to comply with the requirements of sections 270 to 289, inclusive, of this act.

Sec. 281. An ORSA Summary Report must be prepared consistent with the ORSA Guidance Manual, subject to the requirements of this section and section 282 of this act. Documentation and supporting information must be maintained and made available upon examination or upon request of the Commissioner.

Sec. 282. The review of an ORSA Summary Report, and any additional requests for information, must be made using similar procedures currently used in analysis and examination of multistate or global insurers and insurance groups.

Sec. 283. 1. Except as otherwise provided in this section and NRS 239.0115 and section 273 of this act, any documents, materials and other information, including an ORSA Summary Report, in the possession of or control of the Division that are obtained by, created by or disclosed to the Commissioner or any other person in accordance with the provisions of sections 270 to 289, inclusive, of this act are proprietary and constitute trade secrets. All such documents, materials or other information are:

- (a) Confidential by law and privileged;
- (b) Not subject to subpoena; and

1 (c) *Not subject to discovery or admissible in evidence in any private civil*
2 *action.*

3 2. *Notwithstanding any provision of subsection 1 to the contrary, the*
4 *Commissioner is authorized to use the documents, materials or other information*
5 *in the furtherance of any regulatory or legal action brought as a part of the*
6 *Commissioner's official duties. The Commissioner shall not otherwise make the*
7 *documents, materials or other information public without the prior written*
8 *consent of the insurer.*

9 Sec. 284. *Neither the Commissioner, nor any other person who received*
10 *documents, materials or other information received pursuant to sections 270 to*
11 *289, inclusive, of this act, through examination or otherwise, while acting*
12 *pursuant to the authority of the Commissioner or with whom such documents,*
13 *materials and other information are shared in accordance with the provisions of*
14 *those sections, is allowed or required to testify in any private civil action*
15 *concerning any such documents, materials and information subject to section*
16 *283 of this act.*

17 Sec. 285. *To assist the performance of the Commissioner's regulatory*
18 *duties, the Commissioner:*

19 1. *May, upon request, share documents, materials and other information*
20 *received pursuant to sections 270 to 289, inclusive, of this act, including, without*
21 *limitation, any documents, materials and information subject to section 283 of*
22 *this act and any proprietary and trade secret documents and materials, with other*
23 *state, federal and international financial regulatory agencies, including members*
24 *of any supervisory college, as defined in NRS 692C.359, with the NAIC and with*
25 *third-party consultants designated by the Commissioner, provided that the*
26 *recipient agrees in writing to maintain the confidentiality and privileged status of*
27 *the documents, materials and other information received pursuant to sections 270*
28 *to 289, inclusive, of this act and has verified in writing the legal authority to*
29 *maintain confidentiality; and*

30 2. *May receive documents, materials and other information received*
31 *pursuant to sections 270 to 289, inclusive, of this act, including, without*
32 *limitation, documents, materials and information which are otherwise*
33 *confidential and privileged, and proprietary and trade secret information or*
34 *documents, from regulatory officials of other foreign or domestic jurisdictions,*
35 *including members of any supervisory college, as defined in NRS 692C.359, and*
36 *from the NAIC, and shall maintain as confidential or privileged any such*
37 *documents, materials and information received with notice or the understanding*
38 *that it is confidential or privileged under the laws of the jurisdiction that is the*
39 *source of the document, material or information.*

40 3. *Shall enter into a written agreement with the NAIC or a third-party*
41 *consultant governing the sharing and use of information provided pursuant to*
42 *sections 270 to 289, inclusive, of this act, that must:*

43 (a) *Specify procedures and protocols regarding the confidentiality and*
44 *security of the information shared with the NAIC or third-party consultant,*
45 *including procedures and protocols for sharing by the NAIC with other state*
46 *regulators from states in which the insurance group has domiciled insurers. The*
47 *agreement must provide that the recipient agrees to maintain the confidentiality*
48 *and privileged status of the documents, materials and other information and has*
49 *verified, in writing, the legal authority to maintain confidentiality;*

50 (b) *Specify that ownership of the information shared with the NAIC or third-*
51 *party consultant remains with the Commissioner and use of the information by*
52 *the NAIC or third-party consultant is subject to the discretion of the*
53 *Commissioner;*

1 (c) *Prohibit the NAIC or third-party consultant from storing the information*
2 *in a permanent database after the underlying analysis is completed;*

3 (d) *Require prompt notice to be given to an insurer whose confidential*
4 *information in the possession of the NAIC or third-party consultant is subject to*
5 *a request or subpoena to the NAIC or a third-party consultant for disclosure or*
6 *production;*

7 (e) *Require the NAIC or third-party consultant to consent to intervention by*
8 *an insurer in any judicial or administrative action in which the NAIC or third-*
9 *party consultant may be required to disclose confidential information about the*
10 *insurer shared with the NAIC or third-party consultant; and*

11 (f) *In the case of an agreement involving a third-party consultant, provide*
12 *for the insurer's written consent.*

13 Sec. 286. *The sharing of documents, materials and other information by*
14 *the Commissioner pursuant to sections 270 to 289, inclusive, of this act does not*
15 *constitute a delegation of regulatory authority or rulemaking, and the*
16 *Commissioner is solely responsible for the administration, execution and*
17 *enforcement of the provisions of sections 270 to 289, inclusive, of this act.*

18 Sec. 287. *No waiver of any applicable privilege or claim of confidentiality*
19 *in the documents, proprietary and trade secrets materials or other information*
20 *shall occur as a result of the disclosure of such documents, materials and*
21 *information to the Commissioner in accordance with the provisions of sections*
22 *283 to 288, inclusive, of this act or as a result of sharing as authorized in*
23 *accordance with the provisions of sections 270 to 289, inclusive, of this act.*

24 Sec. 288. *Documents, materials or other information in the possession or*
25 *control of the NAIC or a third-party consultant in accordance with the provisions*
26 *of sections 270 to 289, inclusive, of this act are:*

- 27 1. *Confidential by law and privileged;*
- 28 2. *Not subject to the provisions of chapter 239 of NRS;*
- 29 3. *Not subject to subpoena; and*
- 30 4. *Not subject to discovery or admissible in evidence in any private civil*
31 *action.*

32 Sec. 289. 1. *The failure to file an ORSA Summary Report required by*
33 *sections 270 to 289, inclusive, of this act, within the time specified for the filing is*
34 *a violation of those sections.*

35 2. *Except as otherwise provided in subsection 3, if an insurer or group*
36 *insurer fails, without just cause, to file an ORSA Summary Report required by*
37 *sections 270 to 289, inclusive, of this act, the insurer or group insurer, as*
38 *applicable, shall, after receiving notice and a hearing, pay a civil penalty of*
39 *\$1,500 for each day the insurer or group insurer fails to file the ORSA Summary*
40 *Report. The civil penalty may be recovered in a civil action brought by the*
41 *Commissioner. Any civil penalty paid pursuant to this subsection must be*
42 *deposited in the State General Fund.*

43 3. *The maximum civil penalty that may be imposed pursuant to subsection 2*
44 *is \$100,000. The Commissioner may reduce the amount of the civil penalty if the*
45 *insurer or group insurer demonstrates to the satisfaction of the Commissioner*
46 *that the payment of the civil penalty would impose a financial hardship on the*
47 *insurer or group insurer, as applicable.*

48 Sec. 290. NRS 692C.020 is hereby amended to read as follows:

49 692C.020 As used in this chapter, unless the context otherwise requires, the
50 words and terms defined in NRS 692C.025 to 692C.110, inclusive, *and sections*
51 *265 to 269, inclusive, of this act* have the meanings ascribed to them in those
52 sections.

1 **Sec. 291.** NRS 692C.180 is hereby amended to read as follows:

2 692C.180 1. No person other than the issuer may make a tender for or a
3 request or invitation for tenders of, or enter into any agreement to exchange
4 securities for, seek to acquire or acquire in the open market or otherwise, any voting
5 security of a domestic insurer if, after the consummation thereof, the person would
6 directly or indirectly, or by conversion or by exercise of any right to acquire, be in
7 control of the insurer, nor may any person enter into an agreement to merge with or
8 otherwise acquire control of a domestic insurer, unless, at the time any such offer,
9 request or invitation is made or any such agreement is entered into, or before the
10 acquisition of those securities if no offer or agreement is involved, the person has
11 filed with the Commissioner and has sent to the insurer, and the insurer has sent to
12 its shareholders, a statement containing the information required by NRS 692C.180
13 to 692C.250, inclusive, and, except as otherwise provided in subsection 4, the offer,
14 request, invitation, agreement or acquisition has been approved by the
15 Commissioner in the manner prescribed in this chapter.

16 2. The *pre-acquisition* statement required by subsection 1 must be filed with
17 the Commissioner at least 60 days before the proposed date of the acquisition. The
18 statement must set forth, without limitation, the information required by NRS
19 692C.254. A person who fails to comply with this subsection is subject to the
20 penalties set forth in subsections 6 and 7 of NRS 692C.258.

21 3. A person controlling a domestic insurer who is seeking to divest his or her
22 controlling interest in the domestic insurer shall file with the Commissioner, and
23 send to the insurer, notice of the proposed divestiture at least 30 days before the
24 proposed divestiture, unless a *pre-acquisition* statement has been filed pursuant to
25 subsection 1 concerning the proposed transaction. Notice filed pursuant to this
26 subsection is confidential until the conclusion, if any, of the divestiture unless the
27 Commissioner determines that such confidentiality will interfere with the
28 enforcement of this section.

29 4. Upon receiving a *pre-acquisition* statement or notice pursuant to this
30 section by a person seeking to acquire a controlling interest in a domestic insurer or
31 divest a controlling interest in a domestic insurer, the Commissioner shall
32 determine whether or not the person will be required to file for and obtain the
33 approval of the Commissioner for the acquisition or divestiture. As soon as
34 practicable after making that determination, the Commissioner shall notify the
35 person of the results of the determination.

36 5. For purposes of this section, a domestic insurer includes any other person
37 controlling a domestic insurer unless the other person is directly or through
38 affiliates primarily engaged in a business other than the business of insurance. If a
39 person is directly or through affiliates primarily engaged in a business other than
40 the business of insurance, the person shall, at least 60 days before the proposed
41 effective date of the acquisition, file a notice of intent to acquire with the
42 Commissioner setting forth the information required by NRS 692C.254.

43 6. *If a transaction is governed by the provisions of this section, the*
44 *acquiring person shall also file a pre-acquisition notification with the*
45 *Commissioner which must contain the information set forth in subsection 1. The*
46 *Commissioner shall specify by regulation the period within which the notification*
47 *must be filed. A person who fails to comply with this subsection or any*
48 *regulations adopted pursuant thereto may be subject to the penalties set forth in*
49 *subsection 7 of NRS 692C.258.*

50 7. As used in this section, "person" does not include a securities broker who,
51 in the regular course of business as a broker, holds less than 20 percent of the
52 voting securities of an insurer or of any person who controls an insurer.

1 **Sec. 292.** NRS 692C.190 is hereby amended to read as follows:

2 692C.190 The *pre-acquisition* statement to be filed with the Commissioner
3 hereunder shall be made under oath or affirmation and shall contain the following:

4 1. The name and address of each person (hereinafter called the “acquiring
5 party”) by whom or on whose behalf the merger or other acquisition of control
6 referred to in subsection 1 of NRS 692C.180 is to be effected and, if such person is:

7 (a) An individual, the individual’s principal occupation and all offices and
8 positions held by the individual during the past 5 years, and any conviction of
9 crimes other than for minor traffic violations during the past 10 years.

10 (b) Not an individual, a report of the nature of its business operations during
11 the past 5 years or for such lesser period as such person and any predecessors
12 thereof shall have been in existence, together with an informative description of the
13 business intended to be done by such person and such person’s subsidiaries, and a
14 list of all individuals who are or who have been selected to become directors or
15 executive officers of such person or who perform or will perform functions
16 appropriate to such positions. Such list shall include for each such individual the
17 information required by paragraph (a).

18 2. The source, nature and amount of the consideration used or to be used in
19 effecting the merger or other acquisition of control, a description of any transaction
20 wherein funds were or are to be obtained for any such purpose, and the identity of
21 persons furnishing such consideration, but where a source of such consideration is a
22 loan made in the lender’s ordinary course of business, the identity of the lender
23 shall remain confidential, if the person filing such statement so requests.

24 3. Fully audited financial information as to the earnings and financial
25 condition of each acquiring party for the preceding 5 fiscal years of each such
26 acquiring party (or for such lesser period as such acquiring party and any
27 predecessors thereof shall have been in existence), and similar unaudited
28 information as of a date not earlier than 90 days prior to the filing of the statement.

29 4. Any plans or proposals which each acquiring party may have to liquidate
30 such insurer, to sell its assets or merge or consolidate it with any person, or to make
31 any other material change in its business or corporate structure or management.

32 5. The number of shares of any security referred to in subsection 1 of NRS
33 692C.180 which each acquiring party proposes to acquire, and the terms of the
34 offer, request, invitation, agreement or acquisition referred to in subsection 1 of
35 NRS 692C.180 and a statement as to the method by which the fairness of the
36 proposal was determined.

37 6. The amount of each class of any security referred to in subsection 1 of NRS
38 692C.180 which is beneficially owned or concerning which there is a right to
39 acquire beneficial ownership by each acquiring party.

40 7. A full description of any contracts, arrangements or understandings with
41 respect to any security referred to in subsection 1 of NRS 692C.180 in which any
42 acquiring party is involved, including but not limited to transfer of any of the
43 securities, joint ventures, loan or option arrangements, puts or calls, guarantees of
44 loans, guarantees against loss or guarantees of profits, division of losses or profits
45 or the giving or withholding of proxies. Such description shall identify the persons
46 with whom such contracts, arrangements or understandings have been made.

47 8. A description of the purchase of any security referred to in subsection 1 of
48 NRS 692C.180 during the 12 calendar months preceding the filing of the statement
49 by any acquiring party, including the dates of purchase, names of the purchasers
50 and consideration paid or agreed to be paid therefor.

51 9. A description of any recommendations to purchase any security referred to
52 in subsection 1 of NRS 692C.180 made during the 12 calendar months preceding

1 the filing of the statement by any acquiring party, or by anyone based upon
2 interviews with or at the suggestion of such acquiring party.

3 10. Copies of all tenders, offers for, requests or invitations for tenders of,
4 exchange offers for, and agreements to acquire or exchange any securities referred
5 to in subsection 1, and, if distributed, additional soliciting material relating thereto.

6 11. The terms of any agreement, contract or understanding made with any
7 broker-dealer, as to solicitation of securities referred to in subsection 1 of NRS
8 692C.180, for tender, and the amount of any fees, commissions or other
9 compensation to be paid to broker-dealers with regard thereto.

10 12. *An agreement by the person required to file the statement that the*
11 *person will file the annual report of enterprise risk required by NRS 692C.290*
12 *while control exists.*

13 13. *An acknowledgment by the person required to file the statement that the*
14 *person, and all subsidiaries within its control in the insurance holding company*
15 *system, will provide information to the Commissioner upon request as necessary*
16 *to evaluate enterprise risk to the insurer.*

17 14. Such additional information as the Commissioner may by rule or
18 regulation prescribe as necessary or appropriate for the protection of policy holders
19 and security holders of the insurer or for the protection of the public interest.

20 ➤ If the person required to file the statement referred to in this section is a
21 partnership, limited partnership, syndicate or other group, the Commissioner may
22 require that the information required by this section, be given with respect to each
23 partner of such partnership or limited partnership, each member of such syndicate
24 or group, and each person who controls such partner or member. If any such
25 partner, member or person is a corporation or the person required to file the
26 statement referred to in subsection 1 of NRS 692C.180 is a corporation, the
27 Commissioner may require that the information required by this section, be given
28 with respect to such corporation, each officer and director of such corporation, and
29 each person who is directly or indirectly the beneficial owner of more than 10
30 percent of the outstanding voting securities of such corporation. If any material
31 change occurs in the facts set forth in the statement filed with the Commissioner
32 and sent to such insurer pursuant to this section, an amendment setting forth such
33 change, together with copies of all documents and other material relevant to such
34 change, shall be filed with the Commissioner and sent to such insurer within 2
35 business days after the person learns of such change. Such insurer shall send each
36 such amendment to its shareholders.

37 **Sec. 293.** NRS 692C.200 is hereby amended to read as follows:

38 692C.200 If any offer, request, invitation, agreement or acquisition referred to
39 in subsection 1 of NRS 692C.180 is proposed to be made by means of a registration
40 statement under the Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or
41 in circumstances requiring the disclosure of similar information under the Securities
42 Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or under any state law requiring
43 similar registration or disclosure, the person required to file the *pre-acquisition*
44 statement referred to in subsection 1 of NRS 692C.180 may utilize such documents
45 in furnishing the information called for by that statement.

46 **Sec. 294.** NRS 692C.210 is hereby amended to read as follows:

47 692C.210 1. Except as otherwise provided in subsections 5 and 7, the
48 Commissioner shall approve any merger or other acquisition of control referred to
49 in subsection 1 of NRS 692C.180 unless, after a public hearing thereon, the
50 Commissioner finds that:

51 (a) After the change of control, the domestic insurer specified in subsection 1
52 of NRS 692C.180 would not be able to satisfy the requirements for the issuance of
53 a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in subsection 1 of NRS 692C.180 are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer or not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control;

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance; or

(h) The practices of the applicant in managing claims have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. Except as otherwise provided in subsection 7, the public hearing specified in subsection 1 must be held within 30 days after the *pre-acquisition* statement required by subsection 1 of NRS 692C.180 has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 60 days after the conclusion of the hearing. If the Commissioner determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the Commissioner as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection 5 of NRS 692C.180 and the date of the proposed acquisition if the

proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254;

(b) Shall ~~reconsider:~~

~~(1) The standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the statement required pursuant to subsection 1 of NRS 692C.180; and~~

~~(2) The~~ *not disapprove the merger or other acquisition upon a finding that any of the* factors described in subsection ~~4~~ *6* of NRS 692C.256 ~~exist~~; and

(c) May condition approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this state, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection 5 of NRS 692C.180 is filed with the Commissioner.

7. If the proposed merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 requires the approval of the commissioner of more than one state, the public hearing required pursuant to subsection 1 may, upon the request of the person who filed the *pre-acquisition* statement required pursuant to subsection 1 of NRS 692C.180, be consolidated with the hearings required in other states. Not more than 5 days after receiving such a request, the Commissioner shall file with the ~~[National Association of Insurance Commissioners]~~ *NAIC* a copy of the *pre-acquisition* statement that was filed with the Commissioner pursuant to subsection 1 of NRS 692C.180 by the person requesting a consolidated hearing. The Commissioner may opt out of a consolidated hearing and, if the Commissioner elects to do so, he or she shall provide notice to the person requesting the consolidated hearing not more than 10 days after receiving the *pre-acquisition* statement filed pursuant to subsection 1 of NRS 692C.180. A consolidated hearing must be public and must be held within the United States before participating commissioners of the states in which the insurers are domiciled. Participating commissioners may hear and receive evidence at the hearing.

Sec. 295. NRS 692C.254 is hereby amended to read as follows:

692C.254 1. An acquisition to which the provisions of NRS 692C.252 apply is subject to an order issued pursuant to NRS 692C.258 unless:

(a) The acquiring person files a notice of acquisition pursuant to this section; and

(b) The waiting period specified in subsection 4 has expired.

2. The Commissioner shall prescribe the form of the notice required pursuant to subsection 1. A notice of acquisition filed pursuant to this section must include:

(a) The information required by the ~~[National Association of Insurance Commissioners]~~ *NAIC* relating to any market that, pursuant to subsection 5 of NRS 692C.252, causes the acquisition not to be exempted from the provisions of this section; and

(b) Any other material or information required by the Commissioner to determine whether or not the proposed acquisition, if consummated, would violate the provisions of NRS 692C.256.

3. The information required pursuant to subsection 2 may include the opinion of an economist relating to the competitive effect of the acquisition on the business of insurance in this state if the opinion is accompanied by a summary of the education and experience of the economist and a statement indicating the ability of the economist to provide an informed opinion.

4. Except as otherwise provided in subsection 5, the waiting period for an acquisition required pursuant to subsection 1 begins on the date the Commissioner receives the notice filed pursuant to subsection 1 and ends on the expiration of 30 days after that date or on the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

5. Before the expiration of the waiting period specified in subsection 4, the Commissioner may, not more than once, require a person to submit additional information relating to the proposed acquisition. If the Commissioner requires the submission of additional information, the waiting period for the acquisition ends upon the expiration of 30 days after the Commissioner receives the additional information or upon the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

Sec. 296. NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this state or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether ~~to issue an order pursuant to subsection 1, a proposed acquisition would violate the competitive standard,~~ the Commissioner shall consider the ~~standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.~~

~~—3—~~ following:

(a) Any acquisition to which the provisions of NRS 692C.252 apply involving two or more insurers competing in the same market is prima facie evidence of a violation of the competitive standard if:

(1) The market is highly concentrated and the involved insurers possess the following shares of the market:

<u>Insurer A</u>	<u>Insurer B</u>
4 percent	4 percent or more
10 percent	2 percent or more
15 percent	1 percent or more

(2) The market is not highly concentrated and the involved insurers possess the following shares of the market:

<u>Insurer A</u>	<u>Insurer B</u>
5 percent	5 percent or more
10 percent	4 percent or more
15 percent	3 percent or more
19 percent	1 percent or more

(b) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market,

1 *from the two largest to the eight largest, has increased by 7 percent or more of the*
2 *total market over a period of time extending from any base year 5 to 10 years*
3 *before the acquisition up to the time of the acquisition. Any acquisition to which*
4 *the provisions of NRS 692C.252 apply, involving two or more insurers competing*
5 *in the same market is prima facie evidence of a violation of the competitive*
6 *standard if:*

7 *(1) There is a significant trend toward increased concentration in the*
8 *market;*

9 *(2) One of the insurers involved is one of the insurers in a grouping of*
10 *large insurers showing the requisite increase in the market share; and*

11 *(3) Another involved insurer's market share is 2 percent or more.*

12 *3. Percentages not shown in the tables in paragraph (a) of subsection 2*
13 *must be interpolated proportionately to the percentages that are shown.*

14 *4. If more than two insurers are involved in an acquisition, exceeding the*
15 *total of the two columns in the relevant table of paragraph (a) of subsection 2 is*
16 *prima facie evidence of a violation of the competitive standard. For the purposes*
17 *of this subsection, the insurer with the largest market share shall be deemed to be*
18 *Insurer A.*

19 *5. Irrespective of whether an acquisition constitutes a prima facie violation*
20 *of the competitive standard set forth in this section, the Commissioner, or a party*
21 *to the acquisition, may establish the presence or absence of the requisite*
22 *anticompetitive effect based upon other substantial evidence, including, without*
23 *limitation, market shares, volatility of ranking market leaders, the number of*
24 *competitors, concentrations, trend concentration in the industry and ease of entry*
25 *and exit in the market.*

26 *6. The Commissioner shall, before issuing an order specified in subsection 1,*
27 *consider:*

28 *(a) If:*

29 *(1) The acquisition creates substantial economies of scale or economies in*
30 *the use of resources that may not be created in any other manner; and*

31 *(2) The public benefit received from those economies exceeds the public*
32 *benefit received from not lessening competition; or*

33 *(b) If:*

34 *(1) The acquisition substantially increases the availability of insurance; and*
35 *(2) The public benefit received by that increase exceeds the public benefit*
36 *received from not lessening competition.*

37 ~~14-1~~ *7. The public benefits set forth in subparagraph 2 of paragraphs (a) and*
38 *(b) of subsection ~~13-1~~ 6 may be considered together, as applicable, in assessing*
39 *whether the public benefits received from the acquisition exceed any benefit to*
40 *competition that would arise from disapproving the acquisition.*

41 ~~15-1~~ *8. The Commissioner has the burden of establishing that the acquisition*
42 *will result in a violation of the competitive standard set forth in subsection 1.*

43 *9. An order may not be entered in accordance with NRS 692C.258 if:*

44 *(a) The acquisition will yield substantial economies of scale or economies in*
45 *resource utilization that cannot be feasibly achieved in any other way, and the*
46 *public benefits which would arise from such economies exceed the public benefits*
47 *which would not arise from lessening competition; or*

48 *(b) The acquisition will substantially increase the availability of insurance,*
49 *and the public benefits of the increase exceed the public benefits which would*
50 *arise from not lessening competition.*

51 *10. As used in this section:*

1 (a) *“Highly concentrated market” means a market in which the combined*
2 *market share of the four largest insurers totals 75 percent or more of the total*
3 *market.*

4 (b) *“Insurer” includes any company or group of companies under common*
5 *management, ownership or control.*

6 (c) *“Market” means the relevant product and geographical markets. In the*
7 *absence of sufficient information to the contrary, the relevant product market is*
8 *assumed to be the direct written insurance premium for a line of business, such*
9 *line being that used in the annual statement required to be filed by an insurer*
10 *doing business in this State and the relevant geographical market is assumed to*
11 *be this State.*

12 **Sec. 297.** NRS 692C.260 is hereby amended to read as follows:

13 692C.260 1. Every insurer which is authorized to do business in this state
14 and which is a member of an insurance holding company system shall register with
15 the Commissioner, except a foreign insurer subject to disclosure requirements and
16 standards adopted by a statute or regulation in the jurisdiction of its domicile which
17 are substantially similar to those contained in NRS 692C.260 to 692C.350,
18 inclusive.

19 2. Any insurer which is subject to registration under NRS 692C.260 to
20 692C.350, inclusive, shall register not later than September 1, 1973, or 15 days
21 after it becomes subject to registration, whichever is later, *and annually thereafter*
22 *by June 30 of each year for the immediately preceding calendar year*, unless the
23 Commissioner for good cause shown extends the time for registration. The
24 Commissioner may require any authorized insurer which is a member of a holding
25 company system which is not subject to registration under this section to furnish a
26 copy of the registration statement or other information filed by the insurance
27 company with the insurance regulatory authority of domiciliary jurisdiction.

28 3. Any person within an insurance holding company system subject to
29 registration shall, upon request by an insurer, provide complete and accurate
30 information to the insurer if the information is reasonably necessary to enable the
31 insurer to comply with the provisions of this section.

32 **Sec. 298.** NRS 692C.270 is hereby amended to read as follows:

33 692C.270 Every insurer subject to registration shall file:

34 1. A registration statement ~~on a form provided by~~ *with* the Commissioner,
35 *on a form and in a format prescribed by the Commissioner*, which must contain
36 current information about:

37 (a) The capital structure, general financial condition, ownership and
38 management of the insurer and any person controlling the insurer.

39 (b) The identity of every member of the insurance holding company system.

40 (c) The following agreements in force, relationships subsisting and transactions
41 currently outstanding between the insurer and its affiliates:

42 (1) Loans, other investments or purchases, sales or exchanges of securities
43 of the affiliates by the insurer or of the insurer by its affiliates.

44 (2) Purchases, sales or exchanges of assets.

45 (3) Transactions not in the ordinary course of business.

46 (4) Guarantees or undertakings for the benefit of an affiliate which result in
47 an actual contingent exposure of the insurer's assets to liability, other than
48 insurance contracts entered into in the ordinary course of the insurer's business.

49 (5) All management and service contracts and all cost-sharing
50 arrangements, other than cost allocation arrangements based upon generally
51 accepted accounting principles.

52 (6) Reinsurance agreements covering all or substantially all of one or more
53 lines of insurance of the ceding company.

(7) Any dividend or other distribution made to a shareholder.

(8) Any consolidated agreement to allocate taxes.

(d) Any pledge of the insurer's stock, including the stock of any subsidiary or controlling affiliate of the insurer, for a loan made to any member of the insurance holding company system.

(e) Any other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

2. A statement verifying that:

(a) The board of directors of the insurer oversees the corporate governance and internal controls of the insurer; and

(b) Officers or senior management of the insurer have approved, implemented and continue to maintain and monitor the corporate governance and internal controls of the insurer.

3. Financial statements of the insurance holding company system and all affiliates, if requested by the Commissioner. This requirement may be satisfied by providing the most recent statement filed with the United States Securities and Exchange Commissioner pursuant to the Securities Act of 1933, 15 U.S.C. §§ 78a et seq., by the insurance holding company system or its parent corporation.

Sec. 299. NRS 692C.290 is hereby amended to read as follows:

692C.290 1. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on forms provided by the Commissioner within 15 days after the end of the month in which it learns of each such change or addition, and not less often than annually, except that, subject to the provisions of NRS 692C.390, each registered insurer shall report all dividends and other distributions to shareholders within 5 business days following the declaration and 10 days before payment.

2. *The principal of a registered insurer shall file an annual report of enterprise risk pursuant to this subsection.* If the principal of a registered insurer does not file a report of enterprise risk with the commissioner of the lead state of the insurance company system, as determined by the most recent edition of the Financial Analysis Handbook, published by the ~~National Association of Insurance Commissioners~~, *NAIC*, in a calendar year, the principal shall file a report of enterprise risk with the Commissioner. The principal shall include in the report the material risks within the insurance holding company system that, to the best of his or her knowledge and belief, may pose enterprise risk to the registered insurer.

3. *Whenever it appears to the Commissioner that any person has committed a violation of subsection 2 which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for conducting an examination of the insurer pursuant to NRS 679B.230 to 679B.287, inclusive.*

Sec. 300. NRS 692C.330 is hereby amended to read as follows:

692C.330 1. Any person may file with the Commissioner:

(a) A disclaimer of affiliation with any authorized insurer specified in the disclaimer; or

(b) A request for a termination of registration on the basis that the person does not, or will not after taking an action specified in the request for termination, control another person specified in the request.

2. A disclaimer of affiliation or request for a termination of registration specified in subsection 1 may be filed by the authorized insurer or any member of an insurance holding company system. A disclaimer of affiliation or request for a termination of registration filed pursuant to subsection 1 must include:

1 (a) A statement indicating the number of authorized, issued and outstanding
2 voting securities of the person specified in the disclaimer of affiliation or request
3 for a termination of registration;

4 (b) A statement indicating the number and percentage of shares of the person
5 specified in the disclaimer of affiliation or request for a termination of registration
6 that are owned or beneficially owned by the person disclaiming control, and the
7 number of those shares for which the person disclaiming control has a direct or
8 indirect right to acquire;

9 (c) A statement setting forth all material relationships and bases for affiliation
10 between the person specified in the disclaimer of affiliation or request for a
11 termination of registration and the person and any affiliate of the person who is
12 disclaiming control of the person specified in the disclaimer of affiliation or request
13 for a termination of registration; and

14 (d) An explanation of why the person who is disclaiming control does not
15 control the person specified in the disclaimer of affiliation or request for a
16 termination of registration.

17 3. A request for a termination of registration filed pursuant to subsection 1
18 shall be deemed granted upon filing unless the Commissioner, within 30 days after
19 receipt of the request for a termination of registration, notifies the person,
20 authorized insurer or member of an insurance holding company system that the
21 request is denied.

22 4. ~~{After a disclaimer of affiliation has been filed, the insurer is relieved of~~
23 ~~any duty to register or report under NRS 692C.260 to 692C.350, inclusive, which~~
24 ~~may arise out of the insurer's relationship with the person unless the Commissioner~~
25 ~~disallows the disclaimer. The Commissioner may disallow the disclaimer only after~~
26 ~~furnishing all parties in interest with a notice and opportunity to be heard and after~~
27 ~~making specific findings of fact to support the disallowance.}~~ *A disclaimer of*
28 *affiliation filed pursuant to subsection 1 shall be deemed granted unless the*
29 *Commissioner, within 30 days after receipt of a complete disclaimer of affiliation,*
30 *notifies the filing party that the disclaimer of affiliation is disallowed. In the event*
31 *of disallowance, the disclaiming party may request an administrative hearing,*
32 *which shall be granted. The disclaiming party is relieved of its duty to register*
33 *pursuant to NRS 692C.260 to 692C.350, inclusive, if approval of the disclaimer of*
34 *affiliation has been granted by the Commissioner, or if the disclaimer of*
35 *affiliation is deemed approved.*

36 **Sec. 301.** NRS 692C.350 is hereby amended to read as follows:

37 692C.350 1. The failure to file a registration statement or *summary or* any
38 amendment thereto *, or a report of enterprise risk,* required by NRS 692C.260 to
39 692C.350, inclusive, within the time specified for the filing is a violation of NRS
40 692C.260 to 692C.350, inclusive.

41 2. Except as otherwise provided in subsection 3, if an insurer fails, without
42 just cause, to file a registration statement required pursuant to NRS 692C.270 ~~H~~ *to*
43 *692C.350, inclusive,* the insurer shall, after receiving notice and a hearing, pay a
44 civil penalty of \$100 for each day the insurer fails to file the registration statement.
45 The civil penalty may be recovered in a civil action brought by the Commissioner.
46 Any civil penalty paid pursuant to this subsection must be deposited in the State
47 General Fund.

48 3. The maximum civil penalty that may be imposed pursuant to subsection 2
49 is \$20,000. The Commissioner may reduce the amount of the civil penalty if the
50 insurer demonstrates to the satisfaction of the Commissioner that the payment of
51 the civil penalty would impose a financial hardship on the insurer.

52 4. Any officer, director or employee of an insurance holding company system
53 who willfully and knowingly subscribes to or makes or causes to be made any false

statement, false report or false filing with the intent to deceive the Commissioner in the performance of his or her duties pursuant to NRS 692C.260 to 692C.350, inclusive, is guilty of a category D felony and shall be punished as provided in NRS 193.130. The officer, director or employee is personally liable for any fine imposed against the officer, director or employee pursuant to that section.

Sec. 302. NRS 692C.380 is hereby amended to read as follows:

692C.380 For purposes of NRS 692C.360 to 692C.400, inclusive, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the ~~greater~~ *lesser* of:

1. Ten percent of the insurer's surplus as regards policyholders as of December 31 next preceding the dividend or distribution; or

2. The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, not including realized capital gains if the insurer is not a life insurer, for the 12-month period ending December 31 next preceding the dividend or distribution,

but does not include pro rata distributions of any class of the insurer's own securities.

Sec. 303. NRS 692C.420 is hereby amended to read as follows:

692C.420 1. Except as otherwise provided in NRS 239.0115, all information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to NRS 692C.410, and all information reported pursuant to subsections 12 and 13 of NRS 692C.190 and NRS 692C.260 to 692C.350, inclusive, ~~must be given~~ *is* confidential, ~~treatment and~~ is not subject to subpoena, *is not subject to discovery, is not admissible in evidence in any private civil action* and must not be made public by the Commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and an opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he or she may publish all or any part thereof in any manner as he or she may deem appropriate.

2. The Commissioner or any person who receives any documents, materials or other information while acting under the authority of the Commissioner must not be permitted or required to testify in a private civil action concerning any information, document or copy thereof specified in subsection 1.

3. The Commissioner may share or receive any information, document or copy thereof specified in subsection 1 in accordance with NRS 679B.122. The sharing or receipt of the information, document or copy pursuant to this subsection does not waive any applicable privilege or claim of confidentiality in the information, document or copy.

4. The Commissioner shall enter into a written agreement with the NAIC governing the sharing and use of information specified in subsection 1 that must:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries, including procedures and protocols for sharing by the NAIC with other state, federal and international regulators;

(b) Specify that ownership of the information shared with the NAIC and its affiliates and subsidiaries remains with the Commissioner and the NAIC's use of the information is subject to the discretion of the Commissioner;

(c) *Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC is subject to a request or subpoena to the NAIC for disclosure or production; and*

(d) *Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates or subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries.*

5. *The sharing of information by the Commissioner does not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of this section.*

6. *No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner in accordance with this section or as a result of sharing as authorized in this section.*

7. *Documents, materials and other information in the possession or control of the NAIC in accordance with this section are:*

(a) *Confidential by law and privileged;*

(b) *Not subject to the provisions of chapter 239 of NRS;*

(c) *Not subject to subpoena; and*

(d) *Not subject to discovery or admissible in evidence in any private civil action.*

Sec. 304. NRS 692C.485 is hereby amended to read as follows:

692C.485 1. A director or officer of an insurance holding company system who knowingly violates, or knowingly participates in or assents to a violation of, NRS 692C.350, 692C.360, 692C.363 or 692C.390, *or section 289 of this act*, or who knowingly ~~permits~~ *allows* any officer or agent of the insurance holding company to engage in a transaction in violation of NRS 692C.360 or 692C.363 or to pay a dividend or make an extraordinary distribution in violation of NRS 692C.390 shall pay, after receiving notice and a hearing before the Commissioner, a fine of not more than \$10,000 for each violation. In determining the amount of the fine, the Commissioner shall consider the appropriateness of the fine in relation to:

(a) The gravity of the violation;

(b) The history of any previous violations committed by the director or officer; and

(c) Any other matters as justice may require.

2. Whenever it appears to the Commissioner that an insurer or any director, officer, employee or agent of the insurer has engaged in a transaction or entered into a contract to which the provisions of NRS 692C.363 apply and for which the insurer has not obtained the Commissioner's approval, the Commissioner may order the insurer to cease and desist immediately from engaging in any further activity relating to the transaction or contract. In addition to issuing such an order, the Commissioner may order the insurer to rescind the contract and return each party to the contract to the position the party was in before the execution of the contract if the issuing of the order is in the best interest of:

(a) The policyholders or creditors of the insurer; or

(b) The members of the general public.

Sec. 305. NRS 693A.030 is hereby amended to read as follows:

693A.030 1. Except as otherwise provided in subsections 2, 3 and 4, a domestic insurer formed before, on or after January 1, 1972, shall not engage in any business other than the insurance business and in business activities reasonably and necessarily incidental to the insurance business.

2. A title insurer may also engage in business as an escrow agent.

3. Any insurer may also engage in business activities reasonably related to the management, supervision, servicing of and protection of its interests as to its lawful investments, and to the full utilization of its facilities.

4. An insurer may own subsidiaries which may engage in such businesses as are provided for in ~~NRS 682A.130~~ *section 174 of this act.*

Sec. 306. Chapter 694C of NRS is hereby amended by adding thereto the provisions set forth as sections 307, 308 and 309 of this act.

Sec. 307. *“State-chartered risk retention group” means any risk retention group, as defined in NRS 695E.110, that is formed in accordance with the laws of this State as an association captive insurer.*

Sec. 308. 1. *In addition to the information required pursuant to NRS 694C.210, a state-chartered risk retention group being formed as an association captive insurer must submit to the Commissioner in summary form:*

(a) The identities of:

(1) All members of the group;

(2) All organizers of the group;

(3) Those persons who will provide administrative services to the group;

and

(4) Any person who will influence or control the activities of the group;

(b) The amount and nature of initial capitalization of the group;

(c) The coverages to be offered by the group; and

(d) Each state in which the group intends to operate.

2. *Before it may transact insurance in any state, the state-chartered risk retention group must submit to the Commissioner, for approval by the Commissioner, a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.*

3. *A state-chartered risk retention group chartered in this State must file with the Commissioner on or before March 1 of each year a statement containing information concerning the immediately preceding year which must:*

(a) Be submitted in a form prescribed by the National Association of Insurance Commissioners;

(b) Be prepared in accordance with the Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement;

(c) Utilize accounting principles in a manner that remains consistent among financial statements submitted each year and that are substantively identical to:

(1) Generally accepted accounting principles, including any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner; or

(2) Statutory accounting principles, as described in the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(d) Be submitted electronically, if required by the Commissioner.

4. *The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:*

1 (a) All information submitted by a state-chartered risk retention group to the
2 Commissioner pursuant to subsections 1 and 3; and

3 (b) Any revisions to a plan of operation submitted to the Commissioner
4 pursuant to subsection 3.

5 **Sec. 309.** 1. The board of directors of a risk retention group must have a
6 majority of independent directors. If the risk retention group is a reciprocal risk
7 retention group, the attorney-in-fact is required to adhere to the same standards
8 regarding independence of operation and governance as imposed on the risk
9 retention group's board of directors or subscribers advisory committee under this
10 section, and, to the extent permissible by state law, service providers of a
11 reciprocal risk retention group must contract with the risk retention group and
12 not the attorney-in-fact.

13 2. No director qualifies as independent unless the board of directors
14 affirmatively determines that the director has no material relationship with the
15 risk retention group. Each risk retention group shall disclose these
16 determinations to its domestic regulator at least annually. For the purposes of
17 this subsection, any person that is a direct or indirect owner of or subscriber in
18 the risk retention group, or is an officer, director or employee of such an owner
19 or insured, unless some other position of such officer, director or employee
20 constitutes a material relationship, as contemplated by 15 U.S.C. §
21 3901(a)(4)(E)(ii), is considered to be independent.

22 3. The term of any material service provider contract with a risk retention
23 group must not exceed 5 years. Any such contract, or its renewal, must require
24 the approval of the majority of the risk retention group's independent directors.
25 The risk retention group's board of directors shall have the right to terminate any
26 service provider, audit or actuarial contracts at any time for cause after providing
27 adequate notice as defined in the contract. The service provider contract is
28 deemed material if the amount to be paid for such contract is greater than, or
29 equal to, 5 percent of the risk retention group's annual gross written premium or
30 2 percent of its surplus, whichever is greater. No service provider contract which
31 creates a material relationship may be entered into unless the risk retention
32 group has notified the Commissioner, in writing, of its intention to enter into
33 such a transaction at least 30 days before and the Commissioner has not
34 disapproved it within such period. For the purposes of this subsection:

35 (a) "Lawyer" does not include defense counsel retained by the risk retention
36 group to defend claims, unless the amount of fees paid to such lawyer creates a
37 material relationship.

38 (b) "Service provider" includes, without limitation, a captive manager,
39 auditor, accountant, actuary, investment advisor, lawyer, managing general
40 underwriter or other party responsible for underwriting, determination of rates,
41 collection of premium, adjusting and settling claims or the preparation of
42 financial statements.

43 4. The board of directors shall adopt a written policy in the plan of
44 operation as approved by the board that requires the board to:

45 (a) Ensure that all owners and insureds of the risk retention group receive
46 evidence of ownership interest;

47 (b) Develop a set of governance standards applicable to the risk retention
48 group;

49 (c) Oversee the evaluation of the risk retention group's management,
50 including, without limitation, the performance of the captive manager, managing
51 general underwriter or other party or parties responsible for underwriting,
52 determination of rates, collection of premium, adjusting or settling claims or the
53 preparation of financial statements;

1 (d) Review and approve the amount to be paid for all material service
2 providers; and

3 (e) At least annually, review and approve:

4 (1) The risk retention group's goals and objectives relevant to the
5 compensation of officers and service providers;

6 (2) The officer's and service provider's performance in light of those
7 goals and objectives; and

8 (3) The continued engagement of the officers and material service
9 providers.

10 5. A risk retention group must have an audit committee composed of at least
11 three independent board members. A board member that is not independent may
12 participate in the activities of the audit committee if invited by the members, but
13 cannot be a member of such committee.

14 6. An audit committee established pursuant to subsection 5 must have a
15 written charter that defines the committee's purpose, which must include, without
16 limitation:

17 (a) Assisting the board of directors with oversight of:

18 (1) The integrity of financial statements;

19 (2) Compliance with legal and regulatory requirements; and

20 (3) The qualifications, independence and performance of the
21 independent auditor and actuary;

22 (b) Discussing the annual audited financial statements and quarterly
23 financial statements with management;

24 (c) Discussing the annual audited financial statements and, if advisable, its
25 quarterly financial statements with its independent auditor;

26 (d) Discussing policies with respect to risk assessment and risk management;

27 (e) Meeting separately and periodically, either directly or through a
28 designated representative of the committee, with management and independent
29 auditors;

30 (f) Reviewing with the independent auditor any audit problems or difficulties
31 and management's response;

32 (g) Setting clear hiring policies of the risk retention group as to the hiring of
33 employees or former employees of the independent auditor;

34 (h) Requiring the external auditor to rotate the lead, or coordinating, audit
35 partner having primary responsibility for the risk retention group's audit as well
36 as the audit partner responsible for reviewing that audit so that one such person
37 does not perform audit services for more than 5 consecutive fiscal years; and

38 (i) Reporting regularly to the board of directors.

39 7. The domestic regulator may waive the requirement to establish an audit
40 committee composed of independent board members if the risk retention group is
41 able to demonstrate to the domestic regulator that it is impracticable to do so and
42 the board of directors itself is otherwise able to accomplish the purposes of the
43 audit committee.

44 8. The board of directors shall adopt and disclose governance standards
45 which must include:

46 (a) A process by which the directors are elected by the owners and insureds;

47 (b) Qualification standards;

48 (c) Responsibilities;

49 (d) Access to management and, as necessary and appropriate, independent
50 advisors;

51 (e) Compensation;

52 (f) Orientation and continuing education;

1 (g) *The policies and procedures to be followed for management succession;*
2 *and*

3 (h) *The policies and procedures to be followed for annual performance*
4 *evaluation of the board.*

5 ↪ *As used in this subsection, “disclose” means making information available*
6 *through electronic or other means, including, without limitation, posting such*
7 *information on the risk retention group’s Internet website and providing such*
8 *information to its members and insureds upon request.*

9 9. *The board of directors shall adopt and disclose a code of business*
10 *conduct and ethics for directors, officers and employees which must include,*
11 *without limitation:*

12 (a) *Conflicts of interest;*

13 (b) *Matters covered under the corporate opportunities doctrine within the*
14 *state of domicile;*

15 (c) *Confidentiality;*

16 (d) *Fair dealing;*

17 (e) *Protection and proper use of assets of the risk retention group;*

18 (f) *Compliance with all applicable laws, rules and regulations; and*

19 (g) *Requiring the reporting of any illegal or unethical behavior which affects*
20 *the operation of the risk retention group.*

21 ↪ *The board shall promptly disclose any waivers of the code for directors or*
22 *executive officers.*

23 10. *The captive manager, president or chief executive officer of a risk*
24 *retention group shall promptly notify the domestic regulator, in writing, if he or*
25 *she becomes aware of any material noncompliance with this section.*

26 11. *As used in this section:*

27 (a) *“Board of directors” or “board” means the governing body of a risk*
28 *retention group elected by the shareholders or members to establish policy, elect*
29 *or appoint officers and committees and make other governing decisions.*

30 (b) *“Director” means a natural person designated in the articles of the risk*
31 *retention group, or designated, elected or appointed by any other manner, name*
32 *or title to act on the board.*

33 (c) *“Material relationship,” of a person with a risk retention group, includes,*
34 *without limitation:*

35 (1) *The receipt in any one 12-month period of compensation or payment*
36 *of any other item of value by such person, a member of such person’s immediate*
37 *family or any business with which such person is affiliated from the risk*
38 *retention group or a consultant or service provider to the risk retention group*
39 *that is greater than or equal to 5 percent of the risk retention group’s gross*
40 *written premium for such 12-month period or 2 percent of its surplus, whichever*
41 *is greater, as measured at the end of any fiscal quarter falling in such a 12-month*
42 *period. Such person or immediate family member of such a person is not*
43 *considered to be independent until 1 year after his or her compensation or*
44 *payment from the risk retention group falls below the threshold set forth in this*
45 *paragraph;*

46 (2) *A director or an immediate family member of a director who is*
47 *affiliated with or employed in a professional capacity by a present or former*
48 *internal or external auditor of the risk retention group is not considered to be*
49 *independent until 1 year after the end of the affiliation, employment or auditing*
50 *relationship.*

51 (3) *A director or immediate family member of a director who is employed*
52 *as an executive officer of another company where any of the risk retention*
53 *group’s present executives serve on that company’s board of directors is not*

considered to be independent until 1 year after the end of such service or the employment relationship.

Sec. 310. NRS 694C.010 is hereby amended to read as follows:

694C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 694C.020 to 694C.150, inclusive, *and section 307 of this act*, have the meanings ascribed to them in those sections.

Sec. 311. NRS 695E.140 is hereby amended to read as follows:

695E.140 1. A risk retention group seeking to be chartered in this State must obtain a certificate of authority pursuant to chapter 694C of NRS to transact liability insurance and, except as otherwise provided in this chapter, must comply with:

(a) All of the laws, regulations and requirements applicable to liability insurers in this State, unless otherwise approved by the Commissioner; and

(b) The provisions of NRS 695E.150 to 695E.210, inclusive, to the extent that those provisions do not limit or conflict with the provisions with which the group is required to comply pursuant to paragraph (a).

2. A risk retention group applying to be chartered in this State must submit to the Commissioner ~~in summary form:~~

~~—(a) The identities of:~~

~~—(1) All members of the group;~~

~~—(2) All organizers of the group;~~

~~—(3) Those persons who will provide administrative services to the group;~~
and

~~—(4) Any person who will influence or control the activities of the group;~~

~~—(b) The amount and nature of initial capitalization of the group;~~

~~—(c) The coverages to be offered by the group; and~~

~~—(d) Each state in which the group intends to operate.~~

~~3. Before it may transact insurance in any state, the risk retention group must submit to the Commissioner for approval by the Commissioner a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.~~

~~4. A risk retention group chartered in this State must file with the Commissioner on or before February 1 of each year a statement containing information concerning the immediately preceding year, which must be:~~

~~—(a) Submitted in a form prescribed by the National Association of Insurance Commissioners;~~

~~—(b) Prepared in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and~~

~~—(c) Submitted on a diskette, if required by the Commissioner.~~

~~5. The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:~~

~~—(a) All information submitted by a risk retention group to the Commissioner pursuant to subsections 2 and 4; and~~

~~—(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.~~

~~6.} an application for licensure as an association captive insurer in accordance with NRS 694C.210.~~

3. A risk retention group chartered in a state other than Nevada that is seeking to transact insurance as a risk retention group in this State must comply with the provisions of NRS 695E.150 to 695E.210, inclusive ~~4~~, and *section 308 of this act.*

Sec. 312. NRS 179.259 is hereby amended to read as follows:

179.259 1. Except as otherwise provided in subsections 3, 4 and ~~4.4~~ 5, 5 years after an eligible person completes a program for reentry, the court may order sealed all documents, papers and exhibits in the eligible person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court may order those records sealed without a hearing unless the Division of Parole and Probation of the Department of Public Safety petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the court orders sealed the record of an eligible person, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

3. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

4. *The Division of Insurance of the Department of Business and Industry is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.*

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

~~5.4~~ 6. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Eligible person" means a person who has:

(1) Successfully completed a program for reentry to which the person participated in pursuant to NRS 209.4886, 209.4888, 213.625 or 213.632; and

(2) Been convicted of a single offense which was punishable as a felony and which did not involve the use or threatened use of force or violence against the victim. For the purposes of this subparagraph, multiple convictions for an offense punishable as a felony shall be deemed to constitute a single offense if those offenses arose out of the same transaction or occurrence.

(c) "Program for reentry" means:

(1) A correctional program for reentry of offenders and parolees into the community that is established by the Director of the Department of Corrections pursuant to NRS 209.4887; or

(2) A judicial program for reentry of offenders and parolees into the community that is established in a judicial district pursuant to NRS 209.4883.

(d) "Sexual offense" has the meaning ascribed to it in paragraph (b) of subsection 7 of NRS 179.245.

Sec. 313. NRS 179.301 is hereby amended to read as follows:

179.301 1. The State Gaming Control Board and the Nevada Gaming Commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to gaming, to determine the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or registration as a gaming employee pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records:

(a) May form the basis for recommendation, denial or revocation of those licenses.

(b) Must not form the basis for denial or rejection of a gaming work permit unless the event or conviction relates to the applicant's suitability or qualifications to hold the work permit.

2. *The Division of Insurance of the Department of Business and Industry and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to insurance, to determine the suitability or qualifications of any person to hold a license, certification or authorization issued in accordance with title 57 of NRS. Events and convictions, if any, which are the subject of an order sealing records may form the basis for recommendation, denial or revocation of those licenses, certifications and authorizations.*

3. A prosecuting attorney may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if:

(a) The records relate to a violation or alleged violation of NRS 202.575; and

(b) The person who is the subject of the records has been arrested or issued a citation for violating NRS 202.575.

~~3-4~~ 4. The Central Repository for Nevada Records of Criminal History and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 that constitute information relating to sexual offenses, and may notify employers of the information in accordance with NRS 179A.180 to 179A.240, inclusive.

~~4-4~~ 5. Records which have been sealed pursuant to NRS 179.245 or 179.255 and which are retained in the statewide registry established pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of NRS by an officer or employee of the Central Repository for Nevada Records of Criminal History or a law enforcement officer in the regular course of his or her duties.

~~5-5~~ 6. The State Board of Pardons Commissioners and its agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if the person who is the subject of the records has applied for a pardon from the Board.

~~6-6~~ 7. As used in this section:

(a) "Information relating to sexual offenses" means information contained in or concerning a record relating in any way to a sexual offense.

(b) "Sexual offense" has the meaning ascribed to it in NRS 179A.073.

Sec. 314. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,

289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.3295, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and sections 38, 283, 284 and 285 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity

1 can redact, delete, conceal or separate the confidential information from the
2 information included in the public book or record that is not otherwise confidential.

3 4. A person may request a copy of a public record in any medium in which
4 the public record is readily available. An officer, employee or agent of a
5 governmental entity who has legal custody or control of a public record:

6 (a) Shall not refuse to provide a copy of that public record in a readily
7 available medium because the officer, employee or agent has already prepared or
8 would prefer to provide the copy in a different medium.

9 (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare
10 the copy of the public record and shall not require the person who has requested the
11 copy to prepare the copy himself or herself.

12 **Sec. 315.** NRS 482.215 is hereby amended to read as follows:

13 482.215 1. All applications for registration, except applications for renewal
14 of registration, must be made as provided in this section.

15 2. Except as otherwise provided in NRS 482.294, applications for all
16 registrations, except renewals of registration, must be made in person, if
17 practicable, to any office or agent of the Department or to a registered dealer.

18 3. Each application must be made upon the appropriate form furnished by the
19 Department and contain:

20 (a) The signature of the owner, except as otherwise provided in subsection 2 of
21 NRS 482.294, if applicable.

22 (b) The owner's residential address.

23 (c) The owner's declaration of the county where he or she intends the vehicle
24 to be based, unless the vehicle is deemed to have no base. The Department shall use
25 this declaration to determine the county to which the governmental services tax is
26 to be paid.

27 (d) A brief description of the vehicle to be registered, including the name of the
28 maker, the engine, identification or serial number, whether new or used, and the last
29 license number, if known, and the state in which it was issued, and upon the
30 registration of a new vehicle, the date of sale by the manufacturer or franchised and
31 licensed dealer in this State for the make to be registered to the person first
32 purchasing or operating the vehicle.

33 (e) Except as otherwise provided in this paragraph, if the applicant is not an
34 owner of a fleet of vehicles or a person described in subsection 5:

35 (1) Proof satisfactory to the Department or registered dealer that the
36 applicant carries insurance on the vehicle provided by an insurance company
37 licensed by the Division of Insurance of the Department of Business and Industry
38 and approved to do business in this State as required by NRS 485.185; and

39 (2) A declaration signed by the applicant that he or she will maintain the
40 insurance required by NRS 485.185 during the period of registration. If the
41 application is submitted by electronic means pursuant to NRS 482.294, the
42 applicant is not required to sign the declaration required by this subparagraph.

43 (f) If the applicant is an owner of a fleet of vehicles or a person described in
44 subsection 5, evidence of insurance provided by an insurance company licensed by
45 the Division of Insurance of the Department of Business and Industry and approved
46 to do business in this State as required by NRS 485.185:

47 (1) In the form of a certificate of insurance on a form approved by the
48 Commissioner of Insurance;

49 (2) In the form of a card issued pursuant to NRS 690B.023 *or in an*
50 *electronic format allowed pursuant to that section*, which identifies the vehicle or
51 the registered owner of the vehicle; or

52 (3) In another form satisfactory to the Department.

1 ↪ The Department may file that evidence, return it to the applicant or otherwise
2 dispose of it.

3 (g) If required, evidence of the applicant's compliance with controls over
4 emission.

5 4. The application must contain such other information as is required by the
6 Department or registered dealer and must be accompanied by proof of ownership
7 satisfactory to the Department.

8 5. For purposes of the evidence required by paragraph (f) of subsection 3:

9 (a) Vehicles which are subject to the fee for a license and the requirements of
10 registration of the Interstate Highway User Fee Apportionment Act, and which are
11 insured in this State, may be declared as a fleet by the registered owner thereof on his
12 or her original application for or application for renewal of a proportional
13 registration. The owner may file a single certificate of insurance covering that fleet.

14 (b) Other fleets composed of 10 or more vehicles based in this State or vehicles
15 insured under a blanket policy which does not identify individual vehicles may each
16 be declared annually as a fleet by the registered owner thereof for the purposes of
17 an application for his or her original or any renewed registration. The owner may
18 file a single certificate of insurance covering that fleet.

19 (c) A person who qualifies as a self-insurer pursuant to the provisions of NRS
20 485.380 may file a copy of his or her certificate of self-insurance.

21 (d) A person who qualifies for an operator's policy of liability insurance
22 pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that
23 insurance.

24 **Sec. 316.** NRS 485.034 is hereby amended to read as follows:

25 485.034 "Evidence of insurance" means:

26 1. The form *, or electronic format*, provided by an insurer pursuant to NRS
27 690B.023 as evidence of a contract of insurance for a motor vehicle liability policy;
28 or

29 2. The certificate of self-insurance issued to a self-insurer by the Department
30 pursuant to NRS 485.380.

31 **Sec. 317.** NRS 485.187 is hereby amended to read as follows:

32 485.187 1. Except as otherwise provided in subsection 5, the owner of a
33 motor vehicle shall not:

34 (a) Operate the motor vehicle, if it is registered or required to be registered in
35 this State, without having insurance as required by NRS 485.185.

36 (b) Operate or knowingly permit the operation of the motor vehicle without
37 having evidence of insurance of the operator or the vehicle in the vehicle.

38 (c) Fail or refuse to surrender, upon demand, to a peace officer or to an
39 authorized representative of the Department the evidence of insurance. *The*
40 *surrender, upon demand, of an evidence of insurance issued in electronic format*
41 *does not constitute consent for a peace officer or authorized representative of the*
42 *Department to access other contents of any device used to display the evidence of*
43 *insurance and surrendered in compliance with this section.*

44 (d) Knowingly permit the operation of the motor vehicle in violation of
45 subsection 3 of NRS 485.186.

46 2. A person shall not operate the motor vehicle of another person unless the
47 person who will operate the motor vehicle:

48 (a) First ensures that the required evidence of insurance is present in the motor
49 vehicle ~~or~~ *or available electronically*; or

50 (b) Has his or her own evidence of insurance which covers that person as the
51 operator of the motor vehicle.

52 3. Except as otherwise provided in subsection 4, any person who violates
53 subsection 1 or 2 is guilty of a misdemeanor. Except as otherwise provided in this

subsection, in addition to any other penalty, a person sentenced pursuant to this subsection shall be punished by a fine of not less than \$600 nor more than \$1,000 for each violation. The fine must be reduced to \$100 for the first violation if the person obtains a motor vehicle liability policy by the time of sentencing, unless:

(a) The person has registered the vehicle as part of a fleet of vehicles pursuant to subsection 5 of NRS 482.215; or

(b) The person has been issued a certificate of self-insurance pursuant to NRS 485.380.

4. A court:

(a) Shall not find a person guilty or fine a person for a violation of paragraph (a), (b) or (c) of subsection 1 or for a violation of subsection 2 if the person presents evidence to the court that the insurance required by NRS 485.185 was in effect at the time demand was made for it.

(b) Except as otherwise provided in paragraph (a), may impose a fine of not more than \$1,000 for a violation of paragraph (a), (b) or (c) of subsection 1, and suspend the balance of the fine on the condition that the person presents proof to the court each month for 12 months that the insurance required by NRS 485.185 is currently in effect.

5. The provisions of paragraphs (b) and (c) of subsection 1 do not apply if the motor vehicle in question displays a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955, or NRS 482.396 or 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time.

Sec. 318. NRS 616B.336 is hereby amended to read as follows:

616B.336 1. Each self-insured employer shall furnish ~~audited~~ financial statements ~~certified by an auditor licensed to do business in this State,~~ *audited by an independent certified public accountant, or foreign equivalent,* to the Commissioner annually within 120 days after the expiration of the self-insured employer's fiscal year ~~or~~, *or within such other timeframe as the Commissioner may allow.*

2. The Commissioner may examine the records and interview the employees of each self-insured employer as often as the Commissioner deems advisable to determine the adequacy of the deposit which the employer has made with the Commissioner, the sufficiency of reserves and the reporting, handling and processing of injuries or claims. The Commissioner shall examine the records for that purpose at least once every 3 years. The self-insured employer shall reimburse the Commissioner for the cost of the examination.

Sec. 319. NRS 682A.010, 682A.030, 682A.040, 682A.050, 682A.060, 682A.070, 682A.080, 682A.090, 682A.100, 682A.110, 682A.120, 682A.130, 682A.140, 682A.150, 682A.160, 682A.170, 682A.180, 682A.190, 682A.200, 682A.210, 682A.220, 682A.230, 682A.240, 682A.250, 682A.260, 682A.270, 682A.280, 682A.290, 689A.695, 689B.115 and 689C.250 are hereby repealed.

Sec. 320. This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

682A.010 Scope.

682A.030 General qualifications.

682A.040 Authorization and record of investments.

682A.050 Diversification.

682A.060 Public obligations.

- 682A.070** Obligations and stock of certain federal and international agencies.
- 682A.080** Corporate obligations.
- 682A.090** Definitions; net earnings.
- 682A.100** Preferred or guaranteed stock.
- 682A.110** Common stocks.
- 682A.120** Insurance stocks.
- 682A.130** Stocks of subsidiaries.
- 682A.140** Common trust funds; mutual funds.
- 682A.150** Bankers' acceptances and bills of exchange.
- 682A.160** Equipment trust obligations or certificates.
- 682A.170** Loans secured by policy.
- 682A.180** Collateral loans.
- 682A.190** Savings and share accounts.
- 682A.200** Miscellaneous investments; records.
- 682A.210** Special accounts.
- 682A.220** Special investments of title insurers.
- 682A.230** Mortgages and deeds of trust.
- 682A.240** Real property.
- 682A.250** Time limited for disposal of real property.
- 682A.260** Time limited for disposal of other ineligible property and securities.
- 682A.270** Failure to dispose of real property, personal property or securities: Effect; penalty.
- 682A.280** Prohibited investments and underwriting.
- 682A.290** Investments of foreign insurers.
- 689A.695** Information and documents to be made available to Commissioner; proprietary information.
- 689B.115** Access by Commissioner to information concerning rates; confidentiality of information.
- 689C.250** Information considered to be trade secret; exception.