

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.

~

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; 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:

1 **Sections 1-18** of this bill make changes to chapter 681A of NRS in
2 conformance with amendments to the National Association of Insurance
3 Commissioners' Credit for Reinsurance Model Law. **Sections 23-39** of this bill
4 adopt certain provisions of the National Association of Insurance Commissioners'
5 Standard Valuation Law. **Section 41** of this bill makes changes regarding the
6 confidentiality of an actuarial opinion submitted by an insurer as part of a rate
7 filing. **Sections 43-230** of this bill adopt the provisions of the National Association



8 of Insurance Commissioners' Investments of Insurers Model Act (Defined Limits
9 Version). **Sections 233 and 318** of this bill make changes to the requirements for
10 insurance administrators and self-insured employers for workers' compensation
11 when filing their annual financial statements. **Sections 234-238** of this bill make
12 various changes to the licensing requirements for producers of insurance. **Sections**
13 **241-253** of this bill adopt certain provisions of the National Association of
14 Insurance Commissioners' Life and Health Insurance Guaranty Association Model
15 Act. **Sections 254 and 256** of this bill add coverage for assumed claims
16 transactions to the Nevada Life and Health Insurance Guaranty Association.
17 **Sections 258 and 259** of this bill make changes to certain provisions relating to the
18 cash values of policies of life insurance. **Sections 263 and 317** of this bill allow
19 insurers to provide electronic proof of insurance certificates for motor vehicles.
20 **Sections 265-289** of this bill adopt the provisions of the National Association of
21 Insurance Commissioners' Risk Management and Own Risk and Solvency
22 Assessment Model Act. **Sections 290-303** of this bill adopt various amendments to
23 the National Association of Insurance Commissioners' Insurance Holding
24 Company System Regulatory Act. **Sections 307-311** of this bill make changes
25 regarding state-chartered risk retention groups. **Sections 312 and 313** of this bill
26 authorize the Division of Insurance of the Department of Business and Industry to
27 inspect certain sealed records to determine the suitability of an applicant for a
28 license or the discipline of a licensee for misconduct. **Section 319** of this bill
29 reveals various provisions of existing law which are replaced by various sections of
30 this bill.

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

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

3 680B.050 1. Except as otherwise provided in this section, a
4 domestic or foreign insurer, including, without limitation, an insurer
5 that is exempt from federal taxation pursuant to 26 U.S.C. §
6 501(c)(29), which owns and substantially occupies and uses any
7 building in this state as its home office or as a regional home office
8 is entitled to the following credits against the tax otherwise imposed
9 by NRS 680B.027:

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

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

19 ➤ These credits must not reduce the amount of tax payable to less
20 than 20 percent of the tax otherwise payable by the insurer under
21 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

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee \$60

(2) Triennial fee \$60

(f) Accredited reinsurers ~~H~~ or certified reinsurers, as provided for in NRS 681A.160 ~~H~~ or section 5 of this act, as applicable:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee \$60

(2) Triennial fee \$60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee \$1,300

(2) Annual fee \$1,300

(i) Administrators, as defined in NRS 683A.025:

(1) Initial fee \$60

(2) Triennial fee \$60

(j) Managing general agents, as defined in NRS 683A.060:



1	(1) Initial fee	\$60
2	(2) Triennial fee	\$60
3	(k) Agents who perform utilization reviews, as defined	
4	in NRS 683A.376:	
5	(1) Initial fee	\$60
6	(2) Annual fee	\$60
7	(l) Insurance consultants, as defined in NRS 683C.010:	
8	(1) Initial fee	\$60
9	(2) Triennial fee	\$60
10	(m) Independent adjusters, as defined in	
11	NRS 684A.030:	
12	(1) Initial fee	\$60
13	(2) Triennial fee	\$60
14	(n) Public adjusters, as defined in NRS 684A.030:	
15	(1) Initial fee	\$60
16	(2) Triennial fee	\$60
17	(o) Associate adjusters, as defined in NRS 684A.030:	
18	(1) Initial fee	\$60
19	(2) Triennial fee	\$60
20	(p) Motor vehicle physical damage appraisers, as	
21	defined in NRS 684B.010:	
22	(1) Initial fee	\$60
23	(2) Triennial fee	\$60
24	(q) Brokers, as defined in NRS 685A.031:	
25	(1) Initial fee	\$60
26	(2) Triennial fee	\$60
27	(r) Eligible surplus line insurers, as provided for in	
28	NRS 685A.070:	
29	(1) Initial fee	\$1,300
30	(2) Annual fee	\$1,300
31	(s) Companies, as defined in NRS 686A.330:	
32	(1) Initial fee	\$1,300
33	(2) Annual fee	\$1,300
34	(t) Rate service organizations, as defined in	
35	NRS 686B.020:	
36	(1) Initial fee	\$1,300
37	(2) Annual fee	\$1,300
38	(u) Brokers of viatical settlements, as defined in	
39	NRS 688C.030:	
40	(1) Initial fee	\$60
41	(2) Annual fee	\$60
42	(v) Providers of viatical settlements, as defined in	
43	NRS 688C.080:	
44	(1) Initial fee	\$60
45	(2) Annual fee	\$60



(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(aa) Providers, as defined in NRS 690C.070:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(bb) Escrow officers, as defined in NRS 692A.028:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(cc) Title agents, as defined in NRS 692A.060:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(dd) Captive insurers, as defined in NRS 694C.060:	
(1) Initial fee	\$250
(2) Annual fee	\$250
(ee) Fraternal benefit societies, as defined in NRS 695A.010:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(ff) Insurance agents for societies, as provided for in NRS 695A.330:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(gg) Corporations subject to the provisions of chapter 695B of NRS:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(hh) Health maintenance organizations, as defined in NRS 695C.030:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300



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



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

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

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

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

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

15 3. *Maintain financial strength ratings from two or more*
16 *rating agencies deemed acceptable by the Commissioner;*

17 4. *Agree to submit to the jurisdiction of this State, appoint the*
18 *Commissioner as its agent for service of process in this State and*
19 *agree to provide security for 100 percent of the assuming insurer's*
20 *liabilities attributable to reinsurance ceded by ceding insurers in*
21 *the United States for use if the assuming insurer resists*
22 *enforcement of a final judgment rendered by any court of*
23 *competent jurisdiction in the United States;*

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

27 6. *Satisfy any other requirements for certification deemed*
28 *relevant by the Commissioner.*

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

33 1. *The association must satisfy its minimum capital and*
34 *surplus requirements through the capital and surplus equivalents,*
35 *net of liabilities, of the association and its members, which must*
36 *include a joint central fund that may be applied to any unsatisfied*
37 *obligation of the association or any of its members, in an amount*
38 *determined by the Commissioner to provide adequate protection;*

39 2. *The incorporated members of the association must not*
40 *engage in any business other than underwriting as a member of*
41 *the association and are subject to the same level of regulation and*
42 *solvency control by the association's domiciliary regulator as are*
43 *the unincorporated members; and*

44 3. *Within 90 days after its financial statements are due to be*
45 *filed with the association's domiciliary regulator, the association*



1 must provide to the Commissioner an annual certification by the
2 association's domiciliary regulator of the solvency of each
3 underwriter member or, if a certification is unavailable, financial
4 statements prepared by independent public accountants of each
5 underwriter member.

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

11 2. In order to determine whether the domiciliary jurisdiction
12 of an alien assuming insurer is eligible to be recognized as a
13 qualified jurisdiction, the Commissioner shall evaluate the
14 appropriateness and effectiveness of the reinsurance supervisory
15 system of the jurisdiction, both initially and on an ongoing basis,
16 and consider the rights, benefits and extent of reciprocal
17 recognition afforded by the alien jurisdiction to reinsurers
18 licensed and domiciled in the United States. A qualified
19 jurisdiction must agree to share information and cooperate with
20 the Commissioner with respect to all certified reinsurers domiciled
21 within that jurisdiction. A jurisdiction may not be recognized as a
22 qualified jurisdiction if the Commissioner has determined that the
23 jurisdiction does not adequately and promptly enforce final
24 judgments rendered by a court of competent jurisdiction in the
25 United States. Additional factors may be considered at the
26 discretion of the Commissioner.

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

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

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

37 **Sec. 8. 1.** For a domestic ceding insurer to qualify for full
38 financial statement credit for reinsurance ceded to a certified
39 reinsurer, the certified reinsurer shall maintain security in a form
40 acceptable to the Commissioner and consistent with the provisions
41 of NRS 681A.240 or, in a multi-beneficiary trust, pursuant to NRS
42 681A.180 and 681A.190, except as otherwise provided in sections 4
43 to 10, inclusive, of this act.

44 2. If a certified reinsurer maintains a trust to fully secure its
45 obligations subject to NRS 681A.180 and 681A.190, and chooses



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

15 3. The minimum trustee surplus requirements provided in
16 NRS 681A.180 and 681A.190 are not applicable with respect to a
17 multi-beneficiary trust maintained by a certified reinsurer for the
18 purpose of securing obligations incurred pursuant to sections 4 to
19 10, inclusive, of this act, except that the trust shall maintain a
20 minimum trustee surplus of \$10,000,000.

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

28 5. For the purposes of sections 4 to 10, inclusive, of this act, a
29 certified reinsurer whose certification has been terminated for any
30 reason shall be treated as a certified reinsurer required to secure
31 100 percent of its obligations.

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

37 7. As used in this section, "terminated" means the revocation,
38 suspension, voluntary surrender or inactive status of a reinsurer's
39 certification.

40 **Sec. 9.** If an applicant for certification has been certified as a
41 reinsurer in a National Association of Insurance Commissioners
42 accredited jurisdiction, the Commissioner has the discretion to
43 defer to that jurisdiction's certification, and has the discretion to
44 defer to the rating assigned by that jurisdiction, and such
45 assuming insurer shall be considered to be certified in this State.



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

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

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

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

Sec. 13. NRS 681A.130 is hereby amended to read as follows:
681A.130 The Commissioner may adopt regulations to carry out the provisions of NRS 681A.110 to 681A.560, inclusive **H**, and sections 4 to 12, inclusive, of this act.

Sec. 14. NRS 681A.140 is hereby amended to read as follows:
681A.140 As used in NRS 681A.140 to 681A.240, inclusive, and sections 4 to 12, inclusive, of this act, "qualified financial institution in the United States" means an institution that:



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

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

8 3. Is determined:

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

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

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

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

17 681A.150 No credit may be taken as an asset or as a deduction
18 from liability on account of reinsurance unless the reinsurer is
19 authorized to transact insurance or reinsurance in this state or the
20 requirements of NRS 681A.160 ~~[, 681A.170, 681A.180 or]~~ to
21 681A.190, *inclusive, and sections 4 to 11, inclusive, of this act*, and
22 in any of these cases the requirements of NRS 681A.200 and
23 681A.210 also are met.

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

25 681A.160 1. Except as otherwise provided in subsection 2,
26 credit must be allowed if reinsurance is ceded to an assuming
27 insurer which is accredited as a reinsurer in this state. An accredited
28 reinsurer is one which:

29 (a) Files with the Commissioner ~~[an]~~ *a properly* executed ~~[form~~
30 ~~approved by the Commissioner]~~ *Form AR-1, provided on the*
31 *Internet website of the Division*, as evidence of its submission to
32 this state's jurisdiction;

33 (b) Submits to this state's authority to examine its books and
34 records;

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

41 (d) Files annually with the Commissioner a copy of its annual
42 statement filed with the Division of its state of domicile or entry and
43 a copy of its most recent audited financial statement;

44 (e) ~~[Maintains]~~ *Demonstrates to the satisfaction of the*
45 *Commissioner that it has adequate financial capacity to meet its*



1 *reinsurance obligations and is otherwise qualified to assume*
2 *reinsurance from domestic insurers. An assuming insurer is*
3 *deemed to meet this requirement as of the time of its application if*
4 *it maintains* a surplus as regards policyholders in an amount which
5 is:

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

9 (2) Less than \$20,000,000 and whose accreditation has been
10 approved by the Commissioner; and

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

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

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

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

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

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

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

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

44 681A.170 1. Except as otherwise provided in subsection 2,
45 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~~; 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 ~~and~~:

(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 States in light of a reasonably adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and



must consider all material risk factors, including, as applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers domiciled in the United States and covered by the trust.

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

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

(b) The group shall:

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

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

(c) The incorporated members of the group:

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

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

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

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

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

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



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

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

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

(a) Notwithstanding any provision to the contrary in the trust instrument, if the trust fund consists of an amount that is less than the amount required pursuant to this section, or if the grantor of the trust fund is declared to be insolvent or placed into receivership, rehabilitation, liquidation or a similar proceeding in accordance with the laws of the grantor's state or country of domicile, the trustee of the trust fund must comply with an order of the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in that state or country or a court of competent jurisdiction requiring the trustee to transfer to that commissioner or person all the assets of the trust fund;

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

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

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

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

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

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

681A.210 1. Except as otherwise provided in subsection 2, if the assuming insurer is not licensed or accredited to transact



insurance or reinsurance in this State, the credit permitted by NRS 681A.170 or 681A.180 must not be allowed unless the assuming insurer agrees in the agreements for reinsurance:

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

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

(c) To comply with the conditions set forth in subsection ~~4~~ 5 of NRS 681A.180.

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

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

681A.220 Credit must be allowed if reinsurance is ceded to an assuming insurer not meeting the requirements of NRS 681A.110 ~~or~~ and 681A.150 ~~[, 681A.160, 681A.170, 681A.180 or] to~~ 681A.190, **inclusive, and sections 4 to 11, inclusive, of this act**, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

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

681A.230 1. Credit must be allowed as an asset or as a deduction from liability to any ceding insurer for reinsurance lawfully ceded to an assuming insurer qualified therefor pursuant to NRS 681A.110 ~~[, and~~ 681A.150 ~~[, 681A.160, 681A.170, 681A.180 or] to~~ 681A.190, **inclusive, and sections 4 to 11, 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, 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.*

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.*

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.*

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, inclusive, of this act.

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, as amended.

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, inclusive, 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 NRS 681B.230, 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 examination report created in accordance with the provisions of NRS 681B.230 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 subsection 2 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,



1 produced or obtained by or disclosed to the Commissioner or any
2 other person in connection with such reports, documents,
3 materials and other information;

4 (d) Any principle-based valuation report developed in
5 accordance with subsection 3 of section 35 of this act, and any
6 other documents, materials and other information, including,
7 without limitation, all working papers, and copies thereof, created,
8 produced or obtained by or disclosed to the Commissioner or any
9 other person in connection with such report; and

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

16 2. As used in this section:

17 (a) “Experience data” means all documents, materials, data
18 and other information submitted by an applicable company
19 pursuant to section 35 of this act.

20 (b) “Experience materials” means all documents, materials,
21 data and other information, including, without limitation, all
22 working papers, and copies thereof, created or produced in
23 connection with experience data including, without limitation, any
24 potentially company-identifying or personally identifiable
25 information, that is provided to or obtained by the Commissioner.

26 **Sec. 34.** An applicable company must establish reserves
27 using a principle-based valuation that:

28 1. Quantifies the benefits and guarantees, and the funding,
29 associated with the contracts and their risks at a level of
30 conservatism that reflects conditions which include unfavorable
31 events that have a reasonable probability of occurring during the
32 lifetime of the contracts. For policies or contracts with significant
33 tail risk, the valuation must reflect conditions appropriately
34 adverse to quantify the tail risk.

35 2. Incorporates assumptions, risk analysis methods and
36 financial models and management techniques that are consistent
37 with, but not necessarily identical to, those utilized within the
38 company’s overall risk assessment process while recognizing
39 potential differences in financial reporting structures and any
40 prescribed assumptions or methods.

41 3. Incorporates assumptions that are:

42 (a) Prescribed in the Valuation Manual; or

43 (b) Established utilizing the company’s available experience,
44 to the extent that it is relevant and statistically credible or



established utilizing other relevant, statistically credible experience.

4. Provides margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

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

1. Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the Valuation Manual.

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

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

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

Sec. 37. An applicable company shall submit to the Commissioner mortality, morbidity, policyholder behavior or expense experience and other data as prescribed in 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, 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, 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 3.

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.

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

1. 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



1 *accordance with subsection 3 of section 35 of this act by reason of*
2 *an action required by sections 33 to 39, inclusive, of this act;*

3 2. *May otherwise be released by the Commissioner with the*
4 *written consent of the applicable company; and*

5 3. *Is no longer confidential if any portion of a memorandum*
6 *in support of an opinion submitted in accordance with the*
7 *provisions of NRS 681B.200 to 681B.260, inclusive, or a principle-*
8 *based valuation report developed in accordance with subsection 3*
9 *of section 35 of this act, is:*

10 (a) *Cited by the applicable company in its marketing;*

11 (b) *Publicly volunteered to or before a government agency*
12 *other than the Division or an insurance department of another*
13 *state; or*

14 (c) *Released by the applicable company to the news media.*

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

16 681B.020 1. In addition to assets impliedly excluded by the
17 provisions of NRS 681B.010, the following expressly may not be
18 allowed as assets in any determination of the financial condition of
19 an insurer:

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

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

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

28 (d) Furniture, fixtures, furnishings, safes, vehicles, libraries,
29 stationery, literature and supplies, other than data processing,
30 recordkeeping and accounting systems authorized under subsection
31 13 of NRS 681B.010, except ~~the~~:

32 ~~—(1) In the case of title insurers such materials and plants as~~
33 ~~the insurer is expressly authorized to invest in under NRS~~
34 ~~682A.220; and~~

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

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

44 2. If any successor organization to the State Industrial
45 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. 41. NRS 681B.260 is hereby amended to read as follows:

681B.260 1. Except as otherwise provided in this section and NRS 239.0115, *and sections 33, 38 and 39 of this act*, an opinion, and any other material provided by an insurer to the Commissioner in connection therewith, must be kept confidential by the Commissioner, is not open to the public, and is not subject to subpoena, except for the purpose of defending an action seeking damages from any person by reason of any action required by NRS 681B.200 to 681B.260, inclusive, or by *any* regulation adopted under those sections.

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

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

4. The Commissioner may use the documents, materials and other information described in this section in the furtherance of any regulatory or legal 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



1 *Commissioner in connection with the memorandum, may be*
2 *subject to subpoena for the purpose of defending an action*
3 *seeking damages from the actuary submitting the memorandum by*
4 *reason of an action required by this section.*

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

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

12 **Sec. 44.** *“Acceptable collateral” means:*

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

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

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

28 **Sec. 45.** *“Acceptable private mortgage insurance” means*
29 *insurance written by a private insurer protecting a mortgage*
30 *lender against loss occasioned by a mortgage loan default and*
31 *issued by a licensed mortgage insurance company with a rating of*
32 *1 by the SVO, or a rating issued by a nationally recognized*
33 *statistical rating organization equivalent to a rating of 1 by the*
34 *SVO, that covers losses up to an 80 percent loan-to-value ratio.*

35 **Sec. 46.** *“Accident and health insurance” means protection*
36 *which provides payment of benefits for covered sickness or*
37 *accidental injury. The term does not include credit insurance,*
38 *disability insurance, accidental death and dismemberment*
39 *insurance and long-term care insurance.*

40 **Sec. 47.** *“Accident and health insurer” means a licensed life*
41 *or health insurer or health services corporation whose insurance*
42 *premiums and required statutory reserves for accident and health*
43 *insurance constitute at least 95 percent of the total premium*
44 *considerations or total statutory required reserves, respectively.*



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

7 **Sec. 49.** *“Affiliate” means, as to any person, another person*
8 *that, directly or indirectly through one or more intermediaries,*
9 *controls, is controlled by or is under common control with the*
10 *person.*

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

18 **Sec. 51.** *“Business entity” includes, without limitation, a sole*
19 *proprietorship, corporation, limited-liability company, association,*
20 *partnership, joint-stock company, joint venture, mutual fund,*
21 *trust, joint tenancy or other similar form of business organization,*
22 *whether organized for-profit or not-for-profit.*

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

29 **Sec. 53.** *“Capital and surplus” means the sum of the capital*
30 *and surplus of the insurer which is required to be shown on the*
31 *statutory financial statement of the insurer most recently required*
32 *to be filed with the Commissioner.*

33 **Sec. 54.** *“Cash equivalents” means short-term, highly rated*
34 *and highly liquid investments or securities that are readily*
35 *convertible to known amounts of cash without penalty and so near*
36 *maturity that they present insignificant risk of change in value.*
37 *The term includes, without limitation, government money market*
38 *mutual funds and class one money market mutual funds. As used*
39 *in this section:*

40 1. *“Highly rated” means an investment rated:*

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

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



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

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

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

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

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

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

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

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

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

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

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

Sec. 64. 1. “Derivative instrument” means an agreement, option or instrument, or a series or combination thereof:



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

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

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

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

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

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

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

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

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

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

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

1. Common stock;

2. Preferred stock;

3. A trust certificate;

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



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

6. An ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the 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 1. Invests only in obligations issued, guaranteed or insured
2 by the Federal Government or collateralized repurchase
3 agreements composed of these obligations; and

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

6 **Sec. 78.** “Government-sponsored enterprise” means a:

7 1. Governmental agency; or

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

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

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

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

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

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

27 2. The currency exchange rate risk or the degree of exposure
28 as to assets or liabilities which an insurer has acquired or
29 incurred or anticipates acquiring or incurring.

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

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

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

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

42 **Sec. 85.** “Insurance future option” means an option on an
43 insurance future.



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

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

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

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

16 **Sec. 90.** *“Investment subsidiary” means a subsidiary of an*
17 *insurer engaged or organized to engage exclusively in the*
18 *ownership and management of assets authorized as investments*
19 *for the insurer where the subsidiary limits its investment in any*
20 *asset so that its investments will not cause the amount of the total*
21 *investment of the insurer to exceed any of the investment*
22 *limitations or avoid any other provisions of this chapter applicable*
23 *to the insurer. As used in this section, “total investment of the*
24 *insurer” includes:*

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

26 2. *The insurer’s proportionate share of an investment in an*
27 *asset by an investment subsidiary of the insurer, calculated by*
28 *multiplying the amount of the subsidiary’s investment by the*
29 *percentage of the insurer’s ownership interest in the subsidiary.*

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

37 **Sec. 92.** *“Limited-liability company” means a business*
38 *organization, excluding partnerships and ordinary business*
39 *corporations, that is organized or operating in accordance with*
40 *the laws of the United States, or any state thereof, and that limits*
41 *the personal liability of investors to the equity investment of the*
42 *investor in the business organization.*

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



1 **Sec. 94. “Market value” means:**

2 1. As to cash and letters of credit, the face amounts thereof;
3 and

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

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

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

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

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

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

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

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

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



1 **Sec. 103.** *“Over-the-counter derivative instrument” means a*
2 *derivative instrument entered into with a business entity other*
3 *than through a qualified exchange or qualified foreign exchange,*
4 *or cleared through a qualified clearinghouse.*

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

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

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

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

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

21 2. *A bank or trust company incorporated or organized in*
22 *accordance with the laws of a country other than the United States*
23 *that is regulated as a bank or trust company by that country’s*
24 *government, or an agency thereof, and that at all times is not less*
25 *than adequately capitalized as determined by the standards*
26 *adopted by international banking authorities.*

27 **Sec. 108.** *“Qualified business entity” means a business entity*
28 *that is:*

29 1. *An issuer of obligations or preferred stock that is rated 1 or*
30 *2 by the SVO or an issuer of obligations, preferred stock or*
31 *derivative instruments that are rated the equivalent of 1 or 2 by the*
32 *SVO or by a nationally recognized statistical rating organization*
33 *recognized by the SVO; or*

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

36 **Sec. 109.** *“Qualified clearinghouse” means a clearinghouse*
37 *for, and subject to the rules of, a qualified exchange or qualified*
38 *foreign exchange, which provides clearing services, including*
39 *acting as a counterparty to each of the parties to a transaction*
40 *such that the parties no longer have credit risk as to each other.*

41 **Sec. 110.** *“Qualified exchange” means:*

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



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

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

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

5. A qualified foreign exchange.

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

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

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

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

Sec. 112. 1. “Rated credit instrument” means a contractual right to receive cash or another rated credit instrument from another entity which 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.



1 **Sec. 119.** *“Secured location” means the contiguous real*
2 *estate owned by one person.*

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

8 **Sec. 121.** *“Series company” means an investment company*
9 *that is organized as a series company, as defined in 17 C.F.R. §*
10 *270.18f-2.*

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

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

16 2. *Provides for mandatory sinking fund installments or open*
17 *market purchases commencing not more than 10.5 years after the*
18 *date of issue, with the sinking fund installments providing for the*
19 *purchase or redemption, on a cumulative basis commencing 10*
20 *years after the date of issue, of at least 2.5 percent per year of the*
21 *original number of shares of that issue of preferred stock.*

22 **Sec. 123.** *“Special rated credit instrument” means a rated*
23 *credit instrument that meets the requirements of section 136 of*
24 *this act.*

25 **Sec. 124.** *“State” means a state, territory or possession of the*
26 *United States, the District of Columbia or the Commonwealth of*
27 *Puerto Rico.*

28 **Sec. 125.** *“Substantially similar securities” means securities*
29 *that meet all criteria for “substantially similar” specified in the*
30 *Accounting Practices and Procedures Manual adopted by the*
31 *NAIC, as amended, and in an amount that constitutes good*
32 *delivery form as determined from time to time by the Public*
33 *Securities Administration, or its successor organization.*

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

36 **Sec. 127.** *“Swap” means an agreement to exchange or to net*
37 *payments at one or more times based on the actual or expected*
38 *price, level, performance or value of one or more underlying*
39 *interests.*

40 **Sec. 128.** *“Underlying interest” means the assets, liabilities,*
41 *other interests or a combination thereof underlying a derivative*
42 *instrument, including, without limitation, any one or more*
43 *securities, currencies, rates, indices, commodities or derivative*
44 *instruments.*



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

4 **Sec. 130.** *“Warrant” means an instrument that:*

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

8 2. *Is issued alone or in connection with the sale of other*
9 *securities, including, without limitation, as part of a merger or*
10 *recapitalization agreement, or to facilitate the divestiture of the*
11 *securities of another business entity.*

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

15 1. *The trust or other business entity is established solely for*
16 *the purpose of acquiring specific types of assets or rights to cash*
17 *flows, issuing securities and other instruments representing an*
18 *interest in or right to receive cash flows from those assets or*
19 *rights, and engaging in activities required to service the assets or*
20 *rights and any credit enhancement or support features held by the*
21 *trust or other business entity; and*

22 2. *The assets of the trust or other business entity consist*
23 *solely of interest-bearing obligations or other contractual*
24 *obligations representing the right to receive payment from the*
25 *cash flows from the assets or rights. The existence of credit*
26 *enhancements, including, without limitation, letters of credit or*
27 *guarantees, or support features, including, without limitation,*
28 *swap agreements, do not cause a security or other instrument to be*
29 *ineligible as an asset-backed security.*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

Sec. 135. 1. An investment shall not be deemed a foreign investment if the issuing person, qualified primary credit source or



qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction unless:

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

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

2. For the purposes of this section:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

(b) An asset-backed security that:

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

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

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

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

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

2. For the purposes of paragraph (b) of subsection 1, if the asset-backed security is purchased in combination with one or



more other asset-backed securities that are supported by identical underlying collateral, the insurer may calculate the rate of return for these specific combined asset-backed securities in combination. The insurer shall maintain documentation demonstrating that such securities were acquired and are continuing to be held in combination.

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

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

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

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

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

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

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

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

(b) As realization on collateral for an obligation;

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

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

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

Sec. 139. 1. An investment, or portion of an investment, acquired by an insurer in accordance with section 138 of this act



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

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

15 **Sec. 140.** Except as otherwise provided in sections 141 and
16 143 of this act, an investment shall be deemed to qualify pursuant
17 to this chapter if, on the date the insurer committed to acquire the
18 investment or on the date of its acquisition, it would have qualified
19 pursuant to this chapter. For the purposes of determining
20 limitations contained in this chapter, an insurer shall give
21 appropriate recognition to any commitments to acquire
22 investments.

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

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

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

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

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



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

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

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

Sec. 145. An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer, or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.

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

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

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

Sec. 149. Investments acquired and held pursuant to this chapter must be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations and



investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct the insurer's investments.

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

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

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

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

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

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

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

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

(b) Invest in an obligation or security, make a guarantee for the benefits of or in favor of, or make other investments in a business entity of which 10 percent or more of the voting securities or equity interests are owned directly or indirectly by, or for the benefit of, one or more officers or directors of the insurer, except as authorized in chapter 692C of NRS or provided in sections 155 and 156 of this act;

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

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

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



(2) For the purpose of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. For the purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than 2 percent of all outstanding equity



interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or 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, insured or guaranteed by a single person, or 5 percent of its admitted assets in investments in the voting securities of a depository institution or any company that controls the institution.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

(a) The United States;

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

(c) Canada; or

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

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

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

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

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

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

(d) Issued by a multilateral development bank.

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

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



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

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

6. Subject to the limitations of sections 160, 161 and 162 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. 164. 1. An insurer may acquire investments in investment pools that invest only in:

(a) Obligations with an SVO rating of 1 or 2, or the equivalent of an SVO rating of 1 or 2 by a nationally recognized statistical rating organization recognized by the SVO, or, in the absence of an equivalent rating, the issuer has outstanding obligations with the equivalent of an SVO rating of 1 or 2, or an equivalent rating, 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 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 purposes 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 178 of this act, except the quantitative limitations of subsection 4 of section 178 of this act.

(d) Investments which an insurer may acquire pursuant to this chapter if the insurer's proportionate interest in the amount



1 *invested in these investments does not exceed the applicable limits*
2 *of this chapter.*

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

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

7 (b) *Borrow or incur any indebtedness for borrowed money,*
8 *except for securities lending and reverse repurchase transactions*
9 *that meet the requirements of section 178 of this act, except the*
10 *quantitative limitations of subsection 4 of section 178 of this act;*
11 *or*

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

16 3. *The limitations of section 160 of this act do not apply to an*
17 *insurer's investment in an investment pool, however an insurer*
18 *shall not acquire an investment in an investment pool in*
19 *accordance with this section if, as a result of and after giving*
20 *effect to the investment, the aggregate amount of investments held*
21 *by the insurer in accordance with this section:*

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

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

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

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

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

34 (b) *Be the insurer, an affiliated insurer or a business entity*
35 *affiliated with the insurer, a qualified bank, a business entity*
36 *registered in accordance with the provisions of the Investment*
37 *Advisers Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, or,*
38 *in the case of a reciprocal insurer or interinsurance exchange, its*
39 *attorney-in-fact, or in the case of a United States branch of an*
40 *alien insurer, its United States manager or affiliates or*
41 *subsidiaries of its United States manager;*

42 (c) *Compile and maintain detailed accounting records setting*
43 *forth:*

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



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

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

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

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

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

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

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

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

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

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

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

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

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



1 must occur within a reasonable and customary period thereafter
2 not to exceed 5 business days. Distributions in accordance with
3 this paragraph must be calculated in each case net of all
4 applicable fees and expenses of the investment pool. The pooling
5 agreement must provide that the pool manager shall distribute to a
6 participant, at the discretion of the pool manager:

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

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

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

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

14 **Sec. 165.** Subject to the limitations of sections 160, 161 and
15 162 of this act, an insurer may acquire equity interests in business
16 entities organized in accordance with the laws of any domestic
17 jurisdiction.

18 **Sec. 166.** An insurer shall not acquire an investment in
19 accordance with the provisions of sections 165 to 168, inclusive, of
20 this act if, as a result of and after giving effect to the investment,
21 the aggregate amount of investments held by the insurer in
22 accordance with those sections would exceed 20 percent of the
23 insurer's admitted assets, or the amount of equity interests held by
24 the insurer that are not listed on a qualified exchange would
25 exceed 5 percent of the insurer's admitted assets. An accident and
26 health insurer is not subject to the provisions of sections 165 to
27 168, inclusive, of this act, but is subject to the same aggregate
28 limitation on equity interests as a property and casualty insurer in
29 accordance with the provisions of sections 195 to 199, inclusive,
30 and 205 to 208, inclusive, of this act.

31 **Sec. 167.** An insurer shall not acquire in accordance with
32 the provisions of sections 165 to 168, inclusive, of this act any
33 investments that the insurer may acquire in accordance with the
34 provisions of sections 174 to 177, inclusive, of this act.

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

39 **Sec. 169.** 1. Subject to the limitations of sections 160, 161
40 and 162 of this act, an insurer may acquire tangible personal
41 property or equity interests therein located or used wholly or in
42 part within a domestic jurisdiction either directly or indirectly
43 through limited partnership interests and general partnership
44 interests not otherwise prohibited by paragraph (d) of subsection 1
45 of section 154 of this act, joint ventures, stock of an investment



1 subsidiary or membership interests in a limited-liability company,
2 trust certificates or other similar instruments.

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

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

9 (b) The lease or other agreement provides the insurer the right
10 to receive rental, purchase or other fixed payments for the use or
11 purchase of the property, and the aggregate value of the payments,
12 together with the estimated residual value of the property at the
13 end of its useful life and the estimated tax benefits to the insurer
14 resulting from ownership of the property, must be adequate to
15 return the cost of the insurer's investment in the property, plus a
16 return deemed adequate by the insurer.

17 **Sec. 170.** The insurer shall compute the amount of each
18 investment acquired in accordance with the provisions of sections
19 169 to 173, inclusive, of this act on the basis of the out-of-pocket
20 purchase price and applicable related expenses paid by the insurer
21 for the investment, net of each borrowing made to finance the
22 purchase price and expenses, to the extent the borrowing is
23 without recourse to the insurer.

24 **Sec. 171.** An insurer shall not acquire an investment in
25 accordance with the provisions of sections 169 to 173, inclusive, of
26 this act if, as a result of and after giving effect to the investment,
27 the aggregate amount of all investments held by the insurer in
28 accordance with the provisions of sections 169 to 173, inclusive, of
29 this act would exceed:

30 1. Two percent of its admitted assets; or

31 2. One half of one percent of its admitted assets as to any
32 single item of tangible personal property.

33 **Sec. 172.** For the purposes of determining compliance with
34 the limitations of sections 160, 161 and 162 of this act, investments
35 acquired by an insurer in accordance with the provisions of
36 sections 169 to 173, inclusive, of this act must be aggregated with
37 those acquired in accordance with the provisions of section 163 of
38 this act, and each lessee of the property under a lease referred to
39 in sections 169 to 173, inclusive, of this act shall be deemed the
40 issuer of an obligation in the amount of the investment of the
41 insurer in the property determined as provided in section 170 of
42 this act.

43 **Sec. 173.** Nothing in sections 169 to 173, inclusive, of this act
44 applies to tangible personal property lease arrangements between
45 an insurer and its subsidiaries and affiliates in accordance with a



cost-sharing arrangement or agreement permitted in accordance with the provisions of chapter 692C of NRS.

Sec. 174. 1. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire, 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, obligations secured by mortgages on real estate situated within a domestic jurisdiction.

2. A mortgage loan which is secured by other than a first lien must not be acquired unless the insurer is the holder of the first lien.

3. The obligations held by the insurer and any obligations with an equal lien priority shall not, at the time of acquisition of the obligation, exceed:

(a) Ninety percent of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate.

(b) Eighty percent of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payment in periodic installments of principal and interest, has an amortization period of not more than 30 years and periodic payments made not less frequently than annually. Each periodic payment must be sufficient to ensure that at all times the outstanding principal balance of the mortgage loan is not greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans allowed in accordance with this section are allowed notwithstanding the fact that they provide for a payment of the principal balance before the end of the period of amortization of the loan. For residential mortgage loans, the 80-percent limitation may be increased to 97 percent if acceptable private mortgage insurance has been obtained.

(c) Seventy-five percent of the fair market values of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b).

4. For purposes of subsections 1, 2 and 3, 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.

5. 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 174 to 177, 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.

6. Subject to the limitations of sections 160, 161 and 162 of this act, credit lease transactions that do not qualify for investment pursuant to section 163 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 rating of 1 or 2, 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. 175. 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 instruments. 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 177 of this act.

Sec. 176. 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 175 of this act and is so qualified by the insurer.

3. The real estate acquired as described in this section may be subject to one or more 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 subsection 4 of section 177 of this act.

4. For the purposes of this section, business operations must not include that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds. An insurer may acquire real estate used for these purposes under section 175 of this act.

Sec. 177. 1. An insurer shall not acquire an investment in accordance with the provisions of section 174 of this act if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer pursuant to that section would exceed:

(a) One percent of its admitted assets in mortgage loans covering any one secured location;

(b) One-quarter of one percent of its admitted assets in construction loans covering any one secured location; or

(c) Two percent of its admitted assets in construction loans in the aggregate.

2. An insurer shall not acquire an investment under section 175 of this act if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of



investments held by the insurer under section 175 of this act plus the guarantees outstanding would exceed:

(a) One percent of its admitted assets in one parcel or group of contiguous parcels of real estate, except that this limitation does not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings or other health facilities used for the purpose of providing health services; or

(b) Fifteen percent of its admitted assets in the aggregate, but not more than 5 percent of its admitted assets as to properties that are to be improved or developed.

3. An insurer shall not acquire an investment pursuant to sections 174 and 175 of this act if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments held by the insurer in accordance with those sections plus the guarantees outstanding would exceed 45 percent of the insurer's admitted assets. An insurer may exceed this limitation by not more than 30 percent of the insurer's admitted assets if:

(a) This increased amount is invested only in residential mortgage loans;

(b) The insurer has not more than 10 percent of the insurer's admitted assets invested in mortgage loans other than residential mortgage loans;

(c) The loan-to-value ratio of each residential mortgage loan does not exceed 60 percent at the time the mortgage loan is qualified pursuant to this increased authority, and the fair market value is supported by an appraisal that is not more than 2 years old and prepared by an independent appraiser;

(d) A single mortgage loan qualified pursuant to this increased authority does not exceed 0.5 percent of the insurer's admitted assets;

(e) The insurer files with the Commissioner, and receives approval from the Commissioner for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and

(f) The insurer agrees to file annually with the Commissioner records which demonstrate that the insurer's portfolio of residential mortgage loans is geographically diversified in accordance with the plan.

4. The limitations of sections 160, 161 and 162 of this act do not apply to an insurer's acquisition of real estate under section 175 of this act. An insurer shall not acquire real estate under section 175 of this act if, as a result of and after giving effect to the



1 acquisition, the aggregate amount of real estate held by the
2 insurer in accordance with that section would exceed 10 percent of
3 its admitted assets. With the approval of the Commissioner,
4 additional amounts of real estate may be acquired under section
5 175 of this act.

6 **Sec. 178.** An insurer may enter into securities lending,
7 repurchase, reverse repurchase and dollar roll transactions with
8 business entities, subject to the following requirements:

9 1. The insurer's board of directors shall adopt a written plan
10 that is consistent with the requirements of the written plan in
11 section 148 of this act which specifies the guidelines and objectives
12 to be followed, including, without limitation:

13 (a) A description of how cash received will be invested or used
14 for general corporate purposes of the insurer;

15 (b) Operational procedures to manage interest rate risk,
16 counterparty default risk, the conditions under which proceeds
17 from reverse repurchase transactions may be used in the ordinary
18 course of business and the use of acceptable collateral in a
19 manner that reflects the liquidity needs of the transactions; and

20 (c) The extent to which the insurer may engage in these
21 transactions.

22 2. The insurer shall enter into a written agreement for all
23 transactions authorized by this section other than dollar roll
24 transactions. The written agreement must require that each
25 transaction terminate not more than 1 year after its inception or
26 upon the earlier demand of the insurer. The agreement must be
27 with the business entity counterparty, but for securities lending
28 transactions, the agreement may be with an agent acting on behalf
29 of the insurer, if the agent is a qualified business entity and if the
30 agreement:

31 (a) Requires the agent to enter into separate agreements with
32 each counterparty that are consistent with the requirements of this
33 section; and

34 (b) Prohibits securities lending transactions under the
35 agreement with the agent or its affiliates.

36 3. Cash received in a transaction as described in this section
37 must be invested in accordance with the provisions of this chapter
38 and in a manner that recognizes the liquidity needs of the
39 transaction or used by the insurer for its general corporate
40 purposes. For so long as the transaction remains outstanding, the
41 insurer, its agent or custodian shall maintain, as to acceptable
42 collateral received in a transaction in accordance with this section,
43 either physically or through book entry systems of the Federal
44 Reserve, the Depository Trust Company, the Participants Trust



Company or any other securities depositories approved by the Commissioner:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

4. The limitations of sections 160, 161, 162 and 179 to 183, inclusive, of this act do not apply to the business entity counterparty exposure created by transactions entered into under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities loaned, sold or purchased from any one business entity counterparty under this section would exceed 5 percent of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty in accordance with repurchase or reverse purchase transactions, effect may be given to netting provisions under a master written agreement.

(b) The aggregate amount of all securities loaned, sold to or purchased from all business entities under this section would exceed 40 percent of its admitted assets.

5. In a securities lending transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 102 percent or more of the market value of the securities loaned by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the market value of the loaned securities.

6. In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 95 percent or more of the market value of the securities transferred by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than 95 percent of the market value of the securities so transferred, the business entity counterparty is obligated to deliver additional acceptable



collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 95 percent or more of the market value of the transferred securities.

7. In a dollar roll transaction, the insurer shall receive cash in an amount equal to at least the market value of the securities transferred by the insurer in the transaction on the transaction date.

8. In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value equal to 102 percent or more of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than 100 percent of the purchase price paid by the insurer, the business entity counterparty is obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the purchase price. Securities acquired by an insurer in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned in a securities lending transaction or otherwise pledged.

9. To constitute acceptable collateral for the purposes of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

Sec. 179. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire foreign investments, or engage in investment practices with persons of or in foreign jurisdictions, of substantially the same type as those that an insurer is allowed to acquire pursuant to this chapter, other than of the type allowed under section 164 of this act if, as a result of and after giving effect to the investments:

1. The aggregate amount of foreign investments held by the insurer in accordance with this section does not exceed 20 percent of its admitted assets; and

2. The aggregate amount of foreign investments held by the insurer in accordance with this section in a single foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 3 percent of its admitted assets as to any other foreign jurisdiction.

Sec. 180. 1. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired as described in section 179 of this act, or additional foreign currency exposure as a result of the termination or expiration of a hedging



1 *transaction with respect to investments denominated in a foreign*
2 *currency if:*

3 *(a) The aggregate amount of investments held by the insurer*
4 *in accordance with this section denominated in foreign currencies*
5 *does not exceed 10 percent of its admitted assets; and*

6 *(b) The aggregate amount of investments held by the insurer*
7 *in accordance with this section denominated in the foreign*
8 *currency of a single foreign jurisdiction does not exceed 10*
9 *percent of its admitted assets as to a foreign jurisdiction that has a*
10 *sovereign debt rating of SVO 1 or 3 percent of its admitted assets*
11 *as to any other foreign jurisdiction.*

12 **2.** *An investment must not be considered denominated in a*
13 *foreign currency if the acquiring insurer enters into one or more*
14 *contracts in transactions allowed under sections 184 to 188,*
15 *inclusive, of this act and the business entity counterparty agrees in*
16 *the contract or contracts to exchange all payments made on the*
17 *foreign currency denominated investment for United States*
18 *currency at a rate which effectively insulates the investment cash*
19 *flows against future changes in currency exchange rates during*
20 *the period the contract or contracts are in effect.*

21 **Sec. 181.** *In addition to investments allowed under sections*
22 *179 and 180 of this act, an insurer that is authorized to do*
23 *business in a foreign jurisdiction, and that has outstanding*
24 *insurance, annuity or reinsurance contracts on lives or risks*
25 *resident or located in that foreign jurisdiction and denominated in*
26 *a foreign currency of that jurisdiction, may acquire foreign*
27 *investments respecting that foreign jurisdiction, and may acquire*
28 *investments denominated in the currency of that jurisdiction,*
29 *subject to the limitations of sections 160, 161 and 162 of this act.*
30 *Investments made in accordance with this section in obligations of*
31 *foreign governments, their political subdivisions and government-*
32 *sponsored enterprises are not subject to the limitations of sections*
33 *160, 161 and 162 of this act if those investments carry an SVO*
34 *rating of 1 or 2. The aggregate amount of investments acquired by*
35 *the insurer in accordance with this section must not exceed the*
36 *greater of:*

37 **1.** *The amount the insurer is required by the law of the*
38 *foreign jurisdiction to invest in the foreign jurisdiction; or*

39 **2.** *One hundred fifteen percent of the amount of the insurer's*
40 *reserves, net of reinsurance, and other obligations under the*
41 *contracts on lives or risks resident or located in the foreign*
42 *jurisdiction.*

43 **Sec. 182.** *In addition to investments allowed under sections*
44 *179 and 180 of this act, an insurer that is not authorized to do*
45 *business in a foreign jurisdiction, but which has outstanding*



insurance, annuity or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations of sections 160, 161 and 162 of this act. Investments made in accordance with this section in obligations of foreign governments, their political subdivisions and government-sponsored enterprises are not subject to the limitations of sections 160, 161 and 162 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 lives or risks resident or located in the foreign jurisdiction.

Sec. 183. Investments acquired in conformance with sections 179 to 183, 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 by sections 181 and 182 of this act, are subject to the limitations of sections 160, 161 and 162 of this act.

Sec. 184. An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions as described in sections 184 to 188, inclusive, of this act pursuant to the following conditions:

1. An insurer may use derivative instruments under sections 184 to 188, 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 the transactions through cash flow testing or other appropriate analyses.

Sec. 185. An insurer may enter into hedging transactions under sections 184 to 188, 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. 186. 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 or which generate the cash flows for payments under the caps or floors, 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;

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 the calendar year that corresponds to the most recent annual statement of the insurer.

(c) Accrued retrospective premiums discounted by an average discount factor. The discount factor used in this paragraph must be calculated by dividing the losses and loss adjustment expenses unpaid after discounting by loss and loss adjustment expense reserves before discounting the amount obtained pursuant to paragraph (a).

3. For purposes of the calculations required pursuant to subsection 2, the losses and loss adjustment expenses unpaid must be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount.

4. Adjusted unearned premium reserves must be equal to the sum derived by subtracting the amount obtained pursuant to paragraph (b) from the amount obtained pursuant to paragraph (a), as follows:

(a) The amount reported by the insurer as unearned premium reserves.

(b) The admitted asset amounts reported by the insurer as:

(1) Premiums in and agent's balances in the course of collection, accident and health premiums due and unpaid and uncollected premiums for accident and health premiums;

(2) Premiums, agent's balances and installments booked but deferred and not yet due; and

(3) Bills receivable, taken for premium.

5. Statutorily required policy and contract reserves also must include, without limitation, any required contingency reserves, including, without limitation, in the case of a mortgage guaranty insurer, the amounts required by NRS 681B.100.

Sec. 197. A property and casualty, financial guaranty, mortgage guaranty or accident and health insurer shall supplement its annual statement with a reconciliation and



summary of its assets and reserve requirements as required in sections 195 and 196 of this act. A reconciliation and summary showing that an insurer's assets as required in sections 195 and 196 of this act are greater than or equal to its undiscounted reserves referred to in sections 195 and 196 of this act is sufficient to satisfy this requirement. Upon prior notification, the Commissioner may require an insurer to submit such a reconciliation and summary with any quarterly statement filed during the calendar year.

Sec. 198. If a property and casualty, financial guaranty, mortgage guaranty or accident and health insurer's assets and reserves do not comply with sections 195 and 196 of this act, the insurer shall notify the Commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists and, within 30 days after the date of the notice, propose a plan of action to remedy the deficiency.

Sec. 199. 1. If the Commissioner determines that an insurer is not in compliance with sections 195 and 196 of this act, the Commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time after the date on which the notice of the Commissioner's requirements is mailed or delivered to the insurer.

2. If an insurer fails to comply with the Commissioner's requirements that are imposed pursuant to subsection 1, the insurer is deemed to be in hazardous financial condition and the Commissioner shall take one or more of the actions authorized by law as to insurers in hazardous financial condition.

Sec. 200. 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 5 percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured or guaranteed by a single person.

2. The limitation in subsection 1 does not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

3. Asset-backed securities are not subject to the limitation in subsection 1. However, an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by, or evidencing an interest in, a single asset or single



pool of assets held by a trust or other business entity held by the insurer would exceed 5 percent of its admitted assets.

Sec. 201. 1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of sections 203, 209 to 213, inclusive, or 219 to 223, inclusive, of this act or counterparty exposure in accordance with the provisions of section 227 of this act if, as a result of and after giving effect to the investment:

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

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

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

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

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

2. An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of sections 203, 209 to 213, inclusive, or 219 to 223, inclusive, of this act or counterparty exposure in accordance with the provisions of section 227 of this act if, as a result of and after giving effect to the investment:

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

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

3. If an insurer attains or exceeds the limit of any one rating category referred to in this section, the insurer must not be precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.



Sec. 202. 1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, any Canadian investments authorized by the provisions of this chapter if, as a result of and after giving effect to the investment, the aggregate amount of these investments held by the insurer would exceed 40 percent of its admitted assets, or if the aggregate amount of Canadian investments not acquired in accordance with paragraph (c) or (d) of subsection 1 of section 203 of this act held by the insurer would exceed 25 percent of its admitted assets.

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

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

(b) One hundred twenty-five percent of the amount of its reserves and other obligations under contracts on risks resident or located in Canada.

Sec. 203. 1. Subject to the limitations of section 201 of this act, but not to the limitations of section 200 of this act, an insurer may acquire rated credit instruments issued, assumed, guaranteed or insured by:

(a) The United States;

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

(c) Canada; or

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

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

3. Subject to the limitations of section 201 of this act, but not to the limitations of section 200 of this act, an insurer may acquire rated credit instruments, excluding asset-backed securities:

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



(b) Issued, assumed, guaranteed or insured by a government-sponsored enterprise of the United States other than those eligible in accordance with subsection 1;

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

(d) Issued by a multilateral development bank.

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

5. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire preferred stocks that are not foreign investments and which meet the requirements of rated credit instruments if, as a result of and after giving effect to the investments:

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

(b) The aggregate amount of preferred stocks held by the insurer in accordance with this section which are not sinking fund stocks or rated P1 or P2 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;

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

(c) In all investment pools would exceed 40 percent of its admitted assets.



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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



1 **Sec. 208.** *An insurer shall not short sell equity investments*
2 *unless the insurer covers the short sale by owning the equity*
3 *investment or an unrestricted right to the equity instrument*
4 *exercisable within 6 months after the short sale.*

5 **Sec. 209.** 1. *Subject to the limitations of sections 200, 201*
6 *and 202 of this act, an insurer may acquire tangible personal*
7 *property or equity interests therein located or used wholly or in*
8 *part within a domestic jurisdiction either directly or indirectly*
9 *through limited partnership interests and general partnership*
10 *interests not otherwise prohibited by paragraph (d) of subsection 1*
11 *of section 154 of this act, joint ventures, stock of an investment*
12 *subsidiary or membership interests in a limited-liability company,*
13 *trust certificates or other similar instruments.*

14 2. *Investments acquired as described in subsection 1 are*
15 *eligible only if:*

16 (a) *The property is subject to a lease or other agreement with a*
17 *person whose rated credit instruments in the amount of the*
18 *purchase price of the personal property the insurer could acquire*
19 *in accordance with the provisions of section 203 of this act; and*

20 (b) *The lease or other agreement provides the insurer the right*
21 *to receive rental, purchase or other fixed payments for the use or*
22 *purchase of the property, and the aggregate value of the payments,*
23 *together with the estimated residual value of the property at the*
24 *end of its useful life and the estimated tax benefits to the insurer*
25 *resulting from ownership of the property, must be adequate to*
26 *return the cost of the insurer's investment in the property, plus a*
27 *return deemed adequate by the insurer.*

28 **Sec. 210.** *The insurer shall compute the amount of each*
29 *investment entered into in accordance with the provisions of*
30 *sections 209 to 213, inclusive, of this act on the basis of the out-of-*
31 *pocket purchase price and applicable related expenses paid by the*
32 *insurer for the investment, net of each borrowing made to finance*
33 *the purchase price and expenses, to the extent the borrowing is*
34 *without recourse to the insurer.*

35 **Sec. 211.** *An insurer shall not acquire an investment in*
36 *accordance with the provisions of sections 209 to 213, inclusive, of*
37 *this act if, as a result of and after giving effect to the investment,*
38 *the aggregate amount of all investments held by the insurer in*
39 *accordance with the provisions of sections 209 to 213, inclusive, of*
40 *this act would exceed:*

41 1. *Two percent of its admitted assets; or*

42 2. *One half of one percent of its admitted assets as to any*
43 *single item of tangible personal property.*

44 **Sec. 212.** *For the purposes of determining compliance with*
45 *the limitations of sections 200, 201 and 202 of this act, investments*



1 *acquired by an insurer in accordance with the provisions of*
2 *sections 209 to 213, inclusive, of this act must be aggregated with*
3 *those acquired in accordance with the provisions of section 203 of*
4 *this act, and each lessee of the property in accordance with a lease*
5 *referred to in sections 209 to 213, inclusive, of this act shall be*
6 *deemed the issuer of an obligation in the amount of the investment*
7 *of the insurer in the property determined as provided in section*
8 *210 of this act.*

9 **Sec. 213.** *Nothing in sections 209 to 213, inclusive, of this act*
10 *applies to tangible personal property lease arrangements between*
11 *an insurer and its subsidiaries and affiliates in accordance with a*
12 *cost-sharing arrangement or agreement permitted in accordance*
13 *with the provisions of chapter 692C of NRS.*

14 **Sec. 214.** 1. *Subject to the limitations of sections 200, 201*
15 *and 202 of this act, an insurer may acquire, either directly, or*
16 *indirectly through limited partnership interests and general*
17 *partnership interests not otherwise prohibited by paragraph (d) of*
18 *subsection 1 of section 154 of this act, joint ventures, stock of an*
19 *investment subsidiary or membership interests in a limited-liability*
20 *company, trust certificates, or other similar instruments,*
21 *obligations secured by mortgages on real estate situated within a*
22 *domestic jurisdiction. A mortgage loan which is secured by other*
23 *than a first lien must not be acquired unless the insurer is the*
24 *holder of the first lien.*

25 2. *The obligations held by the insurer and any obligations*
26 *with an equal lien priority must not, at the time of acquisition of*
27 *the obligation, exceed:*

28 (a) *Ninety percent of the fair market value of the real estate, if*
29 *the mortgage loan is secured by a purchase money mortgage or*
30 *like security received by the insurer upon disposition of the real*
31 *estate.*

32 (b) *Eighty percent of the fair market value of the real estate, if*
33 *the mortgage loan requires immediate scheduled payment in*
34 *periodic installments of principal and interest, has an amortization*
35 *period of 30 years or less and periodic payments made not less*
36 *frequently than annually. Each periodic payment must be*
37 *sufficient to ensure that at all times the outstanding principal*
38 *balance of the mortgage loan is not greater than the outstanding*
39 *principal balance that would be outstanding under a mortgage*
40 *loan with the same original principal balance, the same interest*
41 *rate and requiring equal payments of principal and interest with*
42 *the same frequency over the same amortization period. Mortgage*
43 *loans allowed in accordance with this section are allowed*
44 *notwithstanding the fact that they provide for a payment of the*
45 *principal balance before the end of the period of amortization of*



1 the loan. For residential mortgage loans, the 80-percent limitation
2 may be increased to 97 percent if acceptable private mortgage
3 insurance has been obtained.

4 (c) Seventy-five percent of the fair market value of the real
5 estate for mortgage loans that do not meet the requirements of
6 paragraph (a) or (b).

7 3. For the purposes of subsection 2, the amount of an
8 obligation required to be included in the calculation of the loan-
9 to-value ratio may be reduced to the extent the obligation is
10 insured by the Federal Housing Administration or guaranteed by
11 the Administrator of Veterans Affairs, or their successors.

12 4. A mortgage loan that is held by an insurer pursuant to
13 section 141 of this act or acquired in accordance with the
14 provisions of sections 214 to 217, inclusive, of this act and is
15 restructured in a manner that meets the requirements of a
16 restructured mortgage loan in conformance with the Accounting
17 Practices and Procedures Manual adopted by the NAIC, will
18 continue to qualify as a mortgage loan in accordance with the
19 provisions of this chapter.

20 5. Subject to the limitations of sections 200, 201 and 202 of
21 this act, credit lease transactions that do not qualify for investment
22 pursuant to section 203 of this act are exempt from the provisions
23 of subsections 1, 2 and 3 if they meet the following criteria:

24 (a) The loan amortizes over the initial fixed lease term at least
25 in an amount sufficient so that the loan balance at the end of the
26 lease term does not exceed the original appraised value of the real
27 estate;

28 (b) The lease payments cover or exceed the total debt service
29 over the life of the loan;

30 (c) A tenant or its affiliated entity whose rated credit
31 instruments have an SVO 1 or 2 rating or a comparable rating
32 from a nationally recognized statistical rating organization
33 recognized by the SVO, has a full faith and credit obligation to
34 make the lease payments;

35 (d) The insurer holds or is the beneficial holder of a first lien
36 mortgage on the real estate;

37 (e) The expenses of the real estate are passed through to the
38 tenant excluding exterior, structural, parking and heating,
39 ventilation and air conditioning replacement expenses, unless
40 annual escrow contributions, from cash flows derived from the
41 lease payments, cover the expense shortfall; and

42 (f) There is a perfected assignment of the rents due pursuant
43 to the lease to, or for the benefit of, the insurer.

44 **Sec. 215.** 1. An insurer may acquire, manage and dispose
45 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 field 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.

3. The real estate acquired as described in this section may be subject to one or more 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 subsection 4 of section 217 of this act.

4. For purposes of this section, business operations must not include that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of total premium considerations or total statutory required reserves, respectively. An insurer may acquire real estate used for these purposes under section 215 of this act.

Sec. 217. 1. An insurer shall not acquire an investment in accordance with the provisions of section 214 of this act if, as a result of and after giving effect to the investment, the aggregate



1 amount of all investments held by the insurer pursuant to that
2 section would exceed:

3 (a) One percent of its admitted assets in mortgage loans
4 covering any one secured location;

5 (b) One-quarter of one percent of its admitted assets in
6 construction loans covering any one secured location; or

7 (c) One percent of its admitted assets in construction loans in
8 the aggregate.

9 2. An insurer shall not acquire an investment under section
10 215 of this act if, as a result of and after giving effect to the
11 investment and any outstanding guarantees made by the insurer in
12 connection with the investment, the aggregate amount of
13 investments held by the insurer under section 215 of this act plus
14 the guarantees outstanding would exceed:

15 (a) One percent of its admitted assets in any one parcel or
16 group of contiguous parcels of real estate, except that this
17 limitation does not apply to that portion of real estate used for the
18 direct provision of health care services by an insurer whose
19 insurance premiums and required statutory reserves for accident
20 and health insurance constitute at least 95 percent of total
21 premium considerations or total statutory required reserves,
22 respectively, including, without limitation, hospitals, medical
23 clinics, medical professional buildings or other health facilities
24 used for the purpose of providing health services; or

25 (b) The lesser of 10 percent of its admitted assets or 40 percent
26 of its surplus as regards policyholders in the aggregate, except for
27 an insurer whose insurance premiums and required statutory
28 reserves for accident and health insurance constitute at least 95
29 percent of total premium considerations or total statutory required
30 reserves, respectively, this limitation must be increased to 15
31 percent of its admitted assets in the aggregate.

32 3. An insurer shall not acquire an investment pursuant to
33 sections 214 and 215 of this act if, as a result of and after giving
34 effect to the investment and any guarantees it has made in
35 connection with the investment, the aggregate amount of all
36 investments held by the insurer in accordance with the provisions
37 of those sections plus the guarantees outstanding would exceed 25
38 percent of the insurer's admitted assets.

39 4. The limitations of sections 200, 201 and 202 of this act do
40 not apply to an insurer's acquisition of real estate under section
41 216 of this act. An insurer shall not acquire real estate under
42 section 216 of this act if, as a result of and after giving effect to the
43 acquisition, the aggregate amount of real estate held by the
44 insurer in accordance with that section would exceed 10 percent of
45 its admitted assets. With the permission of the Commissioner,



1 additional amounts of real estate may be acquired under section
2 216 of this act.

3 **Sec. 218.** An insurer may enter into securities lending,
4 repurchase, reverse repurchase and dollar roll transactions with
5 business entities, subject to the following requirements:

6 1. The insurer's board of directors shall adopt a written plan
7 that is consistent with the requirements of the written plan in
8 section 148 of this act which specifies the guidelines and objectives
9 to be followed, including, without limitation:

10 (a) A description of how cash received will be invested or used
11 for general corporate purposes of the insurer;

12 (b) Operational procedures to manage interest rate risk,
13 counterparty default risk, the conditions under which proceeds
14 from reverse repurchase transactions may be used in the ordinary
15 course of business and the use of acceptable collateral in a
16 manner that reflects the liquidity needs of the transaction; and

17 (c) The extent to which the insurer may engage in these
18 transactions.

19 2. The insurer shall enter into a written agreement for all
20 transactions authorized in this section other than dollar roll
21 transactions. The written agreement must require that each
22 transaction terminate not more than 1 year after its inception or
23 upon the earlier demand of the insurer. The agreement must be
24 with the business entity counterparty, but for securities lending
25 transactions, the agreement may be with an agent acting on behalf
26 of the insurer, if the agent is a qualified business entity and if the
27 agreement:

28 (a) Requires the agent to enter into separate agreements with
29 each counterparty that are consistent with the requirements of this
30 section; and

31 (b) Prohibits securities lending transactions under the
32 agreement with the agent or its affiliates.

33 3. Cash received in a transaction entered into as described in
34 this section must be invested in accordance with the provisions of
35 this chapter and in a manner that recognizes the liquidity needs of
36 the transaction or used by the insurer for its general corporate
37 purposes. For so long as the transaction remains outstanding, the
38 insurer, its agent or custodian shall maintain, as to acceptable
39 collateral received in a transaction entered into in accordance
40 with this section, either physically or through the book entry
41 systems of the Federal Reserve, the Depository Trust Company,
42 the Participants Trust Company or any other securities
43 depositories approved by the Commissioner:

44 (a) Possession of the acceptable collateral;

45 (b) A perfected security interest in the acceptable collateral; or



(c) *In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.*

4. *The limitations of sections 200, 201, 202 and 219 to 223, inclusive, of this act do not apply to the business entity counterparty exposure created by transactions entered into under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:*

(a) *The aggregate amount of securities loaned, sold to or purchased from any one business entity counterparty under this section would exceed 5 percent of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions contained within a master written agreement.*

(b) *The aggregate amount of all securities loaned, sold to or purchased from all business entities under this section would exceed 40 percent of its admitted assets.*

↪ *The limitation in this subsection does not apply to reverse repurchase transactions for so long as the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and subject to a plan approved by the Commissioner.*

5. *In a securities lending transaction, the insurer shall receive acceptable collateral having a market value on the transaction date, equal to 102 percent or more of the market value of the securities loaned by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the market value of the loaned securities.*

6. *In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 95 percent or more of the market value of the securities transferred by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than 95 percent of the market value of the securities so transferred, the business entity*



1 counterparty is obligated to deliver additional acceptable
2 collateral, the market value of which, together with the market
3 value of all acceptable collateral held in connection with the
4 transaction, equals 95 percent or more of the market value of the
5 transferred securities.

6 7. In a dollar roll transaction, the insurer shall receive cash
7 in an amount equal to at least the market value of the securities
8 transferred by the insurer in the transaction on the transaction
9 date.

10 8. In a repurchase transaction, the insurer shall receive as
11 acceptable collateral transferred securities having a market value
12 equal to 102 percent or more of the purchase price paid by the
13 insurer for the securities. If at any time the market value of the
14 acceptable collateral is less than 100 percent of the purchase price
15 paid by the insurer, the business entity counterparty is obligated to
16 provide additional acceptable collateral, the market value of
17 which, together with the market value of all acceptable collateral
18 held in connection with the transaction, equals 102 percent or
19 more of the purchase price. Securities acquired by an insurer in a
20 repurchase transaction must not be sold in a reverse repurchase
21 transaction, loaned in a securities lending transaction or
22 otherwise pledged.

23 9. To constitute acceptable collateral for the purposes of this
24 section, a letter of credit must have an expiration date beyond the
25 term of the subject transaction.

26 **Sec. 219.** Subject to the limitations of sections 200, 201 and
27 202 of this act, an insurer may acquire foreign investments, or
28 engage in investment practices with persons of, or in, foreign
29 jurisdictions, of substantially the same types as those that an
30 insurer is allowed to acquire pursuant to this chapter, other than
31 of the type allowed under section 204 of this act if, as a result of
32 and after giving effect to the investment:

33 1. The aggregate amount of foreign investments held by the
34 insurer in accordance with this section does not exceed 20 percent
35 of its admitted assets; and

36 2. The aggregate amount of foreign investments held by the
37 insurer in accordance with this section in a single foreign
38 jurisdiction does not exceed 10 percent of its admitted assets as to
39 a foreign jurisdiction that has a sovereign debt rating of SVO 1 or
40 5 percent of its admitted assets as to any other foreign jurisdiction.

41 **Sec. 220.** 1. Subject to the limitations of sections 200, 201
42 and 202 of this act, an insurer may acquire investments, or engage
43 in investment practices denominated in foreign currencies,
44 whether or not they are foreign investments acquired as described
45 in section 219 of this act, or additional foreign currency exposure



as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency if:

(a) The aggregate amount of investments held by the insurer in accordance with this section denominated in foreign currencies does not exceed 15 percent of its admitted assets; and

(b) The aggregate amount of investments held by the insurer in accordance with this section denominated in the foreign currency of a single foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 5 percent of its admitted assets as to any other foreign jurisdiction.

2. An investment must not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions allowed under sections 224 to 228, inclusive, of this act and the business entity counterparty agrees, in accordance with the contract or contracts, to exchange all payments made on the foreign currency denominated investment for United States currency at a rate which effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

Sec. 221. In addition to investments allowed under sections 219 and 220 of this act, an insurer that is authorized to do business in a foreign jurisdiction, and that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of sections 200, 201 and 202 of this act. Investments made in accordance with this section in obligations of 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 the greater of:

1. The amount the insurer is required by law to invest in the foreign jurisdiction; or

2. One hundred twenty-five percent of the amount if the insurer's reserves, net of reinsurance and other obligations under the contracts.

Sec. 222. In addition to investments allowed under sections 219 and 220 of this act, an insurer that is not authorized to do



business in a foreign jurisdiction but which has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set forth in sections 200, 201 and 202 of this act. Investments made in accordance with this section in obligations of 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



1 and used in hedging transactions does not exceed 7.5 percent of its
2 admitted assets;

3 2. The aggregate statement value of options, caps and floors
4 written in hedging transactions does not exceed 3 percent of its
5 admitted assets; and

6 3. The aggregate potential exposure of collars, swaps,
7 forwards and futures used in hedging transactions does not exceed
8 6.5 percent of its admitted assets.

9 **Sec. 226.** An insurer may only enter into the following types
10 of income generation transactions if, as a result of and after
11 giving effect to the transactions, the aggregate statement value of
12 the fixed income assets that are subject to call plus the face value
13 of fixed income securities underlying a derivative instrument
14 subject to call, plus the amount of the purchase obligations under
15 the puts, does not exceed 10 percent of its admitted assets:

16 1. Sales of covered call options on noncallable fixed income
17 securities, callable fixed income securities if the option expires by
18 its terms before the end of the noncallable period or derivative
19 instruments based on fixed income securities;

20 2. Sales of covered call options on equity securities, if the
21 insurer holds in its portfolio, or can immediately acquire through
22 the exercise of options, warrants or conversion rights already
23 owned, the equity securities subject to call during the complete
24 term of the call option sold; or

25 3. Sales of covered puts on investments that the insurer is
26 allowed to acquire pursuant to this chapter if the insurer has
27 escrowed, or entered into a custodian agreement segregating, cash
28 or cash equivalents with a market value equal to the amount of its
29 purchase obligations under the put during the complete term of
30 the put option sold.

31 **Sec. 227.** An insurer shall include all counterparty exposure
32 amounts in determining compliance with the limitations of
33 sections 200, 201 and 202 of this act.

34 **Sec. 228.** In accordance with the regulations adopted
35 pursuant to section 158 of this act, the Commissioner may approve
36 additional transactions involving the use of derivative instruments
37 in excess of the limits of section 225 of this act or for other risk-
38 management purposes, but replication transactions must not be
39 allowed for other than risk-management purposes.

40 **Sec. 229.** An insurer may acquire investments, or engage in
41 investment practices, in accordance with the provisions of this
42 section and section 230 of this act, of any kind that are not
43 specifically prohibited by this chapter, or engage in investment
44 practices, without regard to any limitation in sections 200 to 223,
45 inclusive, of this act, but an insurer shall not acquire an



investment or engage in an investment practice in accordance with the provisions of this section and section 230 of this act if, as a result of and after giving effect to the transaction, the aggregate amount of the investments held by the insurer in accordance with the provisions of this section and section 230 of this act would exceed the greater of:

1. Its unrestricted surplus; or

2. The lesser of:

(a) Ten percent of its admitted assets; or

(b) Fifty percent of its surplus as regards policy holders.

Sec. 230. An insurer shall not acquire any investment or engage in any investment practice in accordance with subsection 2 of section 229 of this act 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 in accordance with subsection 1 of section 229 would exceed 5 percent of its admitted assets.

Sec. 231. NRS 682A.020 is hereby amended to read as follows:

682A.020 ~~[1.]~~ Insurers may **acquire, hold or** invest in ~~for~~ ~~lend their funds on the security of, and may hold as invested assets, only eligible investments as prescribed in this chapter.~~

~~—2.— Any particular investment held by an insurer on January 1, 1972, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately before January 1, 1972, shall be deemed to be an eligible investment.~~

~~—3.— Any particular investment held by a successor organization to the State Industrial Insurance System that was established by section 79 of chapter 642, Statutes of Nevada 1981, at page 1449, which was a legal investment of the System made before January 1, 2000, and which the successor organization is legally entitled to possess on or after January 1, 2000, shall be deemed to be an eligible investment of the successor organization.~~

~~—4.— Eligibility of an investment must be determined as of the date of its making or acquisition, except as stated in subsections 2 and 3.~~

~~—5.— Any investment limitation based upon the amount of the insurer's assets or particular funds must relate to such assets or funds as shown by the insurer's annual statement as of December 31 next preceding the date of acquisition of the investment by the insurer, or as shown by a current financial statement resulting from merger of another insurer, bulk reinsurance or change in capitalization.~~

~~—6.— No insurer may pay any commission or brokerage for the purchase or sale of property in excess of that usual and customary at the time and in the locality where such purchases or sales are made,~~



~~and complete information regarding all payments of commission and brokerage must be reported in the next annual 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,** 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 by the administrator 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. 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 for each holder of a certificate of registration as an administrator in this State.**

4. 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. 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 ~~and~~; 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 institutions or



1 providing bonds for fidelity, performance of contracts or financial
2 guaranty.

3 (e) Variable annuities and variable life insurance, including
4 coverage reflecting the results of a separate investment account.

5 (f) Credit insurance, including credit life, credit accident and
6 health, credit property, credit involuntary unemployment,
7 guaranteed asset protection, and any other form of insurance offered
8 in connection with an extension of credit that is limited to wholly or
9 partially extinguishing the obligation which the Commissioner
10 determines should be considered as limited-line credit insurance.

11 (g) Personal lines, consisting of automobile and motorcycle
12 insurance and residential property insurance, including coverage for
13 flood, of personal watercraft and of excess liability, written over one
14 or more underlying policies of automobile or residential property
15 insurance.

16 (h) Fixed annuities, including, without limitation, indexed
17 annuities, as a limited line.

18 (i) Travel and baggage as a limited line.

19 (j) Rental car agency as a limited line.

20 (k) Portable electronics as a limited line.

21 (l) Crop as a limited line.

22 2. A license as a producer of insurance remains in effect unless
23 revoked, suspended or otherwise terminated if a request for a
24 renewal is submitted on or before the date for the renewal specified
25 on the license, all applicable fees for renewal and a fee established
26 by the Commissioner of not more than \$15 for deposit in the
27 Insurance Recovery Account are paid for each license and each
28 authorization to transact business on behalf of a business
29 organization licensed pursuant to subsection 2 of NRS 683A.251,
30 and any requirement for education or any other requirement to
31 renew the license is satisfied by the date specified on the license for
32 the renewal. A producer of insurance may submit a request for a
33 renewal of his or her license within 30 days after the date specified
34 on the license for the renewal if the producer of insurance otherwise
35 complies with the provisions of this subsection and pays, in addition
36 to any fee paid pursuant to this subsection, a penalty of 50 percent
37 of all applicable renewal fees, except for any fee required pursuant
38 to NRS 680C.110. A license as a producer of insurance expires if
39 the Commissioner receives a request for a renewal of the license
40 more than 30 days after the date specified on the license for the
41 renewal. A fee paid pursuant to this subsection is nonrefundable.

42 3. A natural person who allows his or her license as a producer
43 of insurance to expire may reapply for the same license within 12
44 months after the date specified on the license for a renewal without
45 passing a written examination or completing a course of study



required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. The license must be made available for public inspection upon request.

6. A licensee shall inform the Commissioner of each change of business, ~~for~~ 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, ~~for~~ 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~~ ; *and*



1 ***(e) Establishes and maintains a valid electronic mail address***
2 ***at the applicant's own expense.***

3 2. The Commissioner may participate with the National
4 Association of Insurance Commissioners or a subsidiary in a
5 centralized registry in which licensing and appointment of producers
6 of insurance may be effected for all states that require licensing and
7 participate in the registry. If the Commissioner finds that
8 participation is in the public interest, the Commissioner may adopt
9 by regulation any uniform standards and procedures necessary for
10 participation, including central collection of fees for licensing and
11 appointment that are handled through the registry.

12 3. A nonresident producer who moves from one state to
13 another state shall file a change of address and certification from the
14 new state of residence within 30 days after the change of legal
15 residence. No fee or application for license is required.

16 4. A nonresident licensed as a producer for surplus lines in his
17 or her home state must be issued a nonresident license of that kind
18 in this State pursuant to subsection 1, subject in all other respects to
19 chapter 685A of NRS. A nonresident licensed as a producer for
20 limited lines in his or her home state is entitled to a nonresident
21 license of that kind in this State pursuant to subsection 1, granting
22 the same scope of authority as the license issued in the home state.
23 As used in this subsection, insurance for limited lines is authority
24 granted by the home state which is restricted to less than the
25 total authority prescribed for the associated major lines pursuant to
26 NRS 683A.261.

27 ***5. A nonresident firm or corporation maintaining a physical***
28 ***business location in this State shall notify the Commissioner of***
29 ***each physical location in this State from which it transacts***
30 ***business. A nonresident firm or corporation shall maintain a list***
31 ***identifying the locations outside this State from which it transacts***
32 ***business and provide the list to the Commissioner upon request.***

33 **Sec. 237.** NRS 683A.378 is hereby amended to read as
34 follows:

35 683A.378 1. A person shall not conduct utilization review
36 unless the person is:

37 (a) Registered with the Commissioner as an agent who performs
38 utilization review and has a medical director who is a physician or,
39 in the case of an agent who reviews dental services, a dentist,
40 licensed in any state; or

41 (b) Employed by a registered agent who performs utilization
42 review.

43 2. A person may apply for registration by filing with the
44 Commissioner a \$250 fee and, in addition to any other fee or charge,



1 all applicable fees required pursuant to NRS 680C.110 and the
2 following information on a form provided by the Commissioner:

3 (a) The applicant's name, address, telephone number , *valid*
4 *electronic mail address* and normal business hours;

5 (b) The name and telephone number of a person the
6 Commissioner may contact for information concerning the
7 applicant;

8 (c) The name of the medical director of the applicant and the
9 state in which he or she is licensed to practice medicine or dentistry;
10 and

11 (d) A summary of the plan for utilization review, including
12 procedures for appealing determinations made through utilization
13 review.

14 3. An agent who performs utilization review shall file with the
15 Commissioner any material changes in the information provided
16 pursuant to subsection 1 within 30 days after the change occurs.

17 4. The Commissioner shall not evaluate the plan submitted
18 pursuant to paragraph (d) of subsection 2. The Commissioner shall
19 make the plan available upon request and shall charge a reasonable
20 fee for providing a copy of the plan.

21 5. Registration pursuant to this section must be renewed on
22 or before March 1 of each year by providing the information
23 specified in subsection 2 and paying a renewal fee of \$250 and, in
24 addition to any other fee or charge, all applicable fees required
25 pursuant to NRS 680C.110.

26 **Sec. 238.** NRS 683A.451 is hereby amended to read as
27 follows:

28 683A.451 The Commissioner may refuse to issue a license or
29 certificate pursuant to this chapter or may place any person to whom
30 a license or certificate is issued pursuant to this chapter on
31 probation, suspend the person for not more than 12 months, or
32 revoke or refuse to renew his or her license or certificate, or may
33 impose an administrative fine or take any combination of the
34 foregoing actions, for one or more of the following causes:

35 1. Providing incorrect, misleading, incomplete or partially
36 untrue information in his or her application for a license.

37 2. Violating a law regulating insurance, or violating a
38 regulation, order or subpoena of the Commissioner or an equivalent
39 officer of another state.

40 3. Obtaining or attempting to obtain a license through
41 misrepresentation or fraud.

42 4. Misappropriating, converting or improperly withholding
43 money or property received in the course of the business of
44 insurance.



5. Intentionally misrepresenting the terms of an actual or proposed contract of or application for insurance.

6. Conviction of a felony ~~or~~ *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.

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 ~~["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 upon request to the Association as soon as possible after commencement of formal delinquency proceedings:

(a) Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and

(b) Notices of any defaults under the reinsurance contracts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

3. The following apply to reinsurance contracts assumed by the Association:

(a) The Association is responsible for all unpaid premiums due pursuant to the reinsurance contracts for periods both before and



1 after the date of the order of liquidation, and is responsible for the
2 performance of all other obligations to be performed after the date
3 of the order of liquidation, in each case which relates to policies or
4 annuities covered, in whole or in part, by the Association. The
5 Association may charge policies or annuities covered in part by
6 the Association, through reasonable allocation methods, the costs
7 for reinsurance in excess of the obligations of the Association and
8 shall provide notice and an accounting of these changes to the
9 liquidator.

10 (b) The Association may be entitled to any amounts payable by
11 the reinsurer pursuant to the reinsurance contracts with respect to
12 losses or events that occur in periods after the date of the order of
13 liquidation and which relate to policies or annuities covered, in
14 whole or in part, by the Association, provided that, upon receipt of
15 any such amounts, the Association is obligated to pay to the
16 beneficiary, under the policy or annuity on account of which the
17 amounts were paid, a portion of the amount equal to the lesser of:

18 (1) The amount received by the Association; or

19 (2) The excess of the amount received by the Association
20 over the amount equal to the benefits paid by the Association on
21 account of the policy or annuity, less the retention of the insurer
22 applicable to the loss or event.

23 (c) Within 30 days after the Association's election, the
24 Association and each reinsurer under the contracts assumed by
25 the Association shall calculate the net balance due to or from the
26 Association pursuant to each reinsurance contract on the election
27 date with respect to policies or annuities covered, in whole or in
28 part, by the Association, which calculation must give full credit to
29 all items paid by either the insurer or its receiver or the reinsurer
30 before the election date. The reinsurer shall pay the receiver any
31 amounts due for losses or events before the date of the order of
32 liquidation, subject to any set-off for premiums unpaid for periods
33 before the date, and the Association or reinsurer shall pay any
34 remaining balance due to the other, in each case within 5 days
35 after the completion of the aforementioned calculation. Any
36 disputes over the amounts due to either the Association or the
37 reinsurer must be resolved by arbitration pursuant to the terms of
38 the affected reinsurance contracts or, if the contracts contain no
39 arbitration clause, as otherwise prescribed by law. If the receiver
40 has received any amounts due to the Association under paragraph
41 (d), the receiver shall remit the same to the Association as
42 promptly as practicable.

43 (d) If the Association or receiver, on the Association's behalf,
44 within 60 days after the election date, pays the unpaid premiums
45 due for periods both before and after the election date that relate



1 to policies or annuities covered, in whole or in part, by the
2 Association, the reinsurer is not entitled to terminate the
3 reinsurance contracts for failure to pay premiums insofar as
4 the reinsurance contracts relate to policies or annuities covered, in
5 whole or in part, by the Association, and is not entitled to set off
6 any unpaid amounts due pursuant to the other contracts, or
7 unpaid amounts due from parties other than the Association,
8 against amounts due to the Association.

9 **Sec. 242.** 1. During the period after the date of an order of
10 liquidation until the election date, or, if the election date does not
11 occur, until 180 days after the date of the order of liquidation:

12 (a) Neither the Association nor the reinsurer shall have any
13 rights or obligations under reinsurance contracts that the
14 Association has the right to assume under section 241 of this act,
15 whether for periods before or after the date of the order of
16 liquidation.

17 (b) The reinsurer, the receiver and the Association shall, to the
18 extent practicable, provide each other data and records as
19 reasonably requested.

20 2. Once the Association has elected to assume a reinsurance
21 contract, the parties' rights and obligations are governed by the
22 provisions of section 241 of this act.

23 **Sec. 243.** If the Association does not elect to assume a
24 reinsurance contract by the election date under section 241 of this
25 act, the Association has no rights or obligations, in each case for
26 periods both before and after the date of the order of liquidation,
27 with respect to the reinsurance contract.

28 **Sec. 244.** When policies or annuities, or covered obligations
29 with respect thereto, are transferred to an assuming insurer,
30 reinsurance on the policies or annuities may also be transferred by
31 the Association, in the case of contracts assumed under section
32 241 of this act, subject to the following:

33 1. Unless the reinsurer and the assuming insurer agree
34 otherwise, the reinsurance contract transferred must not cover any
35 new policies of insurance or annuities in addition to those
36 transferred.

37 2. The obligations described in section 241 of this act no
38 longer apply with respect to matters arising after the effective date
39 of the transfer.

40 3. Notice must be given in writing, return receipt requested,
41 by the transferring party to the affected reinsurer not less than 30
42 days before the effective date of the transfer.

43 **Sec. 245.** The provisions of sections 241 to 246, inclusive, of
44 this act supersede the provisions of any state law or of any affected
45 reinsurance contract that provides for or requires any payment of



1 *reinsurance proceeds, on account of losses or events that occur in*
2 *periods after the date of an order of liquidation, to the receiver of*
3 *the insolvent insurer or any other person. The receiver shall*
4 *remain entitled to any amounts payable by the reinsurer pursuant*
5 *to the reinsurance contracts with respect to losses or events that*
6 *occur in periods before the date of the order of liquidation, subject*
7 *to applicable set-off provisions.*

8 **Sec. 246. 1.** *Except as otherwise provided in NRS 686C.130*
9 *to 686C.226, inclusive, nothing in sections 241 to 246, inclusive, of*
10 *this act shall alter or modify the terms and conditions of any*
11 *reinsurance contract.*

12 **2.** *Nothing in this section shall:*

13 *(a) Abrogate or limit any rights of any reinsurer to claim that*
14 *it is entitled to rescind a reinsurance contract;*

15 *(b) Give a policyholder or beneficiary an independent cause of*
16 *action against a reinsurer that is not otherwise set forth in the*
17 *reinsurance contract;*

18 *(c) Limit or affect the Association's rights as a creditor of the*
19 *estate against the assets of the estate; or*

20 *(d) Apply to reinsurance agreements covering property or*
21 *casualty risks.*

22 **Sec. 247.** NRS 686C.030 is hereby amended to read as
23 follows:

24 686C.030 1. This chapter provides coverage for the policies
25 or contracts described in subsection 4 to persons who are:

26 (a) Owners of or certificate holders under such policies or
27 contracts, other than structured settlement annuities, and who:

28 (1) Are residents of this state; or

29 (2) Are not residents, but only if:

30 (I) The insurer that issued the policies or contracts is
31 domiciled in this state;

32 (II) The states in which the persons reside have
33 associations similar to the Association created by this chapter; and

34 (III) The persons are not eligible for coverage by an
35 association in another state because the insurer was not authorized
36 in the other state at the time specified in that state's law governing
37 guaranty associations; and

38 (b) Beneficiaries, assignees or payees of the persons covered
39 under paragraph (a), wherever they reside, except for nonresident
40 certificate holders under group policies or contracts.

41 2. For structured settlement annuities, except as otherwise
42 provided in subsection 3, this chapter provides coverage to a payee
43 under the annuity, or beneficiary of a payee if the payee is deceased,
44 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.~~

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. ~~I, 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 account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 254. Chapter 687A of NRS is hereby amended by adding thereto a new section to read as follows:

“Assumed claims transaction” includes:

1. A policy obligation that has been assumed by an insolvent insurer, before the entry of a final order of liquidation, through a merger between the insolvent insurer and another entity obligated under the policy.

2. An assumption reinsurance transaction in which:



(a) *The insolvent insurer assumed, before the entry of a final order of liquidation, the claim or policy obligations of another insurer or entity obligated under a claim or policy;*

(b) *The assumption of the claim or policy obligations has been approved by the Commissioner, if such approval is required; and*

(c) *As a result of the assumption, the claim or policy obligation became the direct obligation of the insolvent insurer through a novation of the claim or policy.*

Sec. 255. NRS 687A.030 is hereby amended to read as follows:

687A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 687A.031 to 687A.039, inclusive, *and section 254 of this act* have the meanings ascribed to them in those sections.

Sec. 256. NRS 687A.033 is hereby amended to read as follows:

687A.033 1. "Covered claim" means an unpaid claim or judgment, including a claim for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this chapter applies ~~issued by an insurer which~~ *if the insurer becomes an insolvent insurer, ~~if~~ the policy was issued by the insurer or assumed by the insurer in an assumed claims transaction, and* one of the following conditions exists:

(a) The claimant or insured, if a natural person, is a resident of this State at the time of the insured event.

(b) The claimant or insured, if other than a natural person, maintains its principal place of business in this State at the time of the insured event.

(c) The property from which the first party property damage claim arises is permanently located in this State.

(d) The claim is not a covered claim pursuant to the laws of any other state and the premium tax imposed on the insurance policy is payable in this State pursuant to NRS 680B.027.

2. The term does not include:

(a) An amount that is directly or indirectly due a reinsurer, insurer, insurance pool or underwriting association, as recovered by subrogation, indemnity or contribution, or otherwise.

(b) That part of a loss which would not be payable because of a provision for a 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 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 a health benefit plan unless notice in writing of the proposal is given to the insured at least 60 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, ~~[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



1 for the nonforfeiture factors in the calculation of the basic cash
2 value.

3 4. All adjusted premiums and present values referred to in this
4 section for a particular policy must be calculated on the same
5 mortality and interest bases as are used in demonstrating the
6 policy's compliance with NRS 688A.290 to 688A.360, inclusive.
7 The cash surrender values referred to in this section must include
8 any endowment benefits provided for by the policy.

9 5. Any cash surrender value available other than in the event of
10 default in a premium payment due on a policy anniversary, and the
11 amount of any paid-up nonforfeiture benefit available under the
12 policy in the event of default in a premium payment must be
13 determined by methods consistent with those specified for
14 determining the analogous minimum amounts in NRS 688A.290 ~~to~~
15 ~~688A.300, 688A.325 and 688A.350, to~~ **688A.340, inclusive.** The
16 amounts of any cash surrender values and of any paid-up
17 nonforfeiture benefits granted in connection with additional benefits
18 such as those listed in paragraphs (a) to (f), inclusive, of subsection
19 4 of NRS 688A.350, must conform with the principles of this
20 section.

21 **Sec. 259.** NRS 688A.315 is hereby amended to read as
22 follows:

23 688A.315 **1.** In the case of any plan of life insurance which
24 provides for future premium determination, the amounts of which
25 are to be determined by the insurer based on estimates of future
26 experience, or in the case of any plan of life insurance which is of
27 such a nature that minimum values cannot be determined by the
28 methods described in NRS 688A.290 to 688A.340, inclusive:

29 ~~1-1~~ **(a)** The Commissioner must be satisfied that the benefits
30 provided under the plan are substantially as favorable to
31 policyholders and insureds as the minimum benefits otherwise
32 required by NRS 688A.290 to 688A.340, inclusive;

33 ~~1-2~~ **(b)** The Commissioner must be satisfied that the benefits
34 and the pattern of premiums of that plan are not such as to mislead
35 prospective policyholders or insureds; and

36 ~~1-3~~ **(c)** The cash surrender values and paid-up nonforfeiture
37 benefits provided by the plan must not be less than the minimum
38 values and benefits required for the plan computed by a method
39 consistent with the principles of the Standard Nonforfeiture Law for
40 Life Insurance, as determined by regulations adopted by the
41 Commissioner.

42 **2.** *Notwithstanding any other provision of the laws of this*
43 *State, any policy, contract or certificate providing life insurance*
44 *under any plan must be approved affirmatively by the*



Commissioner before it can be marketed, issued for delivery, delivered or used in this State.

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 guaranteed benefits and funds referred to in paragraph (c) shall be valued in accordance with the rules otherwise applicable to the company's assets.

(e) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with



respect to such amounts. If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(f) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account pursuant to subsection 6 or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made:

(1) By a transfer of cash; or

(2) By a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the Commissioner.

➤ The Commissioner may approve other transfers among such accounts if, in the opinion of the Commissioner, such transfers would not be inequitable.

(g) To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

2. Any contract providing benefits payable in variable amounts delivered or issued for delivery in this state, including a group contract and any certificate issued thereunder, shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

3. No company shall deliver or issue for delivery within this state variable contracts unless it is licensed or organized to do a life



insurance or annuity business in this state, and the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the Commissioner shall consider among other things:

(a) The history and financial condition of the company;

(b) The character, responsibility and fitness of the officers and directors of the company; and

(c) The law and regulations under which the company is authorized in the state of domicile to issue variable contracts.

➤ If the company is a subsidiary of an admitted life insurance company, or 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. ~~It, 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



1 allocated or contributed by such an insurer to one or more separate
2 accounts shall not, without the consent of the Commissioner, exceed
3 the greater of:

4 (a) One hundred thousand dollars;

5 (b) One percent of its admitted assets as of December 31 next
6 preceding; or

7 (c) Five percent of its surplus as to policyholders as of
8 December 31 next preceding.

9 ➡ All funds allocated or contributed by the insurer to a separate
10 account for the purpose of participation therein shall be included in
11 applying the limitations upon investments otherwise specified in this
12 Code. The insurer shall be entitled to withdraw at any time in whole
13 or in part its participation in any separate account to which funds
14 have been allocated or contributed and to receive upon withdrawal
15 its proportional share of the value of the assets of the separate
16 account at the time of withdrawal.

17 **Sec. 261.** NRS 689A.700 is hereby amended to read as
18 follows:

19 689A.700 The Commissioner may adopt regulations to carry
20 out the provisions of this section and NRS 689A.690 ~~and~~
21 ~~689A.695~~ and to ensure that the practices used by individual
22 carriers relating to the establishment of rates are consistent with the
23 purposes of NRS 689A.470 to 689A.740, inclusive.

24 **Sec. 262.** NRS 689A.725 is hereby amended to read as
25 follows:

26 689A.725 For the purposes of NRS 689A.470 to 689A.740,
27 inclusive, a plan for coverage of a bona fide association must:

28 1. Conform with NRS 689A.690 ~~[689A.695]~~ and 689A.700
29 concerning rates.

30 2. Provide for the renewability of coverage for members of the
31 bona fide association, and their dependents, if such coverage meets
32 the criteria set forth in NRS 689A.630.

33 **Sec. 263.** NRS 690B.023 is hereby amended to read as
34 follows:

35 690B.023 If insurance for the operation of a motor vehicle
36 required pursuant to NRS 485.185 is provided by a contract of
37 insurance, the insurer shall:

38 1. Provide evidence of insurance , *which may be provided in*
39 *paper or electronic format*, to the insured on a form *or in a format*
40 approved by the Commissioner. The evidence of insurance must
41 include:

42 (a) The name and address of the policyholder;

43 (b) The name and address of the insurer;

44 (c) Vehicle information, consisting of:



(1) The year, make and complete identification number of the insured vehicle or vehicles; or

(2) The word "Fleet" and the name of the registered owner if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This ~~leaves~~ *evidence of insurance* must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 264. Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 265 to 289, inclusive, of this act.

Sec. 265. *"Insurance group" means, for the purpose of conducting an ORSA, those insurers and affiliates included within an insurance holding company system.*

Sec. 266. *"NAIC" means the National Association of Insurance Commissioners.*

Sec. 267. *"Own Risk and Solvency Assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.*

Sec. 268. *"ORSA Guidance Manual" means the current version of the NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual developed and adopted by the NAIC, as amended. A change in the ORSA Guidance Manual is effective on the first day of January following the calendar year in which the changes were adopted by the NAIC.*



1 **Sec. 269.** *“ORSA Summary Report” means a confidential*
2 *high-level summary of an ORSA.*

3 **Sec. 270.** *An insurer shall maintain a risk management*
4 *framework to assist the insurer with identifying, assessing,*
5 *monitoring, managing and reporting on its material relevant risks.*
6 *This requirement shall be deemed satisfied if the insurance group*
7 *of which the insurer is a member maintains a risk management*
8 *framework applicable to the operations of the insurer.*

9 **Sec. 271.** *Subject to the provisions of sections 275 to 280,*
10 *inclusive, of this act, an insurer, or the insurance group of which*
11 *the insurer is a member, shall regularly conduct an ORSA*
12 *consistent with a process comparable to that set forth in the ORSA*
13 *Guidance Manual. An ORSA must be conducted not less than*
14 *annually but also at any time when there are significant changes*
15 *to the risk profile of the insurer or the insurance group of which*
16 *the insurer is a member.*

17 **Sec. 272.** *Upon the request of the Commissioner, and not*
18 *more than once each year, an insurer shall submit to the*
19 *Commissioner an ORSA Summary Report or any combination of*
20 *reports that together contain the information described in the*
21 *ORSA Guidance Manual, applicable to the insurer and the*
22 *insurance group of which the insurer is a member.*
23 *Notwithstanding any request from the Commissioner, if the*
24 *insurer is a member of an insurance group, the insurer shall*
25 *submit the report required by this section if the Commissioner is*
26 *the lead state commissioner of the insurance group as determined*
27 *by the procedures within the Financial Analysis Handbook,*
28 *published by the NAIC.*

29 **Sec. 273.** *The report required by section 272 of this act must*
30 *include a signature of the insurer or insurance group’s chief risk*
31 *officer, or other executive having responsibility for the oversight*
32 *of the insurer’s enterprise risk management process, attesting to*
33 *the best of his or her belief and knowledge that the insurer applies*
34 *the enterprise risk management processes described in the ORSA*
35 *Summary Report and that a copy of the Report has been provided*
36 *to the insurer’s board of directors or the appropriate committee*
37 *thereof.*

38 **Sec. 274.** *An insurer may comply with the requirements of*
39 *section 272 of this act by providing the most recent and*
40 *substantially similar report provided by the insurer or another*
41 *member of an insurance group of which the insurer is a member*
42 *to the commissioner of another state or to a supervisor or*
43 *regulator of a foreign jurisdiction, if that report provides*
44 *information that is comparable to the information described in the*
45 *ORSA Guidance Manual. Any such report in a language other*



1 *than English must be accompanied by a translation of that report*
2 *into the English language.*

3 **Sec. 275.** *An insurer is exempt from the requirements of*
4 *sections 270 to 289, inclusive, of this act, if:*

5 1. *The insurer has annual direct written and unaffiliated*
6 *assumed premiums, including international direct and assumed*
7 *premiums, but excluding premiums reinsured with the Federal*
8 *Crop Insurance Corporation and the National Flood Insurance*
9 *Program, of less than \$500,000,000; and*

10 2. *The insurance group of which the insurer is a member has*
11 *annual direct written and unaffiliated assumed premiums,*
12 *including international direct and assumed premiums but*
13 *excluding premiums reinsured with the Federal Crop Insurance*
14 *Corporation and the National Federal Flood Insurance Program,*
15 *of less than \$1 billion.*

16 **Sec. 276.** *If an insurer qualifies for an exemption pursuant*
17 *to subsection 1 of section 275 of this act and the insurance group*
18 *of which the insurer is a member does not qualify for an*
19 *exemption pursuant to subsection 2 of that section, the ORSA*
20 *Summary Report that may be required under sections 272, 273*
21 *and 274 of this act must include every insurer within the*
22 *insurance group. This requirement shall be deemed satisfied by*
23 *the submission of more than one ORSA Summary Report for any*
24 *combination of insurers, provided that any combination of reports*
25 *includes every insurer within the insurance group.*

26 **Sec. 277.** *If an insurer does not qualify for an exemption*
27 *pursuant to subsection 1 of section 275 of this act and the*
28 *insurance group of which the insurer is a member qualifies for an*
29 *exemption pursuant to subsection 2 of that section, the ORSA*
30 *Summary Report that may be required under sections 272, 273*
31 *and 274 of this act is the report applicable to that insurer.*

32 **Sec. 278.** *An insurer that does not qualify for an exemption*
33 *pursuant to section 275 of this act may apply to the Commissioner*
34 *for a waiver from the requirements of sections 270 to 289,*
35 *inclusive, of this act based on unique circumstances. In deciding*
36 *whether to grant the insurer's request for a waiver, the*
37 *Commissioner may consider the type and volume of business*
38 *written, ownership and organizational structure, and any other*
39 *factor the Commissioner considers relevant to the insurer or*
40 *insurance group of which the insurer is a member. If the insurer*
41 *is part of an insurance group with insurers domiciled in more*
42 *than one state, the Commissioner shall coordinate with the lead*
43 *state commissioner and with the other domiciliary commissioners*
44 *in considering whether to grant the insurer's request for a waiver.*



1 **Sec. 279.** *Notwithstanding the provisions of sections 275 to*
2 *278, inclusive, of this act:*

3 1. *The Commissioner may require that an insurer maintain a*
4 *risk management framework, conduct an ORSA and file an ORSA*
5 *Summary Report based on unique circumstances, including,*
6 *without limitation, the type and volume of business written,*
7 *ownership and organizational structure, federal agency requests*
8 *and international supervisor requests.*

9 2. *The Commissioner may require that an insurer maintain a*
10 *risk management framework, conduct an ORSA and file an ORSA*
11 *Summary Report if the insurer has risk-based capital for company*
12 *action level event, as defined in regulations adopted by the*
13 *Commissioner, meets one or more of the standards of an insurer*
14 *deemed to be in hazardous financial condition, as defined in NRS*
15 *680A.205, or otherwise exhibits qualities of a troubled insurer as*
16 *determined by the Commissioner.*

17 **Sec. 280.** *If an insurer that qualifies for an exemption*
18 *pursuant to section 275 of this act subsequently no longer*
19 *qualifies for that exemption as a result of changes in premium as*
20 *reflected in the insurer's most recent annual statement, or in the*
21 *most recent annual statements of the insurers within the*
22 *insurance group of which the insurer is a member, the insurer*
23 *shall have 1 year after the date on which the threshold is exceeded*
24 *to comply with the requirements of sections 270 to 289, inclusive,*
25 *of this act.*

26 **Sec. 281.** *An ORSA Summary Report must be prepared*
27 *consistent with the ORSA Guidance Manual, subject to the*
28 *requirements of this section and section 282 of this act.*
29 *Documentation and supporting information must be maintained*
30 *and made available upon examination or upon request of the*
31 *Commissioner.*

32 **Sec. 282.** *The review of an ORSA Summary Report, and any*
33 *additional requests for information, must be made using similar*
34 *procedures currently used in analysis and examination of*
35 *multistate or global insurers and insurance groups.*

36 **Sec. 283.** 1. *Except as otherwise provided in this section*
37 *and NRS 239.0115 and section 273 of this act, any documents,*
38 *materials and other information, including an ORSA Summary*
39 *Report, in the possession of or control of the Division that are*
40 *obtained by, created by or disclosed to the Commissioner or any*
41 *other person in accordance with the provisions of sections 270 to*
42 *289, inclusive, of this act are proprietary and constitute trade*
43 *secrets. All such documents, materials or other information are:*

44 (a) *Confidential by law and privileged;*

45 (b) *Not subject to subpoena; and*



1 (c) Not subject to discovery or admissible in evidence in any
2 private civil action.

3 2. Notwithstanding any provision of subsection 1 to the
4 contrary, the Commissioner is authorized to use the documents,
5 materials or other information in the furtherance of any
6 regulatory or legal action brought as a part of the Commissioner's
7 official duties. The Commissioner shall not otherwise make the
8 documents, materials or other information public without the
9 prior written consent of the insurer.

10 **Sec. 284.** Neither the Commissioner, nor any other person
11 who received documents, materials or other information received
12 pursuant to sections 270 to 289, inclusive, of this act, through
13 examination or otherwise, while acting pursuant to the authority
14 of the Commissioner or with whom such documents, materials and
15 other information are shared in accordance with the provisions of
16 those sections, is allowed or required to testify in any private civil
17 action concerning any such documents, materials and information
18 subject to section 283 of this act.

19 **Sec. 285.** To assist the performance of the Commissioner's
20 regulatory duties, the Commissioner:

21 1. May, upon request, share documents, materials and other
22 information received pursuant to sections 270 to 289, inclusive, of
23 this act, including, without limitation, any documents, materials
24 and information subject to section 283 of this act and any
25 proprietary and trade secret documents and materials, with other
26 state, federal and international financial regulatory agencies,
27 including members of any supervisory college, as defined in NRS
28 692C.359, with the NAIC and with third-party consultants
29 designated by the Commissioner, provided that the recipient
30 agrees in writing to maintain the confidentiality and privileged
31 status of the documents, materials and other information received
32 pursuant to sections 270 to 289, inclusive, of this act and has
33 verified in writing the legal authority to maintain confidentiality;
34 and

35 2. May receive documents, materials and other information
36 received pursuant to sections 270 to 289, inclusive, of this act,
37 including, without limitation, documents, materials and
38 information which are otherwise confidential and privileged, and
39 proprietary and trade secret information or documents, from
40 regulatory officials of other foreign or domestic jurisdictions,
41 including members of any supervisory college, as defined in NRS
42 692C.359, and from the NAIC, and shall maintain as confidential
43 or privileged any such documents, materials and information
44 received with notice or the understanding that it is confidential or



1 *privileged under the laws of the jurisdiction that is the source of*
2 *the document, material or information.*

3 3. *Shall enter into a written agreement with the NAIC or a*
4 *third-party consultant governing the sharing and use of*
5 *information provided pursuant to sections 270 to 289, inclusive, of*
6 *this act, that must:*

7 (a) *Specify procedures and protocols regarding the*
8 *confidentiality and security of the information shared with the*
9 *NAIC or third-party consultant, including procedures and*
10 *protocols for sharing by the NAIC with other state regulators from*
11 *states in which the insurance group has domiciled insurers. The*
12 *agreement must provide that the recipient agrees to maintain the*
13 *confidentiality and privileged status of the documents, materials*
14 *and other information and has verified, in writing, the legal*
15 *authority to maintain confidentiality;*

16 (b) *Specify that ownership of the information shared with the*
17 *NAIC or third-party consultant remains with the Commissioner*
18 *and use of the information by the NAIC or third-party consultant*
19 *is subject to the discretion of the Commissioner;*

20 (c) *Prohibit the NAIC or third-party consultant from storing*
21 *the information in a permanent database after the underlying*
22 *analysis is completed;*

23 (d) *Require prompt notice to be given to an insurer whose*
24 *confidential information in the possession of the NAIC or third-*
25 *party consultant is subject to a request or subpoena to the NAIC or*
26 *a third-party consultant for disclosure or production;*

27 (e) *Require the NAIC or third-party consultant to consent to*
28 *intervention by an insurer in any judicial or administrative action*
29 *in which the NAIC or third-party consultant may be required to*
30 *disclose confidential information about the insurer shared with*
31 *the NAIC or third-party consultant; and*

32 (f) *In the case of an agreement involving a third-party*
33 *consultant, provide for the insurer's written consent.*

34 **Sec. 286.** *The sharing of documents, materials and other*
35 *information by the Commissioner pursuant to sections 270 to 289,*
36 *inclusive, of this act does not constitute a delegation of regulatory*
37 *authority or rulemaking, and the Commissioner is solely*
38 *responsible for the administration, execution and enforcement of*
39 *the provisions of sections 270 to 289, inclusive, of this act.*

40 **Sec. 287.** *No waiver of any applicable privilege or claim of*
41 *confidentiality in the documents, proprietary and trade secrets*
42 *materials or other information shall occur as a result of the*
43 *disclosure of such documents, materials and information to the*
44 *Commissioner in accordance with the provisions of sections 283 to*
45 *288, inclusive, of this act or as a result of sharing as authorized in*



1 *accordance with the provisions of sections 270 to 289, inclusive, of*
2 *this act.*

3 **Sec. 288.** *Documents, materials or other information in the*
4 *possession or control of the NAIC or a third-party consultant in*
5 *accordance with the provisions of sections 270 to 289, inclusive, of*
6 *this act are:*

- 7 1. *Confidential by law and privileged;*
- 8 2. *Not subject to the provisions of chapter 239 of NRS;*
- 9 3. *Not subject to subpoena; and*
- 10 4. *Not subject to discovery or admissible in evidence in any*
11 *private civil action.*

12 **Sec. 289.** 1. *The failure to file an ORSA Summary Report*
13 *required by sections 270 to 289, inclusive, of this act, within the*
14 *time specified for the filing is a violation of those sections.*

15 2. *Except as otherwise provided in subsection 3, if an insurer*
16 *or group insurer fails, without just cause, to file an ORSA*
17 *Summary Report required by sections 270 to 289, inclusive, of this*
18 *act, the insurer or group insurer, as applicable, shall, after*
19 *receiving notice and a hearing, pay a civil penalty of \$1,500 for*
20 *each day the insurer or group insurer fails to file the ORSA*
21 *Summary Report. The civil penalty may be recovered in a civil*
22 *action brought by the Commissioner. Any civil penalty paid*
23 *pursuant to this subsection must be deposited in the State General*
24 *Fund.*

25 3. *The maximum civil penalty that may be imposed pursuant*
26 *to subsection 2 is \$100,000. The Commissioner may reduce the*
27 *amount of the civil penalty if the insurer or group insurer*
28 *demonstrates to the satisfaction of the Commissioner that the*
29 *payment of the civil penalty would impose a financial hardship on*
30 *the insurer or group insurer, as applicable.*

31 **Sec. 290.** *NRS 692C.020 is hereby amended to read as*
32 *follows:*

33 692C.020 *As used in this chapter, unless the context otherwise*
34 *requires, the words and terms defined in NRS 692C.025 to*
35 *692C.110, inclusive, and sections 265 to 269, inclusive, of this act*
36 *have the meanings ascribed to them in those sections.*

37 **Sec. 291.** *NRS 692C.180 is hereby amended to read as*
38 *follows:*

39 692C.180 1. *No person other than the issuer may make a*
40 *tender for or a request or invitation for tenders of, or enter into any*
41 *agreement to exchange securities for, seek to acquire or acquire in*
42 *the open market or otherwise, any voting security of a domestic*
43 *insurer if, after the consummation thereof, the person would directly*
44 *or indirectly, or by conversion or by exercise of any right to acquire,*
45 *be in control of the insurer, nor may any person enter into an*



1 agreement to merge with or otherwise acquire control of a domestic
2 insurer, unless, at the time any such offer, request or invitation is
3 made or any such agreement is entered into, or before the
4 acquisition of those securities if no offer or agreement is involved,
5 the person has filed with the Commissioner and has sent to the
6 insurer, and the insurer has sent to its shareholders, a statement
7 containing the information required by NRS 692C.180 to 692C.250,
8 inclusive, and, except as otherwise provided in subsection 4, the
9 offer, request, invitation, agreement or acquisition has been
10 approved by the Commissioner in the manner prescribed in this
11 chapter.

12 2. The *pre-acquisition* statement required by subsection 1 must
13 be filed with the Commissioner at least 60 days before the proposed
14 date of the acquisition. The statement must set forth, without
15 limitation, the information required by NRS 692C.254. A person
16 who fails to comply with this subsection is subject to the penalties
17 set forth in subsections 6 and 7 of NRS 692C.258.

18 3. A person controlling a domestic insurer who is seeking to
19 divest his or her controlling interest in the domestic insurer shall file
20 with the Commissioner, and send to the insurer, notice of the
21 proposed divestiture at least 30 days before the proposed divestiture,
22 unless a *pre-acquisition* statement has been filed pursuant to
23 subsection 1 concerning the proposed transaction. Notice filed
24 pursuant to this subsection is confidential until the conclusion, if
25 any, of the divestiture unless the Commissioner determines that such
26 confidentiality will interfere with the enforcement of this section.

27 4. Upon receiving a *pre-acquisition* statement or notice
28 pursuant to this section by a person seeking to acquire a controlling
29 interest in a domestic insurer or divest a controlling interest in a
30 domestic insurer, the Commissioner shall determine whether or not
31 the person will be required to file for and obtain the approval of the
32 Commissioner for the acquisition or divestiture. As soon as
33 practicable after making that determination, the Commissioner shall
34 notify the person of the results of the determination.

35 5. For purposes of this section, a domestic insurer includes any
36 other person controlling a domestic insurer unless the other person
37 is directly or through affiliates primarily engaged in a business other
38 than the business of insurance. If a person is directly or through
39 affiliates primarily engaged in a business other than the business of
40 insurance, the person shall, at least 60 days before the proposed
41 effective date of the acquisition, file a notice of intent to acquire
42 with the Commissioner setting forth the information required by
43 NRS 692C.254.

44 6. *If a transaction is governed by the provisions of this*
45 *section, the acquiring person shall also file a pre-acquisition*



notification with the Commissioner which must contain the information set forth in subsection 1. The Commissioner shall specify by regulation the period within which the notification must be filed. A person who fails to comply with this subsection or any regulations adopted pursuant thereto may be subject to the penalties set forth in subsection 7 of NRS 692C.258.

7. As used in this section, “person” does not include a securities broker who, in the regular course of business as a broker, holds less than 20 percent of the voting securities of an insurer or of any person who controls an insurer.

Sec. 292. NRS 692C.190 is hereby amended to read as follows:

692C.190 The *pre-acquisition* statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following:

1. The name and address of each person (hereinafter called the “acquiring party”) by whom or on whose behalf the merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 is to be effected and, if such person is:

(a) An individual, the individual’s principal occupation and all offices and positions held by the individual during the past 5 years, and any conviction of crimes other than for minor traffic violations during the past 10 years.

(b) Not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence, together with an informative description of the business intended to be done by such person and such person’s subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of such person or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (a).

2. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, but where a source of such consideration is a loan made in the lender’s ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

3. Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in



1 existence), and similar unaudited information as of a date not earlier
2 than 90 days prior to the filing of the statement.

3 4. Any plans or proposals which each acquiring party may
4 have to liquidate such insurer, to sell its assets or merge or
5 consolidate it with any person, or to make any other material change
6 in its business or corporate structure or management.

7 5. The number of shares of any security referred to in
8 subsection 1 of NRS 692C.180 which each acquiring party proposes
9 to acquire, and the terms of the offer, request, invitation, agreement
10 or acquisition referred to in subsection 1 of NRS 692C.180 and a
11 statement as to the method by which the fairness of the proposal was
12 determined.

13 6. The amount of each class of any security referred to in
14 subsection 1 of NRS 692C.180 which is beneficially owned or
15 concerning which there is a right to acquire beneficial ownership by
16 each acquiring party.

17 7. A full description of any contracts, arrangements or
18 understandings with respect to any security referred to in subsection
19 1 of NRS 692C.180 in which any acquiring party is involved,
20 including but not limited to transfer of any of the securities, joint
21 ventures, loan or option arrangements, puts or calls, guarantees of
22 loans, guarantees against loss or guarantees of profits, division of
23 losses or profits or the giving or withholding of proxies. Such
24 description shall identify the persons with whom such contracts,
25 arrangements or understandings have been made.

26 8. A description of the purchase of any security referred to in
27 subsection 1 of NRS 692C.180 during the 12 calendar months
28 preceding the filing of the statement by any acquiring party,
29 including the dates of purchase, names of the purchasers and
30 consideration paid or agreed to be paid therefor.

31 9. A description of any recommendations to purchase any
32 security referred to in subsection 1 of NRS 692C.180 made during
33 the 12 calendar months preceding the filing of the statement by any
34 acquiring party, or by anyone based upon interviews with or at the
35 suggestion of such acquiring party.

36 10. Copies of all tenders, offers for, requests or invitations for
37 tenders of, exchange offers for, and agreements to acquire or
38 exchange any securities referred to in subsection 1, and, if
39 distributed, additional soliciting material relating thereto.

40 11. The terms of any agreement, contract or understanding
41 made with any broker-dealer, as to solicitation of securities referred
42 to in subsection 1 of NRS 692C.180, for tender, and the amount of
43 any fees, commissions or other compensation to be paid to broker-
44 dealers with regard thereto.



12. *An agreement by the person required to file the statement that the person will file the annual report of enterprise risk required by NRS 692C.290 while control exists.*

13. *An acknowledgment by the person required to file the statement that the person, and all subsidiaries within its control in the insurance holding company system, will provide information to the Commissioner upon request as necessary to evaluate enterprise risk to the insurer.*

14. Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policy holders and security holders of the insurer or for the protection of the public interest.

↪ If the person required to file the statement referred to in this section is a partnership, limited partnership, syndicate or other group, the Commissioner may require that the information required by this section, be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection 1 of NRS 692C.180 is a corporation, the Commissioner may require that the information required by this section, be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within 2 business days after the person learns of such change. Such insurer shall send each such amendment to its shareholders.

Sec. 293. NRS 692C.200 is hereby amended to read as follows:

692C.200 If any offer, request, invitation, agreement or acquisition referred to in subsection 1 of NRS 692C.180 is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or under any state law requiring similar registration or disclosure, the person required to file the *pre-acquisition* statement referred to in subsection 1 of NRS 692C.180 may utilize such documents in furnishing the information called for by that statement.



1 **Sec. 294.** NRS 692C.210 is hereby amended to read as
2 follows:

3 692C.210 1. Except as otherwise provided in subsections 5
4 and 7, the Commissioner shall approve any merger or other
5 acquisition of control referred to in subsection 1 of NRS 692C.180
6 unless, after a public hearing thereon, the Commissioner finds that:

7 (a) After the change of control, the domestic insurer specified in
8 subsection 1 of NRS 692C.180 would not be able to satisfy the
9 requirements for the issuance of a license to write the line or lines of
10 insurance for which it is presently licensed;

11 (b) The effect of the merger or other acquisition of control
12 would be substantially to lessen competition in insurance in this
13 state or tend to create a monopoly;

14 (c) The financial condition of any acquiring party may
15 jeopardize the financial stability of the insurer, or prejudice the
16 interest of its policyholders or the interests of any remaining
17 security holders who are unaffiliated with the acquiring party;

18 (d) The terms of the offer, request, invitation, agreement or
19 acquisition referred to in subsection 1 of NRS 692C.180 are unfair
20 and unreasonable to the security holders of the insurer;

21 (e) The plans or proposals which the acquiring party has to
22 liquidate the insurer, sell its assets or consolidate or merge it with
23 any person, or to make any other material change in its business or
24 corporate structure or management, are unfair and unreasonable to
25 policyholders of the insurer or not in the public interest;

26 (f) The competence, experience and integrity of those persons
27 who would control the operation of the insurer are such that it would
28 not be in the interest of policyholders of the insurer or of the public
29 to permit the merger or other acquisition of control;

30 (g) If approved, the merger or acquisition of control would
31 likely be harmful or prejudicial to the members of the public who
32 purchase insurance; or

33 (h) The practices of the applicant in managing claims have
34 evidenced a pattern in which the applicant has knowingly
35 committed, or performed with such frequency as to indicate a
36 general business practice of:

37 (1) Misrepresentation of pertinent facts or provisions of
38 policies of insurance as they relate to coverages at issue;

39 (2) Failure to affirm or deny coverage of claims within a
40 reasonable time after written proofs of loss have been furnished; or

41 (3) Failure to pay claims in a timely manner.

42 2. Except as otherwise provided in subsection 7, the public
43 hearing specified in subsection 1 must be held within 30 days after
44 the **pre-acquisition** statement required by subsection 1 of NRS
45 692C.180 has been filed, and at least 20 days' notice thereof must



1 be given by the Commissioner to the person filing the statement.
2 Not less than 7 days' notice of the public hearing must be given by
3 the person filing the statement to the insurer and to any other person
4 designated by the Commissioner. The insurer shall give such notice
5 to its security holders. The Commissioner shall make a
6 determination within 60 days after the conclusion of the hearing. If
7 the Commissioner determines that an infusion of capital to restore
8 capital in connection with the change in control is required, the
9 requirement must be met within 60 days after notification is given of
10 the determination. At the hearing, the person filing the statement,
11 the insurer, any person to whom notice of hearing was sent and any
12 other person whose interests may be affected thereby may present
13 evidence, examine and cross-examine witnesses, and offer oral and
14 written arguments and, in connection therewith, may conduct
15 discovery proceedings in the same manner as is presently allowed in
16 the district court of this state. All discovery proceedings must be
17 concluded not later than 3 days before the commencement of the
18 public hearing.

19 3. The Commissioner may retain at the acquiring party's
20 expense attorneys, actuaries, accountants and other experts not
21 otherwise a part of the staff of the Commissioner as may be
22 reasonably necessary to assist the Commissioner in reviewing the
23 proposed acquisition of control.

24 4. The period for review by the Commissioner must not exceed
25 the 60 days allowed between the filing of the notice of intent to
26 acquire required pursuant to subsection 5 of NRS 692C.180 and the
27 date of the proposed acquisition if the proposed affiliation or change
28 of control involves a financial institution, or an affiliate of a
29 financial institution, and an insured.

30 5. When making a determination pursuant to paragraph (b) of
31 subsection 1, the Commissioner:

32 (a) Shall require the submission of the information specified in
33 subsection 2 of NRS 692C.254;

34 (b) Shall ~~consider:~~

35 ~~— (1) The standards set forth in the Horizontal Merger~~
36 ~~Guidelines issued by the United States Department of Justice and~~
37 ~~the Federal Trade Commission and in effect at the time the~~
38 ~~Commissioner receives the statement required pursuant to~~
39 ~~subsection 1 of NRS 692C.180; and~~

40 ~~— (2) The~~ **not disapprove the merger or other acquisition**
41 **upon a finding that any of the** factors described in subsection ~~(3)~~ **6**
42 **of NRS 692C.256** ~~exist;~~ and

43 (c) May condition approval of the merger or acquisition of
44 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, from the two largest to the eight largest, has increased by 7 percent or more of the total market over a period of time extending from any base year 5 to 10 years before the acquisition up to the time of the acquisition. 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) There is a significant trend toward increased concentration in the market;

(2) One of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and

(3) Another involved insurer's market share is 2 percent or more.

3. Percentages not shown in the tables in paragraph (a) of subsection 2 must be interpolated proportionately to the percentages that are shown.

4. If more than two insurers are involved in an acquisition, exceeding the total of the two columns in the relevant table of paragraph (a) of subsection 2 is prima facie evidence of a violation of the competitive standard. For the purposes of this subsection, the insurer with the largest market share shall be deemed to be Insurer A.

5. Irrespective of whether an acquisition constitutes a prima facie violation of the competitive standard set forth in this section, the Commissioner, or a party to the acquisition, may establish the



presence or absence of the requisite anticompetitive effect based upon other substantial evidence, including, without limitation, market shares, volatility of ranking market leaders, the number of competitors, concentrations, trend concentration in the industry and ease of entry and exit in the market.

6. The Commissioner shall, before issuing an order specified in subsection 1, consider:

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

~~14.1~~ 7. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection ~~13.1~~ 6 may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

~~15.1~~ 8. The Commissioner has the burden of establishing that the acquisition will result in a violation of the competitive standard set forth in subsection 1.

9. *An order may not be entered in accordance with NRS 692C.258 if:*

(a) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would not arise from lessening competition; or

(b) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits which would arise from not lessening competition.

10. *As used in this section:*

(a) "Highly concentrated market" means a market in which the combined market share of the four largest insurers totals 75 percent or more of the total market.

(b) "Insurer" includes any company or group of companies under common management, ownership or control.

(c) "Market" means the relevant product and geographical markets. In the absence of sufficient information to the contrary,



the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by an insurer doing business in this State and the relevant geographical market is assumed to be this State.

Sec. 297. NRS 692C.260 is hereby amended to read as follows:

692C.260 1. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by a statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in NRS 692C.260 to 692C.350, inclusive.

2. Any insurer which is subject to registration under NRS 692C.260 to 692C.350, inclusive, shall register not later than September 1, 1973, or 15 days after it becomes subject to registration, whichever is later, *and annually thereafter by June 30 of each year for the immediately preceding calendar year*, unless the Commissioner for good cause shown extends the time for registration. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

3. Any person within an insurance holding company system subject to registration shall, upon request by an insurer, provide complete and accurate information to the insurer if the information is reasonably necessary to enable the insurer to comply with the provisions of this section.

Sec. 298. NRS 692C.270 is hereby amended to read as follows:

692C.270 Every insurer subject to registration shall file:

1. A registration statement ~~on a form provided by~~ *with the Commissioner, on a form and in a format prescribed by the Commissioner*, which must contain current information about:

(a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

(b) The identity of every member of the insurance holding company system.

(c) The following agreements in force, relationships subsisting and transactions currently outstanding between the insurer and its affiliates:



(1) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements covering all or substantially all of one or more 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:

(a) A statement indicating the number of authorized, issued and outstanding voting securities of the person specified in the disclaimer of affiliation or request for a termination of registration;

(b) A statement indicating the number and percentage of shares of the person specified in the disclaimer of affiliation or request for a termination of registration that are owned or beneficially owned by the person disclaiming control, and the number of those shares for which the person disclaiming control has a direct or indirect right to acquire;



(c) A statement setting forth all material relationships and bases for affiliation between the person specified in the disclaimer of affiliation or request for a termination of registration and the person and any affiliate of the person who is disclaiming control of the person specified in the disclaimer of affiliation or request for a termination of registration; and

(d) An explanation of why the person who is disclaiming control does not control the person specified in the disclaimer of affiliation or request for a termination of registration.

3. A request for a termination of registration filed pursuant to subsection 1 shall be deemed granted upon filing unless the Commissioner, within 30 days after receipt of the request for a termination of registration, notifies the person, authorized insurer or member of an insurance holding company system that the request is denied.

~~4. [After a disclaimer of affiliation has been filed, the insurer is relieved of any duty to register or report under NRS 692C.260 to 692C.350, inclusive, which may arise out of the insurer's relationship with the person unless the Commissioner disallows the disclaimer. The Commissioner may disallow the disclaimer only after furnishing all parties in interest with a notice and opportunity to be heard and after making specific findings of fact to support the disallowance.]~~ *A disclaimer of affiliation filed pursuant to subsection 1 shall be deemed granted unless the Commissioner, within 30 days after receipt of a complete disclaimer of affiliation, notifies the filing party that the disclaimer of affiliation is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register pursuant to NRS 692C.260 to 692C.350, inclusive, if approval of the disclaimer of affiliation has been granted by the Commissioner, or if the disclaimer of affiliation is deemed approved.*

Sec. 301. NRS 692C.350 is hereby amended to read as follows:

692C.350 1. The failure to file a registration statement or *summary or* any amendment thereto *, or a report of enterprise risk,* required by NRS 692C.260 to 692C.350, inclusive, within the time specified for the filing is a violation of NRS 692C.260 to 692C.350, inclusive.

2. Except as otherwise provided in subsection 3, if an insurer fails, without just cause, to file a registration statement required pursuant to NRS 692C.270 ~~H~~ *to 692C.350, inclusive,* the insurer shall, after receiving notice and a hearing, pay a civil penalty of \$100 for each day the insurer fails to file the registration statement. The civil penalty may be recovered in a civil action brought by the



Commissioner. Any civil penalty paid pursuant to this subsection must be deposited in the State General Fund.

3. The maximum civil penalty that may be imposed pursuant to subsection 2 is \$20,000. The Commissioner may reduce the amount of the civil penalty if the insurer demonstrates to the satisfaction of the Commissioner that the payment of the civil penalty would impose a financial hardship on the insurer.

4. Any officer, director or employee of an insurance holding company system 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 NRS 692C.260 to 692C.350, inclusive, must be given confidential treatment and is not subject to subpoena 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



1 policyholders, shareholders or the public will be served by the
2 publication thereof, in which event he or she may publish all or any
3 part thereof in any manner as he or she may deem appropriate.

4 2. The Commissioner or any person who receives any
5 documents, materials or other information while acting under the
6 authority of the Commissioner must not be permitted or required to
7 testify in a private civil action concerning any information,
8 document or copy thereof specified in subsection 1.

9 3. The Commissioner may share or receive any information,
10 document or copy thereof specified in subsection 1 in accordance
11 with NRS 679B.122. The sharing or receipt of the information,
12 document or copy pursuant to this subsection does not waive any
13 applicable privilege or claim of confidentiality in the information,
14 document or copy.

15 4. *The Commissioner shall enter into a written agreement*
16 *with the NAIC governing the sharing and use of information*
17 *specified in subsection 1 that must:*

18 (a) *Specify procedures and protocols regarding the*
19 *confidentiality and security of information shared with the NAIC*
20 *and its affiliates and subsidiaries, including procedures and*
21 *protocols for sharing by the NAIC with other state, federal and*
22 *international regulators;*

23 (b) *Specify that ownership of the information shared with the*
24 *NAIC and its affiliates and subsidiaries remains with the*
25 *Commissioner and the NAIC's use of the information is subject to*
26 *the discretion of the Commissioner;*

27 (c) *Require prompt notice to be given to an insurer whose*
28 *confidential information in the possession of the NAIC is subject*
29 *to a request or subpoena to the NAIC for disclosure or production;*
30 *and*

31 (d) *Require the NAIC and its affiliates and subsidiaries to*
32 *consent to intervention by an insurer in any judicial or*
33 *administrative action in which the NAIC and its affiliates or*
34 *subsidiaries may be required to disclose confidential information*
35 *about the insurer shared with the NAIC and its affiliates and*
36 *subsidiaries.*

37 5. *The sharing of information by the Commissioner does not*
38 *constitute a delegation of regulatory authority or rulemaking, and*
39 *the Commissioner is solely responsible for the administration,*
40 *execution and enforcement of the provisions of this section.*

41 6. *No waiver of any applicable privilege or claim of*
42 *confidentiality in the documents, materials or information shall*
43 *occur as a result of disclosure to the Commissioner in accordance*
44 *with this section or as a result of sharing as authorized in this*
45 *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



1 and in business activities reasonably and necessarily incidental to
2 the insurance business.

3 2. A title insurer may also engage in business as an escrow
4 agent.

5 3. Any insurer may also engage in business activities
6 reasonably related to the management, supervision, servicing of and
7 protection of its interests as to its lawful investments, and to the full
8 utilization of its facilities.

9 4. An insurer may own subsidiaries which may engage in such
10 businesses as are provided for in ~~NRS 682A.130.~~ *section 174 of*
11 *this act.*

12 **Sec. 306.** Chapter 694C of NRS is hereby amended by adding
13 thereto the provisions set forth as sections 307, 308 and 309 of this
14 act.

15 **Sec. 307.** *“State-chartered risk retention group” means any*
16 *risk retention group, as defined in NRS 695E.110, that is formed*
17 *in accordance with the laws of this State as an association captive*
18 *insurer.*

19 **Sec. 308. 1.** *In addition to the information required*
20 *pursuant to NRS 694C.210, a state-chartered risk retention group*
21 *being formed as an association captive insurer must submit to the*
22 *Commissioner in summary form:*

23 (a) *The identities of:*

24 (1) *All members of the group;*

25 (2) *All organizers of the group;*

26 (3) *Those persons who will provide administrative services*
27 *to the group; and*

28 (4) *Any person who will influence or control the activities*
29 *of the group;*

30 (b) *The amount and nature of initial capitalization of the*
31 *group;*

32 (c) *The coverages to be offered by the group; and*

33 (d) *Each state in which the group intends to operate.*

34 2. *Before it may transact insurance in any state, the state-*
35 *chartered risk retention group must submit to the Commissioner,*
36 *for approval by the Commissioner, a plan of operation. The risk*
37 *retention group shall submit an appropriate revision in the event*
38 *of any subsequent material change in any item of the plan of*
39 *operation within 10 days after the change. The group shall not*
40 *offer any additional kinds of liability insurance, in this State or in*
41 *any other state, until a revision of the plan is approved by the*
42 *Commissioner.*

43 3. *A state-chartered risk retention group chartered in this*
44 *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:

(a) All information submitted by a state-chartered risk retention group to the Commissioner pursuant to subsections 1 and 3; and

(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.

Sec. 309. 1. The board of directors of a risk retention group must have a majority of independent directors. If the risk retention group is a reciprocal risk retention group, the attorney-in-fact is required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors or subscribers advisory committee under this section, and, to the extent permissible by state law, service providers of a reciprocal risk retention group must contract with the risk retention group and not the attorney-in-fact.

2. No director qualifies as independent unless the board of directors affirmatively determines that the director has no material relationship with the risk retention group. Each risk retention group shall disclose these determinations to its domestic regulator at least annually. For the purposes of this subsection, any person



1 *that is a direct or indirect owner of or subscriber in the risk*
2 *retention group, or is an officer, director or employee of such an*
3 *owner or insured, unless some other position of such officer,*
4 *director or employee constitutes a material relationship, as*
5 *contemplated by 15 U.S.C. § 3901(a)(4)(E)(ii), is considered to be*
6 *independent.*

7 3. *The term of any material service provider contract with a*
8 *risk retention group must not exceed 5 years. Any such contract,*
9 *or its renewal, must require the approval of the majority of the risk*
10 *retention group's independent directors. The risk retention*
11 *group's board of directors shall have the right to terminate any*
12 *service provider, audit or actuarial contracts at any time for cause*
13 *after providing adequate notice as defined in the contract. The*
14 *service provider contract is deemed material if the amount to be*
15 *paid for such contract is greater than, or equal to, 5 percent of the*
16 *risk retention group's annual gross written premium or 2 percent*
17 *of its surplus, whichever is greater. No service provider contract*
18 *which creates a material relationship may be entered into unless*
19 *the risk retention group has notified the Commissioner, in writing,*
20 *of its intention to enter into such a transaction at least 30 days*
21 *before and the Commissioner has not disapproved it within such*
22 *period. For the purposes of this subsection:*

23 (a) *"Lawyer" does not include defense counsel retained by the*
24 *risk retention group to defend claims, unless the amount of fees*
25 *paid to such lawyer creates a material relationship.*

26 (b) *"Service provider" includes, without limitation, a captive*
27 *manager, auditor, accountant, actuary, investment advisor,*
28 *lawyer, managing general underwriter or other party responsible*
29 *for underwriting, determination of rates, collection of premium,*
30 *adjusting and settling claims or the preparation of financial*
31 *statements.*

32 4. *The board of directors shall adopt a written policy in the*
33 *plan of operation as approved by the board that requires the board*
34 *to:*

35 (a) *Ensure that all owners and insureds of the risk retention*
36 *group receive evidence of ownership interest;*

37 (b) *Develop a set of governance standards applicable to the*
38 *risk retention group;*

39 (c) *Oversee the evaluation of the risk retention group's*
40 *management, including, without limitation, the performance of*
41 *the captive manager, managing general underwriter or other party*
42 *or parties responsible for underwriting, determination of rates,*
43 *collection of premium, adjusting or settling claims or the*
44 *preparation of financial statements;*



(d) Review and approve the amount to be paid for all material service providers; and

(e) At least annually, review and approve:

(1) The risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(2) The officer's and service provider's performance in light of those goals and objectives; and

(3) The continued engagement of the officers and material service providers.

5. A risk retention group must have an audit committee composed of at least three independent board members. A board member that is not independent may participate in the activities of the audit committee if invited by the members, but cannot be a member of such committee.

6. An audit committee established pursuant to subsection 5 must have a written charter that defines the committee's purpose, which must include, without limitation:

(a) Assisting the board of directors with oversight of:

(1) The integrity of financial statements;

(2) Compliance with legal and regulatory requirements; and

(3) The qualifications, independence and performance of the independent auditor and actuary;

(b) Discussing the annual audited financial statements and quarterly financial statements with management;

(c) Discussing the annual audited financial statements and, if advisable, its quarterly financial statements with its independent auditor;

(d) Discussing policies with respect to risk assessment and risk management;

(e) Meeting separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors;

(f) Reviewing with the independent auditor any audit problems or difficulties and management's response;

(g) Setting clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor;

(h) Requiring the external auditor to rotate the lead, or coordinating, audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing that audit so that one such person does not perform audit services for more than 5 consecutive fiscal years; and

(i) Reporting regularly to the board of directors.



7. The domestic regulator may waive the requirement to establish an audit committee composed of independent board members if the risk retention group is able to demonstrate to the domestic regulator that it is impracticable to do so and the board of directors itself is otherwise able to accomplish the purposes of the audit committee.

8. The board of directors shall adopt and disclose governance standards which must include:

(a) A process by which the directors are elected by the owners and insureds;

(b) Qualification standards;

(c) Responsibilities;

(d) Access to management and, as necessary and appropriate, independent advisors;

(e) Compensation;

(f) Orientation and continuing education;

(g) The policies and procedures to be followed for management succession; and

(h) The policies and procedures to be followed for annual performance evaluation of the board.

➤ As used in this subsection, “disclose” means making information available through electronic or other means, including, without limitation, posting such information on the risk retention group’s Internet website and providing such information to its members and insureds upon request.

9. The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers and employees which must include, without limitation:

(a) Conflicts of interest;

(b) Matters covered under the corporate opportunities doctrine within the state of domicile;

(c) Confidentiality;

(d) Fair dealing;

(e) Protection and proper use of assets of the risk retention group;

(f) Compliance with all applicable laws, rules and regulations; and

(g) Requiring the reporting of any illegal or unethical behavior which affects the operation of the risk retention group.

➤ The board shall promptly disclose any waivers of the code for directors or executive officers.

10. The captive manager, president or chief executive officer of a risk retention group shall promptly notify the domestic regulator, in writing, if he or she becomes aware of any material noncompliance with this section.



11. As used in this section:

(a) “Board of directors” or “board” means the governing body of a risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees and make other governing decisions.

(b) “Director” means a natural person designated in the articles of the risk retention group, or designated, elected or appointed by any other manner, name or title to act on the board.

(c) “Material relationship,” of a person with a risk retention group, includes, without limitation:

(1) The receipt in any one 12-month period of compensation or payment of any other item of value by such person, a member of such person’s immediate family or any business with which such person is affiliated from the risk retention group or a consultant or service provider to the risk retention group that is greater than or equal to 5 percent of the risk retention group’s gross written premium for such 12-month period or 2 percent of its surplus, whichever is greater, as measured at the end of any fiscal quarter falling in such a 12-month period. Such person or immediate family member of such a person is not considered to be independent until 1 year after his or her compensation or payment from the risk retention group falls below the threshold set forth in this paragraph;

(2) A director or an immediate family member of a director who is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group is not considered to be independent until 1 year after the end of the affiliation, employment or auditing relationship.

(3) A director or immediate family member of a director who is employed as an executive officer of another company where any of the risk retention 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.~~

~~—6.1 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 ~~1.1~~, 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 ~~14.1~~ 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.

~~15.1~~ 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.

~~14.1~~ 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.

~~15.1~~ 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.

~~16.1~~ 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,



1 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
2 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
3 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
4 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
5 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
6 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
7 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
8 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
9 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
10 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
11 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
12 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
13 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
14 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
15 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
16 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
17 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
18 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
19 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
20 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
21 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
22 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
23 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
24 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
25 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
26 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
27 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
28 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
29 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
30 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
31 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
32 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
33 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
34 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
35 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
36 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
37 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and sections 38,**
38 **283, 284 and 285 of this act,** sections 35, 38 and 41 of chapter 478,
39 Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of
40 Nevada 2013 and unless otherwise declared by law to be
41 confidential, all public books and public records of a governmental
42 entity must be open at all times during office hours to inspection by
43 any person, and may be fully copied or an abstract or memorandum
44 may be prepared from those public books and public records. Any
45 such copies, abstracts or memoranda may be used to supply the



1 general public with copies, abstracts or memoranda of the records or
2 may be used in any other way to the advantage of the governmental
3 entity or of the general public. This section does not supersede or in
4 any manner affect the federal laws governing copyrights or enlarge,
5 diminish or affect in any other manner the rights of a person in any
6 written book or record which is copyrighted pursuant to federal law.

7 2. A governmental entity may not reject a book or record
8 which is copyrighted solely because it is copyrighted.

9 3. A governmental entity that has legal custody or control of a
10 public book or record shall not deny a request made pursuant to
11 subsection 1 to inspect or copy or receive a copy of a public book or
12 record on the basis that the requested public book or record contains
13 information that is confidential if the governmental entity can
14 redact, delete, conceal or separate the confidential information from
15 the information included in the public book or record that is not
16 otherwise confidential.

17 4. A person may request a copy of a public record in any
18 medium in which the public record is readily available. An officer,
19 employee or agent of a governmental entity who has legal custody
20 or control of a public record:

21 (a) Shall not refuse to provide a copy of that public record in a
22 readily available medium because the officer, employee or agent has
23 already prepared or would prefer to provide the copy in a different
24 medium.

25 (b) Except as otherwise provided in NRS 239.030, shall, upon
26 request, prepare the copy of the public record and shall not require
27 the person who has requested the copy to prepare the copy himself
28 or herself.

29 **Sec. 315.** NRS 482.215 is hereby amended to read as follows:

30 482.215 1. All applications for registration, except
31 applications for renewal of registration, must be made as provided in
32 this section.

33 2. Except as otherwise provided in NRS 482.294, applications
34 for all registrations, except renewals of registration, must be made in
35 person, if practicable, to any office or agent of the Department or to
36 a registered dealer.

37 3. Each application must be made upon the appropriate form
38 furnished by the Department and contain:

39 (a) The signature of the owner, except as otherwise provided in
40 subsection 2 of NRS 482.294, if applicable.

41 (b) The owner's residential address.

42 (c) The owner's declaration of the county where he or she
43 intends the vehicle to be based, unless the vehicle is deemed to have
44 no base. The Department shall use this declaration to determine the
45 county to which the governmental services tax is to be paid.



(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185; and

(2) A declaration signed by the applicant that he or she will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this subparagraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State as required by NRS 485.185:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 *or in an electronic format allowed pursuant to that section*, which identifies the vehicle or the registered owner of the vehicle; or

(3) In another form satisfactory to the Department.
↪ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his or her original application for or application for renewal of a proportional



1 registration. The owner may file a single certificate of insurance
2 covering that fleet.

3 (b) Other fleets composed of 10 or more vehicles based in this
4 State or vehicles insured under a blanket policy which does not
5 identify individual vehicles may each be declared annually as a fleet
6 by the registered owner thereof for the purposes of an application
7 for his or her original or any renewed registration. The owner may
8 file a single certificate of insurance covering that fleet.

9 (c) A person who qualifies as a self-insurer pursuant to the
10 provisions of NRS 485.380 may file a copy of his or her certificate
11 of self-insurance.

12 (d) A person who qualifies for an operator's policy of liability
13 insurance pursuant to the provisions of NRS 485.186 and 485.3091
14 may file evidence of that insurance.

15 **Sec. 316.** NRS 485.034 is hereby amended to read as follows:

16 485.034 "Evidence of insurance" means:

17 1. The form , *or electronic format*, provided by an insurer
18 pursuant to NRS 690B.023 as evidence of a contract of insurance
19 for a motor vehicle liability policy; or

20 2. The certificate of self-insurance issued to a self-insurer by
21 the Department pursuant to NRS 485.380.

22 **Sec. 317.** NRS 485.187 is hereby amended to read as follows:

23 485.187 1. Except as otherwise provided in subsection 5, the
24 owner of a motor vehicle shall not:

25 (a) Operate the motor vehicle, if it is registered or required to be
26 registered in this State, without having insurance as required by
27 NRS 485.185.

28 (b) Operate or knowingly permit the operation of the motor
29 vehicle without having evidence of insurance of the operator or the
30 vehicle in the vehicle.

31 (c) Fail or refuse to surrender, upon demand, to a peace officer
32 or to an authorized representative of the Department the evidence of
33 insurance. *The surrender, upon demand, of an evidence of*
34 *insurance issued in electronic format does not constitute consent*
35 *for a peace officer or authorized representative of the Department*
36 *to access other contents of any device used to display the evidence*
37 *of insurance and surrendered in compliance with this section.*

38 (d) Knowingly permit the operation of the motor vehicle in
39 violation of subsection 3 of NRS 485.186.

40 2. A person shall not operate the motor vehicle of another
41 person unless the person who will operate the motor vehicle:

42 (a) First ensures that the required evidence of insurance is
43 present in the motor vehicle ~~to~~ *or available electronically*; or

44 (b) Has his or her own evidence of insurance which covers that
45 person as the operator of the motor vehicle.



3. Except as otherwise provided in subsection 4, any person who violates 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 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



1 that purpose at least once every 3 years. The self-insured employer
2 shall reimburse the Commissioner for the cost of the examination.

3 **Sec. 319.** NRS 682A.010, 682A.030, 682A.040, 682A.050,
4 682A.060, 682A.070, 682A.080, 682A.090, 682A.100, 682A.110,
5 682A.120, 682A.130, 682A.140, 682A.150, 682A.160, 682A.170,
6 682A.180, 682A.190, 682A.200, 682A.210, 682A.220, 682A.230,
7 682A.240, 682A.250, 682A.260, 682A.270, 682A.280, 682A.290,
8 689A.695, 689B.115 and 689C.250 are hereby repealed.

9 **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.

