

Senate Bill No. 132—Senators Pazina, Scheible, Spearman, Cannizzaro, Hansen; Daly, Dondero Loop, Flores, Hammond, D. Harris, Krasner, Lange, Neal, Nguyen, Ohrenschall, Seevers Gansert and Stone

Joint Sponsors: Assemblymen O'Neill, Yeager; and Watts

CHAPTER.....

AN ACT relating to insurance; prohibiting discrimination against a living organ donor in a policy or contract of life insurance, life annuity or health insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits health insurers from denying, limiting or excluding a covered benefit or requiring an insured to pay a higher premium, deductible, coinsurance or copay based on the health status of the insured or the covered spouse or dependent of the insured. (NRS 287.010, 287.04335, 689A.032, 689B.500, 689C.190, 695A.232, 695B.183, 695C.050, 695C.1701, 695F.151, 695G.155) Existing law also prohibits unfair discrimination in a policy or contract of life insurance, life annuity or health insurance. (NRS 686A.100) Existing law authorizes the Commissioner of Insurance to enforce the provisions of law that prohibit unfair trade practices in the business of insurance, including unfair discrimination in a policy or contract of life insurance, life annuity or health insurance. (NRS 686A.160, 686A.183) **Section 1** of this bill prohibits a person from discriminating against a living organ donor with regard to any policy or contract of life insurance, life annuity or health insurance based solely, and without any additional actuarial risk, on his or her status as a living organ donor. **Sections 3, 5 and 6** of this bill authorize the Commissioner to enforce the requirements of **section 1** in the same manner as other provisions governing the trade practices of insurers. **Section 4** of this bill provides that certain practices are not discrimination for the purposes of **section 1**. **Sections 2 and 7-17** of this bill make conforming changes to indicate the proper placement of **section 1** in the Nevada Revised Statutes.

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

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

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

1. With regard to any policy or contract of life insurance, life annuity or health insurance, no person shall discriminate against a living organ donor by:

(a) Refusing to insure the living organ donor;

(b) Refusing to continue to insure the living organ donor;



(c) *Limiting the amount, extent or kind of coverage available to a living organ donor; or*

(d) *Charging a living organ donor a different rate, premium, deductible, copay or coinsurance than that charged to a similarly situated insured who is not a living organ donor for the same coverage,*

↪ based solely, and without any additional actuarial risk, upon his or her status as a living organ donor.

2. As used in this section, “living organ donor” means a living person who donates one or more of his or her organs, including, without limitation, bone marrow, to be medically transplanted into the body of another person.

Sec. 2. NRS 686A.010 is hereby amended to read as follows:

686A.010 The purpose of NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act* is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. §§ 1011 to 1015, inclusive, and Title V of Public Law 106-102, 15 U.S.C. §§ 6801 et seq.

Sec. 3. NRS 686A.015 is hereby amended to read as follows:

686A.015 1. Notwithstanding any other provision of law, the Commissioner has exclusive jurisdiction in regulating the subject of trade practices in the business of insurance in this state.

2. The Commissioner shall establish a program within the Division to investigate any act or practice which constitutes an unfair or deceptive trade practice in violation of the provisions of NRS 686A.010 to 686A.310, inclusive ~~H~~, *and section 1 of this act.*

Sec. 4. NRS 686A.120 is hereby amended to read as follows:

686A.120 1. Nothing in NRS 686A.100 and 686A.110 , *and section 1 of this act* shall be construed as including within the definition of discrimination or rebates any of the following practices:

(a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

(b) In the case of life insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the



insurer in an amount which fairly represents the saving in collection expense.

(c) Readjusting the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(d) Reducing the premium rate for policies of large amounts, but not exceeding savings in issuance and administration expenses reasonably attributable to such policies as compared with policies of similar plan issued in smaller amounts.

(e) Reducing the premium rates for life or health insurance policies or annuity contracts on salary savings, payroll deduction, preauthorized check, bank draft or similar plans in amounts reasonably commensurate with the savings made by the use of such plans.

(f) Extending credit for the payment of any premium, and for which credit a reasonable rate of interest is charged and collected.

2. Nothing in NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act** shall be construed as including within the definition of securities as inducements to purchase insurance the selling or offering for sale, contemporaneously with life insurance, of mutual fund shares or face amount certificates of regulated investment companies under offerings registered with the Securities and Exchange Commission where such shares or such face amount certificates or such insurance may be purchased independently of and not contingent upon purchase of the other, at the same price and upon similar terms and conditions as where purchased independently.

Sec. 5. NRS 686A.160 is hereby amended to read as follows:

686A.160 If the Commissioner has cause to believe that any person has been engaged or is engaging, in this state, in any unfair method of competition or any unfair or deceptive act or practice prohibited by NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act** and that a proceeding by the Commissioner in respect thereto would be in the interest of the public, the Commissioner may issue and serve upon such person a statement of the charges and a notice of the hearing to be held thereon. The statement of charges and notice of hearing shall comply with the requirements of NRS 679B.320 and shall be served upon such person directly or by certified or registered mail, return receipt requested.

Sec. 6. NRS 686A.183 is hereby amended to read as follows:

686A.183 1. After the hearing provided for in NRS 686A.160, the Commissioner shall issue an order on hearing



pursuant to NRS 679B.360. If the Commissioner determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice in violation of NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act**, the Commissioner shall order the person to cease and desist from engaging in that method of competition, act or practice, and may order one or both of the following:

(a) If the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act**, payment of an administrative fine of not more than \$5,000 for each act or violation, except that as to licensed agents, brokers, solicitors and adjusters, the administrative fine must not exceed \$500 for each act or violation.

(b) Suspension or revocation of the person's license if the person knew or reasonably should have known that he or she was in violation of NRS 686A.010 to 686A.310, inclusive **H**, **and section 1 of this act**.

2. Until the expiration of the time allowed for taking an appeal, pursuant to NRS 679B.370, if no petition for review has been filed within that time, or, if a petition for review has been filed within that time, until the official record in the proceeding has been filed with the court, the Commissioner may, at any time, upon such notice and in such manner as the Commissioner deems proper, modify or set aside, in whole or in part, any order issued by him or her under this section.

3. After the expiration of the time allowed for taking an appeal, if no petition for review has been filed, the Commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him or her under this section whenever in the opinion of the Commissioner conditions of fact or of law have so changed as to require such action or if the public interest so requires.

Sec. 7. NRS 686A.520 is hereby amended to read as follows:

686A.520 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and 686A.010 to 686A.310, inclusive, **and section 1 of this act** apply to companies.

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

Sec. 8. NRS 688C.175 is hereby amended to read as follows:

688C.175 1. Persons engaged in the business of viatical settlements are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:



(a) NRS 679B.230 to 679B.300, inclusive, concerning examinations of insurers.

(b) NRS 679B.310 to 679B.370, inclusive, concerning hearings regarding insurers and employees of insurers.

(c) Chapter 680A of NRS.

(d) Chapter 683A of NRS.

(e) NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act* concerning trade practices and frauds.

2. Nothing in this chapter or elsewhere in this title preempts or otherwise limits the provisions of chapter 90 of NRS, or of any rules, regulations or orders issued by or through the Administrator of the Securities Division of the Office of the Secretary of State or the Administrator's designee acting pursuant to the authority granted by chapter 90 of NRS.

3. Compliance with the provisions of this chapter does not constitute compliance with any applicable provisions of chapter 90 of NRS or with any rule, regulation or order adopted or issued thereunder.

Sec. 9. NRS 689.160 is hereby amended to read as follows:

689.160 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and 686A.010 to 686A.310, inclusive, *and section 1 of this act* apply to agents and sellers.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "agent" and "seller."

3. The provisions of NRS 679B.230 to 679B.300, inclusive, apply to sellers. Unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "seller."

Sec. 10. NRS 689.595 is hereby amended to read as follows:

689.595 1. The provisions of NRS 683A.341, 683A.451, 683A.461 and 686A.010 to 686A.310, inclusive, *and section 1 of this act* apply to agents and sellers.

2. For the purposes of subsection 1, unless the context requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "agent" and "seller."

3. The provisions of NRS 679B.230 to 679B.300, inclusive, apply to sellers. Unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "seller."

Sec. 11. NRS 695B.320 is hereby amended to read as follows:

695B.320 1. Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the



provisions of chapters 679A and 679B of NRS, subsections 2, 4, 18, 19 and 31 of NRS 680B.010, NRS 680B.025 to 680B.060, inclusive, chapter 681B of NRS, NRS 686A.010 to 686A.315, inclusive, **and section 1 of this act**, 686B.010 to 686B.175, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, 687B.500 and chapters 692B, 692C, 693A and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

2. For the purposes of this section and the provisions set forth in subsection 1, a nonprofit hospital and medical or dental service corporation is included in the meaning of the term “insurer.”

Sec. 12. NRS 695C.300 is hereby amended to read as follows:

695C.300 1. No health maintenance organization or representative thereof may cause or knowingly permit the use of advertising which is untrue or misleading, solicitation which is untrue or misleading or any form of evidence of coverage which is deceptive. For purposes of this chapter:

(a) A statement or item of information shall be deemed to be untrue if it does not conform to fact in any respect which is or may be significant to an enrollee of, or person considering enrollment in, a health care plan.

(b) A statement or item of information shall be deemed to be misleading, whether or not it may be literally untrue if, in the total context in which such statement is made or such item of information is communicated, such statement or item of information may be reasonably understood by a reasonable person not possessing special knowledge regarding health care coverage, as indicating any benefit or advantage or the absence of any exclusion, limitation or disadvantage of possible significance to an enrollee of, or person considering enrollment in, a health care plan if such benefit or advantage or absence of limitation, exclusion or disadvantage does not in fact exist.

(c) An evidence of coverage shall be deemed to be deceptive if the evidence of coverage taken as a whole, and with consideration given to typography and format as well as language, shall be such as to cause a reasonable person not possessing special knowledge regarding health care plans and evidences of coverage therefor to expect benefits, services, charges or other advantages which the evidence of coverage does not provide or which the health care plan issuing such evidence of coverage does not regularly make available for enrollees covered under such evidence of coverage.



2. NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act** shall be construed to apply to health maintenance organizations, health care plans and evidences of coverage except to the extent that the nature of health maintenance organizations, health care plans and evidences of coverage render the sections therein clearly inappropriate.

3. An enrollee may not be cancelled or not renewed except for the failure to pay the charge for such coverage or for cause as determined in the master contract.

4. No health maintenance organization, unless licensed as an insurer, may use in its name, contracts, or literature any of the words “insurance,” “casualty,” “surety,” “mutual” or any other words descriptive of the insurance, casualty or surety business or deceptively similar to the name or description of any insurance or surety corporation doing business in this State.

5. No person not certificated under this chapter shall use in its name, contracts or literature the phrase “health maintenance organization” or the initials “HMO.”

Sec. 13. NRS 695D.290 is hereby amended to read as follows:

695D.290 The provisions of NRS 686A.010 to 686A.310, inclusive, **and section 1 of this act** relating to trade practices and frauds apply to organizations for dental care.

Sec. 14. NRS 695E.170 is hereby amended to read as follows:

695E.170 1. A risk retention group and its agents and representatives are subject to the provisions of:

(a) NRS 680A.205 and any regulations adopted pursuant thereto, including, without limitation, regulations relating to the standards which may be used by the Commissioner in determining whether a risk retention group is in a hazardous financial condition.

(b) NRS 686A.010 to 686A.310, inclusive **and section 1 of this act**. Any injunction obtained pursuant to those sections must be obtained from a court of competent jurisdiction.

2. All premiums paid for coverages within this state to a risk retention group are subject to the provisions of chapter 680B of NRS. Each risk retention group shall report all premiums paid to it and shall pay the taxes on premiums and any related fines or penalties for risks resident, located or to be performed in the state.

3. Any person acting as an agent or a broker for a risk retention group pursuant to NRS 695E.210 shall:

(a) Report to the Commissioner each premium for direct business for risks resident, located or to be performed in this State which the person has placed with or on behalf of a risk retention group that is not chartered in this State.



(b) Maintain a complete and separate record of each policy obtained from each risk retention group. Each record maintained pursuant to this subsection must be made available upon request by the Commissioner for examination pursuant to NRS 679B.240, and must include, for each policy and each kind of insurance provided therein:

- (1) The limit of liability;
- (2) The period covered;
- (3) The effective date;
- (4) The name of the risk retention group which issued the policy;
- (5) The gross annual premium charged; and
- (6) The amount of return premiums, if any.

4. As used in this section, “premiums for direct business” means any premium written in this State for a policy of insurance. The term does not include any premium for reinsurance or for a contract between members of a risk retention group.

Sec. 15. NRS 695F.090 is hereby amended to read as follows:

695F.090 1. Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

(a) NRS 686B.010 to 686B.175, inclusive, concerning rates and essential insurance.

(b) NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.

(c) NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.

(d) The requirements of NRS 679B.152.

(e) The fees imposed pursuant to NRS 449.465.

(f) NRS 686A.010 to 686A.310, inclusive, *and section 1 of this act* concerning trade practices and frauds.

(g) The assessment imposed pursuant to NRS 679B.700.

(h) Chapter 683A of NRS.

(i) To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

(j) NRS 689A.035, 689A.0463, 689A.410, 689A.413 and 689A.415.

(k) NRS 680B.025 to 680B.060, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this paragraph, unless the context otherwise requires that a section apply only to insurers, any



reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”

(l) Chapter 692C of NRS, concerning holding companies.

(m) NRS 689A.637, concerning health centers.

(n) Chapter 681B of NRS, concerning assets and liabilities.

(o) NRS 682A.400 to 682A.468, inclusive, concerning investments.

2. For the purposes of this section and the provisions set forth in subsection 1, a prepaid limited health service organization is included in the meaning of the term “insurer.”

Sec. 16. NRS 696A.360 is hereby amended to read as follows:

696A.360 Motor clubs are also subject, in the same manner as insurers, to the following provisions of this Code to the extent reasonably applicable:

1. Chapter 679A of NRS (scope and definitions);

2. Chapter 679B of NRS (Commissioner of Insurance);

3. NRS 683A.400 (fiduciary funds);

4. Chapter 685B of NRS (unauthorized insurers);

5. NRS 686A.010 to 686A.310, inclusive , *and section 1 of this act* (trade practices and frauds); and

6. Chapter 696B of NRS (delinquent insurers).

Sec. 17. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.

2. Chapter 679B of NRS.

3. NRS 683A.261.

4. NRS 683A.301.

5. NRS 683A.311.

6. NRS 683A.331.

7. NRS 683A.341.

8. NRS 683A.361.

9. NRS 683A.400.

10. NRS 683A.451.

11. NRS 683A.461.

12. NRS 683A.500.

13. NRS 683A.520.

14. NRS 686A.010 to 686A.310, inclusive ~~H~~ , *and section 1 of this act*.

Sec. 18. This act becomes effective on January 1, 2024.

