

ASSEMBLY BILL NO. 435—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 25, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing insurance.
(BDR 57-1171)

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

~

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

AN ACT relating to insurance; revising the manner in which an assessment imposed on insurers in this State is calculated; revising requirements concerning reinsurance; exempting certain domestic insurers and prepaid limited health service organizations from a requirement to submit certain information to the Commissioner of Insurance; revising provisions governing the Nevada Life and Health Insurance Guaranty Association, the Interstate Insurance Product Regulation Compact, insurance holding companies and requirements that certain groups submit information to the Commissioner; authorizing the Commissioner to approve a person who is not an insurer, a reinsurer or a captive insurer as a sponsor of a captive insurer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law provides for the regulation of the business of insurance in this
- 2 State, including, without limitation, kinds of insurance, assets and liabilities of
- 3 insurers, holding companies, captive insurers and liability risk retention. (Chapters
- 4 681A, 681B, 686C, 687C, 692C, 694C, 695E of NRS) This bill makes various
- 5 changes to those provisions.
- 6 Existing law requires insurers authorized to transact business in this State to
- 7 pay an assessment to fund a program to investigate unfair or fraudulent insurance



8 practices. (NRS 679B.630, 679B.700) **Section 1** of this bill revises the way in
9 which this assessment is calculated.

10 **Sections 2-5** of this bill revise the requirements certain insurers must meet in
11 order to be allowed credit when assuming reinsurance. **Section 6** of this bill
12 authorizes the Commissioner of Insurance to exempt certain domestic insurers and
13 prepaid limited health service organizations from the requirement to prepare and
14 submit to the Commissioner a report of the level of risk-based capital of the insurer
15 at the end of the immediately preceding calendar year.

16 Existing law requires all insurers who provide life and health insurance in this
17 State to maintain membership in the Nevada Life and Health Insurance Guaranty
18 Association and requires the Association to cover the policies and contracts of an
19 insolvent insurer. (NRS 686C.130, 686C.152) **Section 7** of this bill provides that
20 the Association is not required to cover certain policies and contracts for health care
21 benefits pursuant to Medicare. **Section 8** of this bill revises the amounts of certain
22 benefits the Association is required to cover.

23 Under existing law, this State prospectively opts out of all uniform standards
24 adopted by the Interstate Insurance Product Regulation Commission involving
25 long-term care insurance products. (NRS 687C.030) **Section 9** of this bill deletes
26 the prospective opt-out of this State. **Section 12** of this bill enacts certain
27 requirements concerning the corporate governance of a domestic insurer.

28 **Section 13** of this bill authorizes the Commissioner to convene a supervisory
29 college, which is a forum for communication and cooperation between regulators,
30 to ascertain the financial condition or legality of the conduct of certain insurers.

31 **Sections 15 and 16** of this bill revise provisions relating to the investments of a
32 domestic insurer. **Sections 17-21** of this bill revise provisions governing the
33 acquisition of an insurer. **Sections 22 and 23** of this bill require an insurer to
34 submit certain information to the Commissioner concerning the insurer's general
35 financial condition and corporate governance. **Sections 24 and 25** of this bill revise
36 provisions governing transactions by registered insurers with their affiliates.

37 **Section 27** of this bill revises the method used to determine whether a dividend
38 or distribution may be paid without requesting approval from the Commissioner.

39 **Section 28** of this bill revises provisions governing the authority of the
40 Commissioner to examine an insurer. **Sections 28.5 and 28.6** of this bill authorize
41 the Commissioner to approve a person who is not an insurer, a reinsurer or a
42 captive insurer as a sponsor of a captive insurer. **Section 29** of this bill changes the
43 date by which certain insurers are required to submit to the Commissioner a report of
44 the financial condition of the insurer. **Sections 30-34** of this bill revise
45 information which certain groups that conduct business concerning insurance are
46 required to submit to the Commissioner.

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

1 **Section 1.** NRS 679B.700 is hereby amended to read as
2 follows:

3 679B.700 1. The Special Investigative Account is hereby
4 established in the Fund for Insurance Administration and
5 Enforcement created by NRS 680C.100 for use by the
6 Commissioner. The Commissioner shall deposit all money received
7 pursuant to this section with the State Treasurer for credit to the
8 Account. Money remaining in the Account at the end of a fiscal year



1 does not lapse to the State General Fund and may be used by the
2 Commissioner in any subsequent fiscal year for the purposes of this
3 section.

4 2. The Commissioner shall:

5 (a) In cooperation with the Attorney General, biennially prepare
6 and submit to the Governor, for inclusion in the executive budget, a
7 proposed budget for the program established pursuant to NRS
8 679B.630; and

9 (b) Authorize expenditures from the Special Investigative
10 Account to pay the expenses of the program established pursuant to
11 NRS 679B.630 and of any unit established in the Office of the
12 Attorney General that investigates and prosecutes insurance fraud.

13 3. The money authorized for expenditure pursuant to paragraph
14 (b) of subsection 2 must be distributed in the following manner:

15 (a) Fifteen percent of the money authorized for expenditure must
16 be paid to the Commissioner to oversee and enforce the program
17 established pursuant to NRS 679B.630; and

18 (b) Eighty-five percent of the money authorized for expenditure
19 must be paid to the Attorney General to pay the expenses of the unit
20 established in the Office of the Attorney General that investigates
21 and prosecutes insurance fraud.

22 4. Except as otherwise provided in ~~subsections~~ *subsection 5 ,*
23 ~~and 6,~~ costs of the program established pursuant to NRS 679B.630
24 must be paid by the insurers authorized to transact insurance in this
25 State. The Commissioner shall ~~annually determine the total cost of~~
26 ~~the program and divide that amount among the insurers pro rata~~
27 ~~based upon the total amount of premiums charged to the insureds in~~
28 ~~this State by the insurer.~~

29 ~~—5.—The annual amount so assessed on each reinsurer that has the~~
30 ~~authority to assume only reinsurance must not exceed \$500. For all~~
31 ~~other insurers subject to the annual assessment, they~~ *collect an*
32 *annual assessment from each insurer authorized to transact*
33 *insurance in this State. The* annual amount so assessed to each
34 insurer:

35 (a) ~~Must not exceed~~ *Is* \$500, if the total amount of the
36 premiums charged to insureds in this State by the insurer is less than
37 \$100,000 ~~;~~ *or if the insurer is a reinsurer that has the authority*
38 *to assume only reinsurance;*

39 (b) ~~Must not exceed~~ *Is* \$750, if the total amount of the
40 premiums charged to insureds in this State by the insurer is
41 \$100,000 or more, but less than \$1,000,000;

42 (c) ~~Must not exceed~~ *Is* \$1,000, if the total amount of the
43 premiums charged to insureds in this State by the insurer is
44 \$1,000,000 or more, but less than \$10,000,000;



1 (d) ~~Must not exceed~~ *Is* \$1,500, if the total amount of the
2 premiums charged to insureds in this State by the insurer is
3 \$10,000,000 or more, but less than \$50,000,000; and

4 (e) ~~Must not exceed~~ *Is* \$2,000, if the total amount of the
5 premiums charged to insureds in this State by the insurer is
6 \$50,000,000 or more.

7 ~~6-~~ 5. The provisions of this section do not apply to an insurer
8 who provides only workers' compensation insurance and pays the
9 assessment provided in NRS 232.680.

10 ~~7-~~ 6. The Commissioner shall adopt regulations to carry out
11 the provisions of this section, including, without limitation, the
12 ~~calculation and~~ collection of the assessment.

13 ~~8-~~ 7. As used in this section, "reinsurer" has the meaning
14 ascribed to it in NRS 681A.370.

15 **Sec. 2.** NRS 681A.140 is hereby amended to read as follows:

16 681A.140 As used in NRS 681A.140 to 681A.240, inclusive,
17 "qualified financial institution in the United States" means an
18 institution that:

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

23 2. Is regulated, supervised and examined by federal or state
24 authorities having regulatory authority over banks and trust
25 companies ~~+~~;

26 3. *Is determined:*

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

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

33 4. *Is determined by the Commissioner to be otherwise*
34 *acceptable.*

35 **Sec. 3.** NRS 681A.160 is hereby amended to read as follows:

36 681A.160 1. Except as otherwise provided in subsection 2,
37 credit must be allowed if reinsurance is ceded to an assuming
38 insurer which is accredited as a reinsurer in this state. An accredited
39 reinsurer is one which:

40 (a) Files with the Commissioner an executed form approved by
41 the Commissioner as evidence of its submission to this state's
42 jurisdiction;

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



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

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

10 (e) Maintains a surplus as regards policyholders in an amount
11 which is ~~not~~ :

12 (1) *Not* less than \$20,000,000 and whose accreditation ~~is~~

13 ~~— (1) Has~~ *has* not been denied by the Commissioner within 90
14 days after its submission; or

15 (2) ~~Has~~ *Less than \$20,000,000 and whose accreditation*
16 *has* been approved by the Commissioner; and

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

19 2. No credit may be allowed for a domestic ceding insurer if
20 the assuming insurer's accreditation has been revoked by the
21 Commissioner after notice and a hearing.

22 **Sec. 4.** NRS 681A.180 is hereby amended to read as follows:

23 681A.180 1. Except as otherwise provided in subsection 4,
24 credit must be allowed if reinsurance is ceded to an assuming
25 insurer which maintains a trust fund in a qualified financial
26 institution in the United States for the payment of the valid claims of
27 its policyholders and ceding insurers in the United States, their
28 assigns and successors in interest. The assuming insurer shall
29 ~~report~~ :

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

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

37 2. In the case of a single assuming insurer, the trust must
38 consist of an account in trust equal to the assuming insurer's
39 liabilities attributable to business written in the United States and
40 the assuming insurer shall maintain a surplus in trust of not less than
41 \$20,000,000.

42 3. In the case of a group of incorporated and individual
43 unincorporated underwriters ~~is, the~~ :



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

4 (b) *The* group shall ~~maintain~~ :

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

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

11 (c) *The incorporated members of the group:*

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

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

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

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

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

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



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

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

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

5 **Sec. 5.** NRS 681A.240 is hereby amended to read as follows:

6 681A.240 A reduction from liability for the reinsurance ceded
7 by a domestic insurer to an assuming insurer not meeting the
8 requirements of NRS 681A.110 or the regulations of the
9 Commissioner concerning risk-based capital must be allowed in an
10 amount not exceeding the liabilities carried by the ceding insurer
11 and the reduction must be in the amount of assets held by or on
12 behalf of the ceding insurer, including assets held in trust for the
13 ceding insurer, under a contract of reinsurance with the assuming
14 insurer as security for the payment of obligations thereunder, if the
15 security is held in the United States subject to withdrawal solely by,
16 and under the exclusive control of, the ceding insurer, or, in the case
17 of a trust, held in a qualified financial institution in the United
18 States. The security may be in any of the following forms:

19 1. Cash.

20 2. Securities listed by the Securities Valuation Office of the
21 National Association of Insurance Commissioners and qualifying as
22 admitted assets.

23 3. Irrevocable, unconditional letters of credit, each issued or
24 confirmed by a qualified financial institution in the United States
25 ~~which has been determined by the Commissioner, or the Securities~~
26 ~~Valuation Office of the National Association of Insurance~~
27 ~~Commissioners, to meet such standards of financial condition and~~
28 ~~standing as are considered necessary or appropriate to regulate the~~
29 ~~quality of financial institutions} whose letters of credit are
30 acceptable to the Commissioner, no later than December 31 of the
31 year for which filing is made, and in the possession of the ceding
32 company on or before the date of filing its annual statement. A letter
33 of credit meeting applicable standards of acceptability of its issuer
34 as of the date of its issuance or confirmation, notwithstanding the
35 issuing or confirming institution's subsequent failure to meet
36 applicable standards of acceptability, continues to be acceptable as
37 security until its expiration, extension, renewal, modification or
38 amendment, whichever first occurs.~~

39 4. Any other form of security acceptable to the Commissioner.

40 **Sec. 6.** NRS 681B.290 is hereby amended to read as follows:

41 681B.290 1. Except as otherwise provided in subsection 3,
42 on or before March 1 of each year, each domestic insurer, and each
43 foreign insurer domiciled in a state which does not have
44 requirements for reporting risk-based capital, that transacts property,
45 casualty, life or health insurance in this state shall prepare and



1 submit to the Commissioner, and to each person designated by the
2 Commissioner, a report of the level of the risk-based capital of the
3 insurer as of the end of the immediately preceding calendar year.
4 The report must be in such form and contain such information as
5 required by the regulations adopted by the Commissioner pursuant
6 to this section.

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

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

20 (a) A domestic insurer who:

21 ~~(a)~~ (1) Does not transact insurance in any other state; ~~and~~

22 ~~(b)~~ (2) Does not assume reinsurance that is more than 5
23 percent of the direct premiums written by the insurer ~~;~~ and

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

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

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

30 **Sec. 7.** NRS 686C.035 is hereby amended to read as follows:

31 686C.035 1. This chapter does not provide coverage for:

32 (a) A portion of a policy or contract not guaranteed by the
33 insurer, or under which the risk is borne by the owner of the policy
34 or contract.

35 (b) A policy or contract of reinsurance unless assumption
36 certificates have been issued pursuant to that policy or contract.

37 (c) A portion of a policy or contract to the extent that the rate of
38 interest on which it is based, or the interest rate, crediting rate or
39 similar factor determined by the use of an index or other external
40 reference stated in the policy or contract employed in calculating
41 returns or changes in value:

42 (1) Averaged over the period of 4 years before the date on
43 which the association becomes obligated with respect to the policy
44 or contract, exceeds the rate of interest determined by subtracting 2
45 percentage points from Moody's Corporate Bond Yield Average



1 averaged for the same period, or for the period between the date of
2 issuance of the policy or contract and the date the association
3 became obligated, whichever period is less; and

4 (2) On or after the date on which the association becomes
5 obligated with respect to the policy or contract, exceeds the rate of
6 interest determined by subtracting 3 percentage points from
7 Moody's Corporate Bond Yield Average as most recently available.

8 (d) A portion of a policy or contract issued to a plan or program
9 of an employer, association or other person to provide life, health or
10 annuity benefits to its employees, members or other persons to the
11 extent that the plan or program is self-funded or uninsured,
12 including, but not limited to, benefits payable by an employer,
13 association or other person under:

14 (1) A multiple employer welfare arrangement described in 29
15 U.S.C. § ~~H144;~~ 1002(40);

16 (2) A minimum-premium group insurance plan;

17 (3) A stop-loss group insurance plan; or

18 (4) A contract for administrative services only.

19 (e) A portion of a policy or contract to the extent that it provides
20 for dividends, credits for experience, voting rights or the payment of
21 any fee or allowance to any person, including the owner of a policy
22 or contract, for services or administration connected with the policy
23 or contract.

24 (f) A policy or contract issued in this state by a member insurer
25 at a time when the member insurer was not authorized to issue the
26 policy or contract in this state.

27 (g) A portion of a policy or contract to the extent that the
28 assessments required by NRS 686C.230 with respect to the policy or
29 contract are preempted by federal law.

30 (h) An obligation that does not arise under the express written
31 terms of the policy or contract issued by the insurer, including:

32 (1) Claims based on marketing materials;

33 (2) Claims based on side letters or other documents that were
34 issued by the insurer without satisfying applicable requirements for
35 filing or approval of policy forms;

36 (3) Misrepresentations of or regarding policy benefits;

37 (4) Extra-contractual claims; or

38 (5) A claim for penalties or consequential or incidental
39 damages.

40 (i) A contractual agreement that establishes the member
41 insurer's obligation to provide a guarantee based on accounting at
42 book value for participants in a defined-contribution benefit plan by
43 reference to a portfolio of assets owned by the benefit plan or its
44 trustee, which in each case is not an affiliate of the member insurer.



1 (j) A portion of a policy or contract to the extent that it provides
2 for interest or other changes in value which are determined by the
3 use of an index or other external reference stated in the policy or
4 contract, but which have not been credited to the policy or contract,
5 or as to which the rights of the owner of the policy or contract are
6 subject to forfeiture, determined on the date the member insurer
7 becomes an impaired or insolvent insurer, whichever occurs first. If
8 the interest or changes in value of a policy or contract are credited
9 less frequently than annually, for the purpose of determining the
10 values that have been credited and are not subject to forfeiture, the
11 interest or change in value determined by using procedures stated in
12 the policy or contract must be credited as if the contractual date for
13 crediting interest or changing values was the date of the impairment
14 or insolvency of the insured member, whichever occurs first and is
15 not subject to forfeiture.

16 (k) An unallocated annuity contract other than an annuity owned
17 by a governmental retirement plan established under section 401,
18 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,
19 403(b) and 457, respectively, or the trustees of such a plan.

20 *(l) A policy or contract providing any hospital, medical,*
21 *prescription drug or other health care benefits pursuant to 42*
22 *U.S.C. §§ 1395w-21 et seq. and 1395w-101 et seq., and any*
23 *regulations adopted pursuant thereto.*

24 2. As used in this section, "Moody's Corporate Bond Yield
25 Average" means the monthly average for corporate bonds published
26 by Moody's Investors Service, Inc., or any successor average.

27 **Sec. 8.** NRS 686C.210 is hereby amended to read as follows:

28 686C.210 1. The benefits that the Association may become
29 obligated to cover may not exceed the lesser of:

30 (a) The contractual obligations for which the insurer is liable or
31 would have been liable if it were not an impaired or insolvent
32 insurer;

33 (b) With respect to one life, regardless of the number of policies
34 or contracts:

35 (1) Three hundred thousand dollars in death benefits from
36 life insurance, but not more than \$100,000 in net cash for surrender
37 and withdrawal for life insurance; or

38 (2) ~~One~~ *Two* hundred *fifty* thousand dollars in the present
39 value of benefits from annuities, including net cash for surrender
40 and withdrawal;

41 (c) With respect to health insurance for any one ~~natural person;~~
42 *life:*

43 (1) One hundred thousand dollars for coverages other than
44 disability insurance, *long-term care insurance*, basic hospital,



1 medical and surgical insurance or major medical insurance,
2 including any net cash for surrender or withdrawal;

3 (2) Three hundred thousand dollars for disability *insurance*
4 *or long-term care* insurance; or

5 (3) Five hundred thousand dollars for basic hospital, medical
6 and surgical insurance or major medical insurance;

7 (d) With respect to each payee of a structured settlement
8 annuity, or beneficiary or beneficiaries of the payee if deceased,
9 ~~100,000~~ *250,000* in present value of benefits from the annuity in
10 the aggregate, including any net cash for surrender or withdrawal; or

11 (e) With respect to each participant in a governmental retirement
12 plan covered by an unallocated annuity contract which is owned by
13 a governmental retirement plan established under section 401,
14 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,
15 403(b) and 457, respectively, or the trustees of such a plan, and
16 which is approved by the Commissioner, an aggregate of
17 ~~100,000~~ *250,000 in present-value annuity benefits, including*
18 *the value of net cash for surrender and net cash for withdrawal,*
19 regardless of the number of contracts.

20 2. In no event is the Association obligated to cover more than:

21 (a) With respect to any one life or person under paragraphs (b)
22 ~~and (c)~~ *to (e), inclusive,* of subsection 1:

23 (1) An aggregate of \$300,000 in benefits, excluding benefits
24 for basic hospital, medical and surgical insurance or major medical
25 insurance; or

26 (2) An aggregate of \$500,000 in benefits, including benefits
27 for basic hospital, medical and surgical insurance or major medical
28 insurance.

29 (b) With respect to one owner of several nongroup policies of
30 life insurance, whether the owner is a natural person or an
31 organization and whether the persons insured are officers, managers,
32 employees or other persons, more than \$5,000,000 in benefits,
33 regardless of the number of policies and contracts held by the
34 owner.

35 3. The limitations set forth in this section are limitations on the
36 benefits for which the Association is obligated before taking into
37 account its rights to subrogation or assignment or the extent to
38 which those benefits could be provided out of the assets of the
39 impaired or insolvent insurer attributable to covered policies. The
40 cost of the Association's obligations under this chapter may be met
41 by the use of assets attributable to covered policies, or reimbursed to
42 the Association pursuant to its rights to subrogation or assignment.

43 4. In performing its obligation to provide coverage under NRS
44 686C.150 and 686C.152, the Association need not guarantee,
45 assume, reinsure or perform, or cause to be guaranteed, assumed,



1 reinsured or performed, the contractual obligations of the impaired
2 or insolvent insurer under a covered policy or contract which do not
3 materially affect the economic value or economic benefits of the
4 covered policy or contract.

5 **Sec. 9.** NRS 687C.030 is hereby amended to read as follows:

6 687C.030 1. It is the policy of this State to opt out of and the
7 Commissioner of Insurance shall by regulation opt out of any
8 uniform standard adopted by the Interstate Insurance Product
9 Regulation Commission which provides less protection than a law
10 of this State or otherwise diminishes the rights of policyholders and
11 persons applying for a policy of insurance in this State.

12 2. Upon determining, or upon becoming aware of a finding of a
13 court of competent jurisdiction which found, that this State must opt
14 out of a uniform standard pursuant to subsection 1, the
15 Commissioner shall provide to the Director of the Legislative
16 Counsel Bureau for transmittal to the next regular session of the
17 Legislature notice of such determination or finding.

18 ~~18 **3.** This State prospectively opts out of all uniform standards
19 adopted by the Interstate Insurance Product Regulation Commission
20 involving long term care insurance products.~~

21 **Sec. 10.** Chapter 692C of NRS is hereby amended by adding
22 thereto the provisions set forth as sections 11, 12 and 13 of this act.

23 **Sec. 11.** *“Enterprise risk” means any activity, circumstance,*
24 *event or series of events involving one or more affiliates of an*
25 *insurer that, if not remedied promptly, is likely to have a material*
26 *adverse effect on the financial condition or liquidity of the insurer*
27 *or its insurance holding company system as a whole, including,*
28 *without limitation, any activity, circumstance, event or series of*
29 *events that may cause:*

30 1. *The risk-based capital of the insurer to fall below the*
31 *minimum amount of risk-based capital required by regulations*
32 *adopted pursuant to NRS 681B.290; or*

33 2. *The insurer to be in a hazardous financial condition as set*
34 *forth in regulations adopted pursuant to NRS 680A.205.*

35 **Sec. 12.** 1. *If a domestic insurer is under the control of a*
36 *foreign person, the officers and directors of the domestic insurer*
37 *are not relieved of any obligations or liabilities to which they are*
38 *subject by law. The domestic insurer must be managed in a*
39 *manner that ensures its separate operating identity.*

40 2. *The provisions of this section do not prohibit a registered*
41 *domestic insurer and one or more other persons from having or*
42 *sharing common management, participating as a cooperative or*
43 *sharing employees, property or services in a manner authorized*
44 *under NRS 692C.360.*



1 3. *Except as otherwise provided in subsections 6 and 7, at*
2 *least one person in any quorum for the transaction of business at*
3 *any meeting of the board of directors of a registered domestic*
4 *insurer or any committee thereof must be a person who is not:*

5 (a) *An officer or employee of the domestic insurer or of any*
6 *entity controlling, controlled by or under common control with the*
7 *domestic insurer; or*

8 (b) *A beneficial owner of a controlling interest in the voting*
9 *stock of the domestic insurer or entity.*

10 4. *Except as otherwise provided in subsections 6 and 7, not*
11 *less than one-third of the members of the board of directors of a*
12 *registered domestic insurer and not less than one-third of the*
13 *members of each committee of the board of directors of any*
14 *registered domestic insurer must be persons described in*
15 *subsection 3.*

16 5. *Except as otherwise provided in subsections 6 and 7, the*
17 *board of directors of a registered domestic insurer shall establish*
18 *one or more committees consisting solely of persons described in*
19 *subsection 3. Each committee shall:*

20 (a) *Nominate candidates for director for election by*
21 *shareholders or policyholders;*

22 (b) *Evaluate the performance of each principal officer of the*
23 *registered domestic insurer; and*

24 (c) *Make recommendations to the board of directors*
25 *concerning the selection and compensation of each of those*
26 *principal officers.*

27 6. *The provisions of subsections 3, 4 and 5 do not apply to a*
28 *registered domestic insurer if the registered domestic insurer is*
29 *controlled by an entity and the board of directors of the*
30 *controlling entity and the committees thereof meet the*
31 *requirements of subsections 3, 4 and 5.*

32 7. *A registered domestic insurer may apply to the*
33 *Commissioner for a waiver of the provisions of this section if the*
34 *registered domestic insurer has:*

35 (a) *Annual direct written and assumed premiums of less than*
36 *\$300,000,000, excluding any premiums reinsured with:*

37 (1) *The Federal Crop Insurance Corporation of the Risk*
38 *Management Agency of the United States Department of*
39 *Agriculture; and*

40 (2) *The National Flood Insurance Program of the Federal*
41 *Emergency Management Agency of the United States Department*
42 *of Homeland Security; or*

43 (b) *In any other circumstances determined by the*
44 *Commissioner to warrant a waiver.*



1 8. *In considering whether or not to grant a waiver pursuant*
2 *to subsection 7, the Commissioner may consider any relevant*
3 *factors, including, without limitation:*

4 (a) *The type of business entity applying for the waiver;*

5 (b) *The volume of business written;*

6 (c) *The availability of persons specified in subsection 3 to serve*
7 *on the board of directors; and*

8 (d) *The ownership or organizational structure of the registered*
9 *domestic insurer or controlling person thereof.*

10 **Sec. 13.** *1. The Commissioner may, for any registered*
11 *insurer who is part of an insurance holding company system with*
12 *international operations, convene a supervisory college or*
13 *participate in a supervisory college convened by a state, federal or*
14 *international regulatory agency with authority over any insurer*
15 *who is part of the insurance holding company system:*

16 (a) *To determine whether or not the registered insurer is in*
17 *compliance with the provisions of this chapter;*

18 (b) *To assess the business strategy, financial position, legal*
19 *and regulatory compliance, risk exposure, risk management and*
20 *governance procedures of the registered insurer; or*

21 (c) *As part of an examination of the registered insurer*
22 *pursuant to NRS 692C.410.*

23 **2.** *In convening a supervisory college pursuant to subsection*
24 *1, the Commissioner may, without limitation:*

25 (a) *Establish:*

26 (1) *The membership of the supervisory college;*

27 (2) *The functions of the supervisory college; and*

28 (3) *The role of each regulatory agency participating in the*
29 *supervisory college;*

30 (b) *Designate a regulatory agency as supervisor of the*
31 *supervisory college; and*

32 (c) *Coordinate the activities of the supervisory college,*
33 *including, without limitation:*

34 (1) *Meetings;*

35 (2) *Supervisory activities; and*

36 (3) *The sharing of information among members of the*
37 *supervisory college.*

38 **3.** *In convening or participating in a supervisory college*
39 *pursuant to this section, the Commissioner may enter into*
40 *agreements with other state, federal or international regulatory*
41 *agencies concerning the governance of a supervisory college.*
42 *Such an agreement must meet the confidentiality requirements of*
43 *NRS 692C.420.*

44 **4.** *The provisions of this section must not be construed to:*

45 (a) *Limit the authority of the Commissioner; or*



1 *(b) Delegate to any supervisory college the authority of the*
2 *Commissioner to regulate a registered insurer or any affiliate of a*
3 *registered insurer pursuant to this title.*

4 *5. As used in this section, “supervisory college” means a*
5 *temporary or permanent forum for communication and*
6 *cooperation between regulators, including, without limitation,*
7 *state, federal and international regulatory agencies which are*
8 *charged with regulating and supervising an insurer.*

9 **Sec. 14.** NRS 692C.020 is hereby amended to read as follows:

10 692C.020 As used in this chapter, unless the context otherwise
11 requires, the words and terms defined in NRS 692C.025 to
12 692C.110, inclusive, *and section 11 of this act* have the meanings
13 ascribed to them in those sections.

14 **Sec. 15.** NRS 692C.140 is hereby amended to read as follows:

15 692C.140 In addition to making investments in common stock,
16 preferred stock, debt obligations and other securities permitted
17 under chapter 682A of NRS, a domestic insurer may invest:

18 1. In common stock, preferred stock, debt obligations and other
19 securities of one or more subsidiaries, amounts which do not exceed
20 the lesser of 10 percent of the insurer’s assets or 50 percent of its
21 surplus as regards policyholders, if the insurer’s surplus as regards
22 policyholders remains at a reasonable level in relation to the
23 insurer’s outstanding liabilities and adequate to its financial needs.
24 In calculating the amount of such investments ~~†, the† :~~

25 *(a) Any investment in a domestic or foreign insurance*
26 *subsidiary or health maintenance organization must be excluded.*

27 *(b) The following must be included:*

28 ~~†(a)†~~ (1) Total *net* money or other consideration expended and
29 obligations assumed in the acquisition or formation of a subsidiary,
30 including all organizational expenses and contributions to capital
31 and surplus of the subsidiary whether or not represented by the
32 purchase of capital stock or issuance of other securities; and

33 ~~†(b)†~~ (2) All amounts expended in acquiring additional common
34 stock, preferred stock, debt obligations and other securities and all
35 contributions to the capital or surplus of a subsidiary after its
36 acquisition or formation.

37 2. Any amount in common stock, preferred stock, debt
38 obligations and other securities of one or more subsidiaries ~~††~~ *that*
39 *are engaged exclusively in or organized to engage exclusively in*
40 *the ownership and management of assets which are authorized as*
41 *investments of the domestic insurer*, if each subsidiary agrees to
42 limit its investments in any asset so that those investments will not
43 cause the amount of the total investment of the insurer to exceed any
44 of the investment limitations specified in subsection 1 or in chapter
45 682A of NRS. For the purpose of this subsection, “total investment



1 of the insurer” includes any direct investment by the insurer in an
2 asset and the insurer’s proportionate share of any investment in an
3 asset by any subsidiary of the insurer, which must be calculated by
4 multiplying the amount of the subsidiary’s investment by the
5 percentage of the insurer’s ownership of the subsidiary.

6 3. Any amount in common stock, preferred stock, debt
7 obligations or other securities of one or more subsidiaries, with the
8 approval of the Commissioner, if the insurer’s surplus as regards
9 policyholders remains at a reasonable level in relation to the
10 insurer’s outstanding liabilities and adequate to its financial needs.

11 **Sec. 16.** NRS 692C.160 is hereby amended to read as follows:

12 692C.160 Whether or not any investment made pursuant to
13 NRS 692C.140 meets the applicable requirements thereof is to be
14 determined ~~immediately after~~ *before* such investment is made ~~+~~
15 *by calculating the applicable investment limitations as though the*
16 *investment has already been made*, taking into account the then
17 outstanding principal balance on all previous investments in debt
18 obligations, ~~and~~ the value of all previous investments in equity
19 securities as of the date they were made ~~+~~ *and the net of any*
20 *return of capital invested, not including dividends.*

21 **Sec. 17.** NRS 692C.180 is hereby amended to read as follows:

22 692C.180 1. No person other than the issuer may make a
23 tender for or a request or invitation for tenders of, or enter into any
24 agreement to exchange securities for, seek to acquire or acquire in
25 the open market or otherwise, any voting security of a domestic
26 insurer if, after the consummation thereof, the person would directly
27 or indirectly, or by conversion or by exercise of any right to acquire,
28 be in control of the insurer, nor may any person enter into an
29 agreement to merge with or otherwise acquire control of a domestic
30 insurer, unless, at the time any such offer, request or invitation is
31 made or any such agreement is entered into, or before the
32 acquisition of those securities if no offer or agreement is involved,
33 the person has filed with the Commissioner and has sent to the
34 insurer, and the insurer has sent to its shareholders, a statement
35 containing the information required by NRS 692C.180 to 692C.250,
36 inclusive, and *, except as otherwise provided in subsection 4,* the
37 offer, request, invitation, agreement or acquisition has been
38 approved by the Commissioner in the manner prescribed in this
39 chapter.

40 2. *The statement required by subsection 1 must be filed with*
41 *the Commissioner at least 60 days before the proposed date of the*
42 *acquisition. The statement must set forth, without limitation, the*
43 *information required by NRS 692C.254. A person who fails to*
44 *comply with this subsection is subject to the penalties set forth in*
45 *subsections 6 and 7 of NRS 692C.258.*



1 3. *A person controlling a domestic insurer who is seeking to*
2 *divest his or her controlling interest in the domestic insurer shall*
3 *file with the Commissioner, and send to the insurer, notice of the*
4 *proposed divestiture at least 30 days before the proposed*
5 *divestiture, unless a statement has been filed pursuant to*
6 *subsection 1 concerning the proposed transaction. Notice filed*
7 *pursuant to this subsection is confidential until the conclusion, if*
8 *any, of the divestiture unless the Commissioner determines that*
9 *such confidentiality will interfere with the enforcement of this*
10 *section.*

11 4. *Upon receiving a statement or notice pursuant to this*
12 *section by a person seeking to acquire a controlling interest in a*
13 *domestic insurer or divest a controlling interest in a domestic*
14 *insurer, the Commissioner shall determine whether or not the*
15 *person will be required to file for and obtain the approval of the*
16 *Commissioner for the acquisition or divestiture. As soon as*
17 *practicable after making that determination, the Commissioner*
18 *shall notify the person of the results of the determination.*

19 5. For purposes of this section, a domestic insurer includes any
20 other person controlling a domestic insurer unless the other person
21 is directly or through affiliates primarily engaged in a business other
22 than the business of insurance. If a person is directly or through
23 affiliates primarily engaged in a business other than the business of
24 insurance, the person shall, at least 60 days before the proposed
25 effective date of the acquisition, file a notice of intent to acquire
26 with the Commissioner setting forth the information required by
27 NRS 692C.254.

28 6. *As used in this section, "person" does not include a*
29 *securities broker who, in the regular course of business as a*
30 *broker, holds less than 20 percent of the voting securities of an*
31 *insurer or of any person who controls an insurer.*

32 **Sec. 18.** NRS 692C.190 is hereby amended to read as follows:

33 692C.190 The statement to be filed with the Commissioner
34 hereunder shall be made under oath or affirmation and shall contain
35 the following:

36 1. The name and address of each person (hereinafter called the
37 "acquiring party") by whom or on whose behalf the merger or other
38 acquisition of control referred to in *subsection 1 of* NRS 692C.180
39 is to be effected and, if such person is:

40 (a) An individual, the individual's principal occupation and all
41 offices and positions held by the individual during the past 5 years,
42 and any conviction of crimes other than for minor traffic violations
43 during the past 10 years.

44 (b) Not an individual, a report of the nature of its business
45 operations during the past 5 years or for such lesser period as such



1 person and any predecessors thereof shall have been in existence,
2 together with an informative description of the business intended to
3 be done by such person and such person's subsidiaries, and a list of
4 all individuals who are or who have been selected to become
5 directors or executive officers of such person or who perform or will
6 perform functions appropriate to such positions. Such list shall
7 include for each such individual the information required by
8 paragraph (a).

9 2. The source, nature and amount of the consideration used or
10 to be used in effecting the merger or other acquisition of control, a
11 description of any transaction wherein funds were or are to be
12 obtained for any such purpose, and the identity of persons furnishing
13 such consideration, but where a source of such consideration is a
14 loan made in the lender's ordinary course of business, the identity of
15 the lender shall remain confidential, if the person filing such
16 statement so requests.

17 3. Fully audited financial information as to the earnings and
18 financial condition of each acquiring party for the preceding 5 fiscal
19 years of each such acquiring party (or for such lesser period as such
20 acquiring party and any predecessors thereof shall have been in
21 existence), and similar unaudited information as of a date not earlier
22 than 90 days prior to the filing of the statement.

23 4. Any plans or proposals which each acquiring party may
24 have to liquidate such insurer, to sell its assets or merge or
25 consolidate it with any person, or to make any other material change
26 in its business or corporate structure or management.

27 5. The number of shares of any security referred to in
28 *subsection 1 of* NRS 692C.180 which each acquiring party proposes
29 to acquire, and the terms of the offer, request, invitation, agreement
30 or acquisition referred to in *subsection 1 of* NRS 692C.180 and a
31 statement as to the method by which the fairness of the proposal was
32 determined.

33 6. The amount of each class of any security referred to in
34 *subsection 1 of* NRS 692C.180 which is beneficially owned or
35 concerning which there is a right to acquire beneficial ownership by
36 each acquiring party.

37 7. A full description of any contracts, arrangements or
38 understandings with respect to any security referred to in *subsection*
39 *1 of* NRS 692C.180 in which any acquiring party is involved,
40 including but not limited to transfer of any of the securities, joint
41 ventures, loan or option arrangements, puts or calls, guarantees of
42 loans, guarantees against loss or guarantees of profits, division of
43 losses or profits or the giving or withholding of proxies. Such
44 description shall identify the persons with whom such contracts,
45 arrangements or understandings have been made.



1 8. A description of the purchase of any security referred to in
2 **subsection 1 of** NRS 692C.180 during the 12 calendar months
3 preceding the filing of the statement by any acquiring party,
4 including the dates of purchase, names of the purchasers and
5 consideration paid or agreed to be paid therefor.

6 9. A description of any recommendations to purchase any
7 security referred to in **subsection 1 of** NRS 692C.180 made during
8 the 12 calendar months preceding the filing of the statement by any
9 acquiring party, or by anyone based upon interviews with or at the
10 suggestion of such acquiring party.

11 10. Copies of all tenders, offers for, requests or invitations for
12 tenders of, exchange offers for, and agreements to acquire or
13 exchange any securities referred to in subsection 1, and, if
14 distributed, additional soliciting material relating thereto.

15 11. The terms of any agreement, contract or understanding
16 made with any broker-dealer, as to solicitation of securities referred
17 to in **subsection 1 of** NRS 692C.180, for tender, and the amount of
18 any fees, commissions or other compensation to be paid to broker-
19 dealers with regard thereto.

20 12. Such additional information as the Commissioner may by
21 rule or regulation prescribe as necessary or appropriate for the
22 protection of policy holders and security holders of the insurer or for
23 the protection of the public interest.

24 ➤ If the person required to file the statement referred to in this
25 section is a partnership, limited partnership, syndicate or other
26 group, the Commissioner may require that the information required
27 by ~~subsections 1 to 12, inclusive, of~~ this section, be given with
28 respect to each partner of such partnership or limited partnership,
29 each member of such syndicate or group, and each person who
30 controls such partner or member. If any such partner, member or
31 person is a corporation or the person required to file the statement
32 referred to in **subsection 1 of** NRS 692C.180 is a corporation, the
33 Commissioner may require that the information required by
34 ~~subsections 1 to 12, inclusive, of~~ this section, be given with
35 respect to such corporation, each officer and director of such
36 corporation, and each person who is directly or indirectly the
37 beneficial owner of more than 10 percent of the outstanding voting
38 securities of such corporation. If any material change occurs in the
39 facts set forth in the statement filed with the Commissioner and sent
40 to such insurer pursuant to this section, an amendment setting forth
41 such change, together with copies of all documents and other
42 material relevant to such change, shall be filed with the
43 Commissioner and sent to such insurer within 2 business days after
44 the person learns of such change. Such insurer shall send each such
45 amendment to its shareholders.



1 **Sec. 19.** NRS 692C.200 is hereby amended to read as follows:
2 692C.200 If any offer, request, invitation, agreement or
3 acquisition referred to in *subsection 1 of* NRS 692C.180 is proposed
4 to be made by means of a registration statement under the Securities
5 Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or in
6 circumstances requiring the disclosure of similar information under
7 the Securities Exchange Act of 1934, 15 U.S.C. §§ ~~77b~~ *78a* et
8 seq., or under any state law requiring similar registration or
9 disclosure, the person required to file the statement referred to in
10 *subsection 1 of* NRS 692C.180 may utilize such documents in
11 furnishing the information called for by that statement.

12 **Sec. 20.** NRS 692C.210 is hereby amended to read as follows:
13 692C.210 1. Except as otherwise provided in ~~subsection~~
14 *subsections 5 H and 7*, the Commissioner shall approve any merger
15 or other acquisition of control referred to in *subsection 1 of* NRS
16 692C.180 unless, after a public hearing thereon, the Commissioner
17 finds that:

18 (a) After the change of control, the domestic insurer specified in
19 *subsection 1 of* NRS 692C.180 would not be able to satisfy the
20 requirements for the issuance of a license to write the line or lines of
21 insurance for which it is presently licensed;

22 (b) The effect of the merger or other acquisition of control
23 would be substantially to lessen competition in insurance in this
24 state or tend to create a monopoly;

25 (c) The financial condition of any acquiring party may
26 jeopardize the financial stability of the insurer, or prejudice the
27 interest of its policyholders or the interests of any remaining
28 security holders who are unaffiliated with the acquiring party;

29 (d) The terms of the offer, request, invitation, agreement or
30 acquisition referred to in *subsection 1 of* NRS 692C.180 are unfair
31 and unreasonable to the security holders of the insurer;

32 (e) The plans or proposals which the acquiring party has to
33 liquidate the insurer, sell its assets or consolidate or merge it with
34 any person, or to make any other material change in its business or
35 corporate structure or management, are unfair and unreasonable to
36 policyholders of the insurer or not in the public interest;

37 (f) The competence, experience and integrity of those persons
38 who would control the operation of the insurer are such that it would
39 not be in the interest of policyholders of the insurer or of the public
40 to permit the merger or other acquisition of control;

41 (g) If approved, the merger or acquisition of control would
42 likely be harmful or prejudicial to the members of the public who
43 purchase insurance; or

44 (h) The practices of the applicant in managing claims have
45 evidenced a pattern in which the applicant has knowingly



1 committed, or performed with such frequency as to indicate a
2 general business practice of:

3 (1) Misrepresentation of pertinent facts or provisions of
4 policies of insurance as they relate to coverages at issue;

5 (2) Failure to affirm or deny coverage of claims within a
6 reasonable time after written proofs of loss have been furnished; or

7 (3) Failure to pay claims in a timely manner.

8 2. ~~The~~ *Except as otherwise provided in subsection 7, the*
9 public hearing specified in subsection 1 must be held within ~~60~~ **30**
10 days after the statement required by *subsection 1 of* NRS 692C.180
11 has been filed, and at least 20 days' notice thereof must be given by
12 the Commissioner to the person filing the statement. Not less than 7
13 days' notice of the public hearing must be given by the person filing
14 the statement to the insurer and to any other person designated by
15 the Commissioner. The insurer shall give such notice to its security
16 holders. The Commissioner shall make a determination within 60
17 days after the conclusion of the hearing. If the Commissioner
18 determines that an infusion of capital to restore capital in connection
19 with the change in control is required, the requirement must be met
20 within 60 days after notification is given of the determination. At
21 the hearing, the person filing the statement, the insurer, any person
22 to whom notice of hearing was sent and any other person whose
23 interests may be affected thereby may present evidence, examine
24 and cross-examine witnesses, and offer oral and written arguments
25 and, in connection therewith, may conduct discovery proceedings in
26 the same manner as is presently allowed in the district court of this
27 state. All discovery proceedings must be concluded not later than 3
28 days before the commencement of the public hearing.

29 3. The Commissioner may retain at the acquiring party's
30 expense attorneys, actuaries, accountants and other experts not
31 otherwise a part of the staff of the Commissioner as may be
32 reasonably necessary to assist the Commissioner in reviewing the
33 proposed acquisition of control.

34 4. The period for review by the Commissioner must not exceed
35 the 60 days allowed between the filing of the notice of intent to
36 acquire required pursuant to subsection ~~4~~ **5** of NRS 692C.180 and
37 the date of the proposed acquisition if the proposed affiliation or
38 change of control involves a financial institution, or an affiliate of a
39 financial institution, and an insured.

40 5. When making a determination pursuant to paragraph (b) of
41 subsection 1, the Commissioner:

42 (a) Shall require the submission of the information specified in
43 subsection 2 of NRS 692C.254; ~~and~~

44 (b) *Shall consider:*



1 ***(1) The standards set forth in the Horizontal Merger***
2 ***Guidelines issued by the United States Department of Justice and***
3 ***the Federal Trade Commission and in effect at the time the***
4 ***Commissioner receives the statement required pursuant to***
5 ***subsection 1 of NRS 692C.180; and***

6 ***(2) The factors described in subsection 3 of NRS 692C.256;***
7 ***and***

8 ***(c) May condition approval of the merger or acquisition of***
9 ***control in the manner provided in subsection 4 of NRS 692C.258.***

10 6. If, in connection with a change of control of a domestic
11 insurer, the Commissioner determines that the person who is
12 acquiring control of the domestic insurer must maintain or restore
13 the capital of the domestic insurer in an amount that is required
14 by the laws and regulations of this state, the Commissioner shall
15 make the determination not later than 60 days after the notice of
16 intent to acquire required pursuant to subsection ~~4~~ 5 of NRS
17 692C.180 is filed with the Commissioner.

18 7. ***If the proposed merger or other acquisition of control***
19 ***referred to in subsection 1 of NRS 692C.180 requires the approval***
20 ***of the commissioner of more than one state, the public hearing***
21 ***required pursuant to subsection 1 may, upon the request of the***
22 ***person who filed the statement required pursuant to subsection 1***
23 ***of NRS 692C.180, be consolidated with the hearings required in***
24 ***other states. Not more than 5 days after receiving such a request,***
25 ***the Commissioner shall file with the National Association of***
26 ***Insurance Commissioners a copy of the statement that was filed***
27 ***with the Commissioner pursuant to subsection 1 of NRS 692C.180***
28 ***by the person requesting a consolidated hearing. The***
29 ***Commissioner may opt out of a consolidated hearing and, if the***
30 ***Commissioner elects to do so, he or she shall provide notice to the***
31 ***person requesting the consolidated hearing not more than 10 days***
32 ***after receiving the statement filed pursuant to subsection 1 of NRS***
33 ***692C.180. A consolidated hearing must be public and must be held***
34 ***within the United States before participating commissioners of the***
35 ***states in which the insurers are domiciled. Participating***
36 ***commissioners may hear and receive evidence at the hearing.***

37 **Sec. 21.** NRS 692C.256 is hereby amended to read as follows:

38 692C.256 1. The Commissioner may issue an order pursuant
39 to NRS 692C.258 relating to an acquisition if:

40 (a) The effect of the acquisition may substantially lessen
41 competition in any line of insurance in this state or tend to create a
42 monopoly; or

43 (b) The acquiring person fails to file sufficient materials or
44 information pursuant to NRS 692C.254.



1 2. In determining whether to issue an order pursuant to
2 subsection 1, the Commissioner shall consider the standards set
3 forth in the Horizontal Merger Guidelines issued by the United
4 States Department of Justice and the Federal Trade Commission and
5 in effect at the time the Commissioner receives the notice required
6 pursuant to NRS 692C.254.

7 3. The Commissioner shall, before issuing an order specified in
8 subsection 1, consider:

9 (a) If:

10 (1) The acquisition creates substantial economies of scale or
11 economies in the use of resources that may not be created in any
12 other manner; and

13 (2) The public benefit received from those economies
14 exceeds the public benefit received from not lessening competition;
15 or

16 (b) If:

17 (1) The acquisition substantially increases the availability of
18 insurance; and

19 (2) The public benefit received by that increase exceeds the
20 public benefit received from not lessening competition.

21 4. The public benefits set forth in subparagraph 2 of paragraphs
22 (a) and (b) of subsection 3 may be considered together, as
23 applicable, in assessing whether the public benefits received from
24 the acquisition exceed any benefit to competition that would arise
25 from disapproving the acquisition.

26 5. The ~~acquiring person~~ *Commissioner* has the burden of
27 establishing that the acquisition will ~~not~~ result in a violation of the
28 competitive standard set forth in subsection 1.

29 **Sec. 22.** NRS 692C.270 is hereby amended to read as follows:

30 692C.270 Every insurer subject to registration shall file ~~it~~ :

31 **1.** A registration statement on a form provided by the
32 Commissioner, which must contain current information about:

33 ~~1-1~~ **(a)** The capital structure, general financial condition,
34 ownership and management of the insurer and any person
35 controlling the insurer.

36 ~~1-2~~ **(b)** The identity of every member of the insurance holding
37 company system.

38 ~~1-3~~ **(c)** The following agreements in force, relationships
39 subsisting and transactions currently outstanding between the
40 insurer and its affiliates:

41 ~~1-a~~ **(1)** Loans, other investments or purchases, sales or
42 exchanges of securities of the affiliates by the insurer or of the
43 insurer by its affiliates.

44 ~~1-b~~ **(2)** Purchases, sales or exchanges of assets.

45 ~~1-c~~ **(3)** Transactions not in the ordinary course of business.



1 ~~(4)~~ (4) Guarantees or undertakings for the benefit of an
2 affiliate which result in an actual contingent exposure of the
3 insurer's assets to liability, other than insurance contracts entered
4 into in the ordinary course of the insurer's business.

5 ~~(5)~~ (5) All management and service contracts and all cost-
6 sharing arrangements, other than cost allocation arrangements based
7 upon generally accepted accounting principles.

8 ~~(6)~~ (6) Reinsurance agreements covering all or substantially all
9 of one or more lines of insurance of the ceding company.

10 ~~(7)~~ (7) Any dividend or other distribution made to a
11 shareholder.

12 ~~(8)~~ (8) Any consolidated agreement to allocate taxes.

13 ~~(d)~~ (d) Any pledge of the insurer's stock, including the stock of
14 any subsidiary or controlling affiliate of the insurer, for a loan made
15 to any member of the insurance holding company system.

16 ~~(e)~~ (e) Any other matters concerning transactions between
17 registered insurers and any affiliates as may be included from time
18 to time in any registration forms adopted or approved by the
19 Commissioner.

20 **2. A statement verifying that:**

21 **(a) The board of directors of the insurer oversees the corporate**
22 **governance and internal controls of the insurer; and**

23 **(b) Officers or senior management of the insurer have**
24 **approved, implemented and continue to maintain and monitor the**
25 **corporate governance and internal controls of the insurer.**

26 **3. Financial statements of the insurance holding company**
27 **system and all affiliates, if requested by the Commissioner. This**
28 **requirement may be satisfied by providing the most recent**
29 **statement filed with the United States Securities and Exchange**
30 **Commissioner pursuant to the Securities Act of 1933, 15 U.S.C. §§**
31 **78a et seq., by the insurance holding company system or its parent**
32 **corporation.**

33 **Sec. 23.** NRS 692C.290 is hereby amended to read as follows:

34 692C.290 **1.** Each registered insurer shall keep current the
35 information required to be disclosed in its registration statement by
36 reporting all material changes or additions on forms provided by the
37 Commissioner within 15 days after the end of the month in which it
38 learns of each such change or addition, and not less often than
39 annually, except that, subject to the provisions of NRS 692C.390,
40 each registered insurer shall report all dividends and other
41 distributions to shareholders within 5 business days following the
42 declaration and 10 days before payment.

43 **2. If the principal of a registered insurer does not file a report**
44 **of enterprise risk with the commissioner of the lead state of the**
45 **insurance company system, as determined by the most recent**



1 *edition of the Financial Analysis Handbook, published by the*
2 *National Association of Insurance Commissioners, in a calendar*
3 *year, the principal shall file a report of enterprise risk with the*
4 *Commissioner. The principal shall include in the report the*
5 *material risks within the insurance holding company system that,*
6 *to the best of his or her knowledge and belief, may pose enterprise*
7 *risk to the registered insurer.*

8 **Sec. 24.** NRS 692C.360 is hereby amended to read as follows:

9 692C.360 1. Material transactions by registered insurers with
10 their affiliates are subject to all of the following standards:

11 ~~1-1~~ (a) The terms must be fair and reasonable.

12 ~~1-2~~ (b) Charges or fees for services performed must be
13 reasonable.

14 ~~1-3~~ (c) Expenses incurred and payment received must be
15 allocated to the insurer in conformity with customary accounting
16 practices concerning insurance consistently applied.

17 ~~1-4~~ (d) The books, accounts and records of each party must be
18 so maintained as to disclose clearly and accurately the precise nature
19 and details of the transactions ~~†~~

20 ~~—5-1~~ *and must include any accounting information required to*
21 *support the reasonableness of any charges or fees.*

22 (e) The insurer's surplus as regards policyholders following any
23 dividends or distributions to shareholder affiliates must be
24 reasonable in relation to the insurer's outstanding liabilities and
25 adequate to its financial needs.

26 2. *The Commissioner may adopt regulations governing*
27 *agreements for sharing the cost of services or management*
28 *between registered insurers and their affiliates.*

29 **Sec. 25.** NRS 692C.363 is hereby amended to read as follows:

30 692C.363 1. ~~†A†~~ *Except as otherwise provided in subsection*
31 *2, a domestic insurer shall not enter into any of the following*
32 *transactions with an affiliate unless the insurer has notified the*
33 *Commissioner in writing of its intention to enter into the transaction*
34 *at least ~~†60†~~ 30 days previously, or such shorter period as the*
35 *Commissioner may permit, and the Commissioner has not*
36 *disapproved it within that period:*

37 (a) A sale, purchase, exchange, loan or extension of credit,
38 guaranty or investment if the transaction equals at least:

39 (1) With respect to an insurer other than a life insurer, the
40 lesser of 3 percent of the insurer's admitted assets or 25 percent of
41 surplus as regards policyholders; or

42 (2) With respect to a life insurer, 3 percent of the insurer's
43 admitted assets,

44 ↪ computed as of December 31 next preceding the transaction.



1 (b) A loan or extension of credit to any person who is not an
2 affiliate, if the insurer makes the loan or extension of credit with the
3 agreement or understanding that the proceeds of the transaction, in
4 whole or in substantial part, are to be used to make loans or
5 extensions of credit to, to purchase assets of, or to make investments
6 in, any affiliate of the insurer if the transaction equals at least:

7 (1) With respect to insurers other than life insurers, the lesser
8 of 3 percent of the insurer's admitted assets or 25 percent of surplus
9 as regards policyholders; or

10 (2) With respect to life insurers, 3 percent of the insurer's
11 admitted assets,

12 ↪ computed as of December 31 next preceding the transaction.

13 (c) ~~1A~~ *A pooling agreement or other* agreement for
14 reinsurance or a modification thereto in which the premium for
15 reinsurance or a change in the insurer's liabilities equals at least 5
16 percent of the insurer's surplus as regards policyholders as of
17 December 31 next preceding the transaction, including an agreement
18 which requires as consideration the transfer of assets from an insurer
19 to a nonaffiliate, if an agreement or understanding exists between
20 the insurer and nonaffiliate that any portion of those assets will be
21 transferred to an affiliate of the insurer.

22 (d) An agreement for management, *agreement to allocate taxes*,
23 contract for service, guarantee or arrangement to share costs.

24 (e) A guaranty made by a domestic insurer, *regardless of*
25 *whether the guaranty is quantifiable as to amount*, except that a
26 guaranty that is quantifiable as to amount is not subject to the
27 provisions of this subsection unless the guaranty exceeds the lesser
28 of one-half of 1 percent of the admitted assets of the domestic
29 insurer or 10 percent of its surplus as regards policyholders as of
30 December 31 next preceding the guaranty.

31 (f) Except as otherwise provided in subsection ~~13~~ *4*, a direct or
32 indirect acquisition of or investment in a person who controls the
33 domestic insurer or an affiliate of the domestic insurer in an amount
34 that, when added to its present holdings, exceeds 2.5 percent of the
35 domestic insurer's surplus to policyholders.

36 (g) A material transaction, specified by regulation, which the
37 Commissioner determines may adversely affect the interest of the
38 insurer's policyholders.

39 2. *A domestic insurer shall not amend or modify any*
40 *agreement with an affiliate to enter into a transaction subject to*
41 *the provisions of subsection 1 unless the insurer notifies the*
42 *Commissioner. The notice must be given not less than 30 days*
43 *before the effective date of the amendment or modification and*
44 *must include, without limitation, the reasons for the amendment*
45 *or modification and the financial impact, if any, of the amendment*



1 *or modification on the domestic insurer. Upon receipt of a notice*
2 *pursuant to this subsection, the Commissioner shall determine*
3 *whether the amendment or modification is subject to the*
4 *provisions of subsection 1 and notify the domestic insurer of*
5 *the Commissioner's determination within 30 days. If the*
6 *Commissioner does not give such notice within 30 days after*
7 *receiving the notice from the domestic insurer, the amendment or*
8 *modification shall be deemed to be approved.*

9 3. This section does not authorize or permit any transaction
10 which, in the case of an insurer not an affiliate, would be contrary to
11 law.

12 ~~3-1~~ 4. The provisions of paragraph (f) of subsection 1 do not
13 apply to a direct or indirect acquisition of or investment in:

14 (a) A subsidiary acquired in accordance with this section or
15 NRS 692C.140; or

16 (b) A nonsubsidiary insurance affiliate that is subject to the
17 provisions of this chapter.

18 **Sec. 26.** (Deleted by amendment.)

19 **Sec. 27.** NRS 692C.390 is hereby amended to read as follows:

20 692C.390 1. An insurer subject to registration under NRS
21 692C.260 to 692C.350, inclusive, shall not pay any extraordinary
22 dividend or make any other extraordinary distribution to its
23 shareholders until:

24 (a) Thirty days after the Commissioner has received notice of
25 the declaration thereof and has not within that period disapproved
26 the payment; or

27 (b) The Commissioner approves the payment within the 30-day
28 period.

29 2. A request for approval of an extraordinary dividend or any
30 other extraordinary distribution pursuant to subsection 1 must
31 include:

32 (a) A statement indicating the amount of the proposed dividend
33 or distribution;

34 (b) The date established for the payment of the proposed
35 dividend or distribution;

36 (c) A statement indicating whether the proposed dividend or
37 distribution is to be paid in the form of cash or property and, if it is
38 to be paid in the form of property, a description of the property, its
39 cost and its fair market value together with an explanation setting
40 forth the basis for determining its fair market value;

41 (d) A copy of a work paper or other document setting forth the
42 calculations used to determine that the proposed dividend or
43 distribution is extraordinary, including:

44 (1) The amount, date and form of payment of each regular
45 dividend or distribution paid by the insurer, other than any



* A B 4 3 5 R 2 *

1 distribution of a security of the insurer, within the 12 consecutive
2 months immediately preceding the date established for the payment
3 of the proposed dividend or distribution;

4 (2) The amount of surplus, if any, as regards policyholders,
5 including total capital and surplus, as of December 31 next
6 preceding;

7 (3) If the insurer is a life insurer, the amount of any net gains
8 obtained from the operations of the insurer for the 12-month period
9 ending December 31 next preceding;

10 (4) If the insurer is not a life insurer, the amount of net
11 income of the insurer less any realized capital gains for the 12-
12 month period ending on the December 31 of the year next preceding
13 and the two consecutive 12-month periods immediately preceding
14 that period; and

15 (5) If the insurer is not a life insurer, the amount of each
16 dividend paid by the insurer to shareholders, other than a
17 distribution of any securities of the insurer, during the preceding 2
18 calendar years;

19 (e) A balance sheet and statement of income for the period
20 beginning on the date of the last annual statement filed by the
21 insurer with the Commissioner and ending on the last day of the
22 month immediately preceding the month in which the insurer files
23 the request for approval; and

24 (f) A brief statement setting forth:

25 (1) The effect of the proposed dividend or distribution upon
26 the insurer's surplus;

27 (2) The reasonableness of the insurer's surplus in relation to
28 the insurer's outstanding liabilities; and

29 (3) The adequacy of the insurer's surplus in relation to the
30 insurer's financial requirements.

31 3. *In determining whether a dividend or distribution is*
32 *extraordinary, an insurer other than a life insurer may carry*
33 *forward net income from the previous 2 calendar years that has*
34 *not already been paid out as dividends. The amount the insurer*
35 *may carry forward must be computed by taking the net income*
36 *from the second and third preceding calendar years, not including*
37 *realized capital gains, less dividends paid in the second and*
38 *immediately preceding calendar years.*

39 4. Each insurer specified in subsection 1 that pays an
40 extraordinary dividend or makes any other extraordinary distribution
41 to its shareholders shall, within 15 days after declaring the dividend
42 or making the distribution, report that fact to the Commissioner. The
43 report must include the information specified in paragraph (d) of
44 subsection 2.



* A B 4 3 5 R 2 *

1 **Sec. 28.** NRS 692C.410 is hereby amended to read as follows:
2 692C.410 1. Subject to the limitation contained in this
3 section and in addition to the powers which the Commissioner has
4 under NRS 679B.230 to 679B.287, inclusive, relating to the
5 examination of insurers, the Commissioner may ~~order~~ **examine**
6 any insurer registered under NRS 692C.260 to 692C.350, inclusive,
7 ~~to produce such records, books or other information papers in its~~
8 ~~possession or in the possession of its affiliates as may be necessary~~
9 ~~to ascertain the financial condition or legality of conduct of such~~
10 ~~insurer.~~ **and any affiliate of the insurer to ascertain the financial**
11 **condition of the insurer, including, without limitation, the**
12 **enterprise risk posed to the insurer by a person controlling the**
13 **insurer, any entity or combination of entities within the insurance**
14 **holding company system or by the insurance holding company**
15 **system. The Commissioner may order any insurer registered under**
16 **NRS 692C.260 to 692C.350, inclusive, to produce any information**
17 **not in the possession of the insurer if the insurer is able to obtain**
18 **the information pursuant to any contractual or statutory**
19 **requirement or any other method. If the insurer is unable to**
20 **obtain any information requested by the Commissioner pursuant**
21 **to this section, the insurer shall provide to the Commissioner a**
22 **statement setting forth the reasons the insurer is unable to obtain**
23 **the information and the identity of the holder of the information,**
24 **if known to the insurer. Whenever it appears to the Commissioner**
25 **that the detailed explanation is without merit, the Commissioner**
26 **may require, after notice and hearing, the insurer to pay a penalty**
27 **of \$100 for each day the requested information is not produced or**
28 **may suspend or revoke the license of the insurer.** In the event such
29 insurer fails to comply with such order, the Commissioner may
30 examine such affiliates to obtain such information.
31 2. The Commissioner shall exercise his or her power under
32 ~~subsection~~ **subsections 1 and 5** only if the examination of the
33 insurer under NRS 679B.230 to 679B.287, inclusive, is inadequate
34 or the interests of the policyholders of such insurer may be
35 adversely affected.
36 3. The Commissioner may retain at the registered insurer's
37 expense such attorneys, actuaries, accountants and other experts not
38 otherwise a part of the Commissioner's staff as may be reasonably
39 necessary to assist in the conduct of the examination under
40 ~~subsection~~ **subsections 1 and 5**. Any persons so retained shall
41 be under the direction and control of the Commissioner and shall act
42 in a purely advisory capacity.
43 4. Each ~~registered~~ insurer producing for examination **any**
44 **information pursuant to subsection 1 or any** records, books and



1 papers pursuant to subsection ~~H~~ 5 shall be liable for and shall pay
2 the expense of such examination in accordance with NRS 679B.290.

3 *5. To carry out the provisions of this section and except as*
4 *otherwise provided in subsection 2, the Commissioner may*
5 *subpoena witnesses, compel their attendance, administer oaths,*
6 *examine any person under oath concerning the subject of the*
7 *examination and require the production of any books, papers,*
8 *records, correspondence or any other documents which the*
9 *Commissioner deems relevant to the examination. If any person*
10 *fails to obey a subpoena or refuses to testify as to any matter*
11 *relating to the subject of the examination, the Commissioner may*
12 *file a written report describing the refusal and proof of service of*
13 *the subpoena in any court of competent jurisdiction in the county*
14 *in which the examination is being conducted, for such action as*
15 *the court may determine. Failure by the person to obey an order of*
16 *the court pursuant to this section is punishable as contempt of*
17 *court.*

18 *6. A person subpoenaed under subsection 5 is entitled to*
19 *witness fees and mileage as allowed for testimony in a court of*
20 *record. The insurer or affiliate being examined must pay the*
21 *witness fees and mileage, as well as any other expense incurred in*
22 *securing the attendance of witnesses for the examination in*
23 *accordance with NRS 679B.290.*

24 **Sec. 28.5.** NRS 694C.143 is hereby amended to read as
25 follows:

26 694C.143 “Sponsor” means an insurer licensed pursuant to the
27 laws of any state, a reinsurer authorized or approved under the laws
28 of any state, ~~or~~ a captive insurer formed or licensed pursuant to
29 this chapter *or a person* that:

- 30 1. Meets the requirements of subsection 3 of NRS 694C.180 ~~or~~
31 *or is approved as a sponsor by the Commissioner;* and
32 2. Is approved by the Commissioner to provide all or part of
33 the capital and surplus required by applicable law and to organize
34 and operate a sponsored captive insurer.

35 **Sec. 28.6.** NRS 694C.195 is hereby amended to read as
36 follows:

37 694C.195 1. One or more sponsors may form a sponsored
38 captive insurer pursuant to this chapter.

39 2. A sponsored captive insurer formed or licensed pursuant to
40 this chapter may establish and maintain one or more protected cells
41 to insure the risks of one or more participants, subject to the
42 following conditions:

43 (a) The shareholders of a sponsored captive insurer must be
44 limited to its participants and sponsors, provided that the sponsored



1 captive insurer may issue nonvoting securities to other persons on
2 terms approved by the Commissioner;

3 (b) Each protected cell must be accounted for separately on the
4 books and records of the sponsored captive insurer to reflect the
5 financial condition and results of operations of that protected cell,
6 including, but not limited to, the net income or loss, dividends, or
7 other distributions to participants, and such other factors as may be
8 set forth in the participant contract or required by the
9 Commissioner;

10 (c) The assets of a protected cell must not be chargeable with
11 liabilities arising out of any other insurance business which the
12 sponsored captive insurer may conduct;

13 (d) A sponsored captive insurer shall not make a sale, exchange,
14 transfer of assets, dividend or distribution between or among any of
15 its protected cells without the consent of any participant for which
16 the protected cells are maintained;

17 (e) A sponsored captive insurer shall not make a sale, exchange,
18 transfer of assets, dividend or distribution from a protected cell to a
19 sponsor or participant without the prior written approval of the
20 Commissioner, and the Commissioner shall not give written
21 approval if the sale, exchange, transfer, dividend or distribution
22 would result in the insolvency or impairment of the protected cell;

23 (f) On or before March 1 of each year, a sponsored captive
24 insurer must file with the Commissioner a report of its financial
25 condition, including, but not limited to, accounting statements
26 detailing the financial experience of each protected cell and any
27 other information required by the Commissioner;

28 (g) A sponsored captive insurer must notify the Commissioner
29 not more than 10 business days after a protected cell becomes
30 insolvent or otherwise unable to meet its claims or expense
31 obligations;

32 (h) A participant contract must not become effective without the
33 prior written approval of the Commissioner;

34 (i) The addition of each new protected cell, the withdrawal of
35 any participant of a protected cell or the termination of any existing
36 protected cell constitutes a change in the business plan and requires
37 the prior written approval of the Commissioner; and

38 (j) The business written by a sponsored captive insurer with
39 respect to each protected cell must be:

40 (1) Fronted by an insurer licensed pursuant to the laws of any
41 state;

42 (2) Reinsured by a reinsurer authorized or approved by the
43 Commissioner; or

44 (3) Secured by a trust fund in the United States for the
45 benefit of policyholders and claimants or funded by an irrevocable



1 letter of credit or other arrangement that is acceptable to the
2 Commissioner. The amount of security provided must not be less
3 than the reserves associated with those liabilities, which are not
4 fronted or reinsured pursuant to subparagraph (1) or (2), including
5 reserves for losses, allocated loss adjustment expenses, incurred but
6 not reported losses and unearned premiums for business written
7 through the protected cell maintained for the participant. The
8 Commissioner may require the sponsored captive insurer to increase
9 the funding of any security arrangement established under this
10 subsection. If the form of security is a letter of credit, the letter of
11 credit must be established, issued or confirmed by a bank chartered
12 in this State, a member of the Federal Reserve System or a bank
13 chartered in another state if the bank is deemed acceptable by the
14 Commissioner. A trust maintained pursuant to this subparagraph
15 must be established in a form and under such terms that are
16 approved by the Commissioner.

17 3. A sponsor of a sponsored captive insurer must:

18 (a) Be an insurer licensed pursuant to the laws of any state, a
19 reinsurer authorized or approved under the laws of any state, ~~for~~ a
20 captive insurer formed or licensed pursuant to this chapter ~~or~~ *or a*
21 *person approved as a sponsor by the Commissioner;* and

22 (b) Not be a risk retention group.

23 4. A participant in a sponsored captive insurer need not be a
24 shareholder of the sponsored captive insurer or an affiliate of the
25 sponsored captive insurer and:

26 (a) May be an association, corporation, limited-liability
27 company, partnership, trust or other form of business organization;

28 (b) May be a sponsor of the sponsored captive insurer; and

29 (c) Must not be a risk retention group.

30 5. A participant in a sponsored captive insurer shall insure only
31 its own risks through a sponsored captive insurer.

32 **Sec. 29.** NRS 694C.400 is hereby amended to read as follows:

33 694C.400 1. On or before ~~June 30~~ *March 1* of each year, a
34 captive insurer shall submit to the Commissioner a report of its
35 financial condition. ~~It shall be prepared by a certified public accountant.~~

36 A captive insurer shall use generally accepted accounting principles
37 and include any useful or necessary modifications or adaptations
38 thereof that have been approved or accepted by the Commissioner
39 for the type of insurance and kinds of insurers to be reported upon,
40 and as supplemented by additional information required by the
41 Commissioner. Except as otherwise provided in this section, each
42 association captive insurer, agency captive insurer, rental captive
43 insurer or sponsored captive insurer shall file its report in the form
44 required by NRS 680A.270. The Commissioner shall adopt



1 regulations designating the form in which pure captive insurers must
2 report.

3 2. A pure captive insurer may apply, in writing, for
4 authorization to file its annual report based on a fiscal year that is
5 consistent with the fiscal year of the parent company of the pure
6 captive insurer. If an alternative date is granted ~~+~~
7 ~~—(a) The~~, *the* annual report is due not later than ~~180~~ 60 days
8 after the end of each such fiscal year. ~~+~~ ~~and~~

9 ~~—(b) The~~
10 3. A pure captive insurer shall file on or before March 1 of
11 each year such forms as required by the Commissioner by regulation
12 to provide sufficient detail to support its premium tax return filed
13 pursuant to NRS 694C.450.

14 ~~13~~ 4. Any captive insurer failing, without just cause beyond
15 the reasonable control of the captive insurer, to file its annual
16 statement as required by subsection 1 shall pay a penalty of \$100 for
17 each day the captive insurer fails to file the report, but not to exceed
18 an aggregate amount of \$3,000, to be recovered in the name of the
19 State of Nevada by the Attorney General.

20 ~~14~~ 5. Any director, officer, agent or employee of a captive
21 insurer who subscribes to, makes or concurs in making or
22 publishing, any annual or other statement required by law, knowing
23 the same to contain any material statement which is false, is guilty
24 of a gross misdemeanor.

25 **Sec. 30.** NRS 695E.080 is hereby amended to read as follows:

26 695E.080 “Plan of operation” means an analysis of the
27 expected activities and results of a risk retention group, including:

28 1. The coverages, deductibles, limits of coverage, rates and
29 systems of rating classification for each line of insurance the group
30 intends to offer;

31 2. Historical and expected loss experience of the proposed
32 members, and national experience of similar exposures to the extent
33 that this experience is reasonably available;

34 3. Pro forma financial statements and projections;

35 4. Appropriate opinions by a qualified, independent casualty
36 actuary, including a determination of minimum premium or
37 participation levels required to commence operations and to prevent
38 a hazardous financial condition;

39 5. Identification of management, underwriting procedures,
40 policies for investment and methods for managerial oversight; ~~and~~

41 6. *Identification of each state in which the group has
42 obtained, or sought to obtain, a charter and a license, and a
43 description of the status of the group in each of those states;*

44 7. *Information that is deemed sufficient by the Commissioner
45 to verify that members of the group are engaged in business*



1 *activities similar or related with respect to the liability to which*
2 *they are exposed because of any related, similar or common*
3 *business, trade, product, service, premise or operation; and*

4 **8.** Such other matters as are prescribed by the Commissioner
5 for liability insurers authorized by the insurance laws of the state in
6 which the risk retention group is chartered.

7 **Sec. 31.** NRS 695E.120 is hereby amended to read as follows:

8 695E.120 A purchasing group that intends to conduct business
9 in this state shall register with the Commissioner and:

10 1. Furnish notice to the Commissioner that:

11 (a) Identifies the state in which the group is domiciled;

12 (b) Specifies the lines and classifications of liability insurance
13 that the purchasing group intends to purchase;

14 (c) Identifies the insurer from which the group intends to
15 purchase its insurance and the domicile of the insurer;

16 (d) Identifies the principal place of business of the group;

17 (e) Identifies all other states in which the group intends to do
18 business; ~~and~~

19 (f) *Specifies the method by which insurance will be offered to*
20 *its members whose risks are resident, located or to be performed in*
21 *this State;*

22 (g) *Provides the name, address and telephone number of each*
23 *person, if any, through whom insurance will be offered to its*
24 *members whose risks are resident, located or to be performed in*
25 *this State; and*

26 (h) Provides such other information as the Commissioner
27 requires to verify and determine:

28 (1) Its qualification as a purchasing group;

29 (2) Where the purchasing group is located; and

30 (3) The appropriate tax treatment of the purchasing group;

31 and

32 2. Appoint the Commissioner as its agent solely to receive
33 service of legal process, and pay the fee for filing a power of
34 attorney required by subsection 4 of NRS 680B.010, except that this
35 subsection does not apply to a purchasing group that:

36 (a) Was domiciled before April 1, 1986, and on and after
37 October 27, 1986, in any state;

38 (b) Before and after October 27, 1986, purchased its insurance
39 from an insurer licensed in any state;

40 (c) Was a purchasing group under the requirements of the
41 Product Liability Risk Retention Act of 1981 before October 27,
42 1986; and

43 (d) Does not purchase insurance that was not authorized for an
44 exemption under that act, as in effect before October 27, 1986.



1 **Sec. 32.** NRS 695E.140 is hereby amended to read as follows:

2 695E.140 1. A risk retention group seeking to be chartered in
3 this State must obtain a certificate of authority pursuant to chapter
4 694C of NRS to transact liability insurance and, except as otherwise
5 provided in this chapter, must comply with:

6 (a) All of the laws, regulations and requirements applicable to
7 liability insurers in this State ~~§~~, *unless otherwise approved by the*
8 *Commissioner; and*

9 (b) The provisions of NRS 695E.150 to 695E.210, inclusive, to
10 the extent that those provisions do not limit or conflict with the
11 provisions with which the group is required to comply pursuant to
12 paragraph (a).

13 2. *A risk retention group applying to be chartered in this*
14 *State must submit to the Commissioner in summary form:*

15 (a) *The identities of:*

16 (1) *All members of the group;*

17 (2) *All organizers of the group;*

18 (3) *Those persons who will provide administrative services*
19 *to the group; and*

20 (4) *Any person who will influence or control the activities*
21 *of the group;*

22 (b) *The amount and nature of initial capitalization of the*
23 *group;*

24 (c) *The coverages to be offered by the group; and*

25 (d) *Each state in which the group intends to operate.*

26 3. Before it may transact insurance in any state, the risk
27 retention group must submit to the Commissioner for approval by
28 the Commissioner a plan of operation. The risk retention group shall
29 submit an appropriate revision in the event of any subsequent
30 material change in any item of the plan of operation within 10 days
31 after the change. The group shall not offer any additional kinds of
32 liability insurance, in this State or in any other state, until a revision
33 of the plan is approved by the Commissioner.

34 ~~§~~ 4. *A risk retention group chartered in this State must file*
35 *with the Commissioner on or before February 1 of each year a*
36 *statement containing information concerning the immediately*
37 *preceding year, which must be:*

38 (a) *Submitted in a form prescribed by the National Association*
39 *of Insurance Commissioners;*

40 (b) *Prepared in accordance with the Accounting Practices and*
41 *Procedures Manual adopted by the National Association of*
42 *Insurance Commissioners and effective on January 1, 2001, and*
43 *as amended by the National Association of Insurance*
44 *Commissioners after that date; and*

45 (c) *Submitted on a diskette, if required by the Commissioner.*



1 **5. The Commissioner shall transmit to the National**
2 **Association of Insurance Commissioners a copy of:**

3 **(a) All information submitted by a risk retention group to the**
4 **Commissioner pursuant to subsections 2 and 4; and**

5 **(b) Any revisions to a plan of operation submitted to the**
6 **Commissioner pursuant to subsection 3.**

7 **6.** A risk retention group chartered in a state other than Nevada
8 that is seeking to transact insurance as a risk retention group in this
9 State must comply with the provisions of NRS 695E.150 to
10 695E.210, inclusive.

11 **Sec. 33.** NRS 695E.150 is hereby amended to read as follows:

12 695E.150 **1.** Before transacting insurance in this state, a risk
13 retention group must submit to the Commissioner:

14 ~~1(a)~~ **(a)** A statement of registration identifying:

15 ~~1(a)~~ **(1)** Each state in which the risk retention group is
16 chartered or licensed as a liability insurer;

17 ~~1(b)~~ **(2)** The date of its charter;

18 ~~1(e)~~ **(3)** Its principal place of business; and

19 ~~1(d)~~ **(4)** Such other information, including information
20 concerning its membership, as the Commissioner requires to verify
21 its qualification as a risk retention group;

22 ~~12~~ **(b)** A copy of its plan of operation and any revisions of the
23 plan submitted to its state of domicile, except with respect to any
24 line or classification of liability that was:

25 ~~1(a)~~ **(1)** Defined in the Product Liability Risk Retention Act of
26 1981 before October 27, 1986; and

27 ~~1(b)~~ **(2)** Offered before that date by a risk retention group that
28 had been chartered and operating for not less than 3 years before
29 that date; and

30 ~~13~~ **(c)** A statement appointing the Commissioner as its agent
31 for service of process pursuant to NRS 680A.250, together with
32 the fee for filing a power of attorney required by subsection 4 of
33 NRS 680B.010.

34 **2. The Commissioner shall, upon receipt of any revisions of a**
35 **plan of operation provided by a risk retention group pursuant to**
36 **paragraph (b) of subsection 1, transmit a copy of those revisions to**
37 **the National Association of Insurance Commissioners.**

38 **Sec. 34.** NRS 695E.170 is hereby amended to read as follows:

39 695E.170 **1.** A risk retention group and its agents and
40 representatives are subject to the provisions of NRS 686A.010 to
41 686A.310, inclusive. Any injunction obtained pursuant to those
42 sections must be obtained from a court of competent jurisdiction.

43 **2.** All premiums paid for coverages within this state to a risk
44 retention group are subject to the provisions of chapter 680B of
45 NRS. Each risk retention group shall report all premiums paid to it



1 and shall pay the taxes on premiums and any related fines or
2 penalties for risks resident, located or to be performed in the state.

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

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

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

15 **(1) The limit of liability;**

16 **(2) The period covered;**

17 **(3) The effective date;**

18 **(4) The name of the risk retention group which issued the**
19 **policy;**

20 **(5) The gross annual premium charged; and**

21 **(6) The amount of return premiums, if any.**

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



