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ASSEMBLY BILL NO. 539—COMMITTEE  
ON COMMERCE AND LABOR

MARCH 28, 2011

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing insurance.  
(BDR 57-773)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
Effect on the State: Yes.

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

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AN ACT relating to insurance; creating the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry; requiring the Governor to appoint a Consumer Advocate as the executive head of the Office; requiring the Consumer Advocate to provide an annual report card for each insurer transacting business in this State; requiring an insurer to publish on an Internet website certain information related to each policy, contract or plan of insurance offered by the insurer; requiring certain insurers to offer homeowner's insurance in this State; requiring the Commissioner of Insurance to establish certain restrictions on rates for policies and contracts of homeowner's insurance; requiring the Commissioner to issue an order directing an insurer to return certain excess profits to policyholders; requiring an insurer to provide a policyholder with certain options for each policy, contract or plan of insurance offered in this State; providing a penalty; and providing other matters properly relating thereto.



\* A B 5 3 9 \*

**Legislative Counsel's Digest:**

1 Existing law authorizes the Commissioner of Insurance to issue a certificate of  
2 authority to insurers in this State, enforce the provisions of the Nevada Insurance  
3 Code and otherwise regulate the insurance industry in this State. (Chapter 679B of  
4 NRS, NRS 680A.160) **Section 2** of this bill creates the Office of the Consumer  
5 Advocate within the Division of Insurance of the Department of Business and  
6 Industry and requires the Governor to appoint a Consumer Advocate as executive  
7 head of the Office. **Section 3** of this bill requires the Consumer Advocate to prepare  
8 an annual report card for each insurer in this State and publish the report card and  
9 certain other information received from an insurer on an Internet website  
10 maintained by the Division.

11 **Section 4** of this bill requires each insurer to publish on an Internet website  
12 certain information with respect to each policy, contract or plan of insurance  
13 offered by the insurer in this State. **Section 4** also requires the insurer to provide  
14 certain information to the Consumer Advocate.

15 **Section 5** of this bill requires the Commissioner to establish by regulation a  
16 formula for determining whether an insurer has received excess profits from the  
17 premiums of a policy, contract or plan of insurance. **Section 5** provides that upon a  
18 determination by the Commissioner that an insurer has received excess profits, the  
19 Commissioner is required to issue an order directing the insurer to return to each  
20 insured a pro rata share of the excess profits.

21 **Section 6** of this bill requires the Commissioner to establish by regulation the  
22 amount by which rates may fluctuate by market for a policy or contract of  
23 homeowner's insurance. **Section 6** prohibits an insurer that offers a policy or  
24 contract of homeowner's insurance from transacting business in this State if the  
25 rates for such homeowner's insurance exceed the amounts established by the  
26 Commissioner. **Section 15** of this bill requires an insurer to offer homeowner's  
27 insurance in this State if the insurer offers or issues a policy or contract of motor  
28 vehicle insurance in this State and offers motor vehicle insurance and homeowner's  
29 insurance in any other state.

30 **Section 14** of this bill requires an insurer, for each policy, contract or plan of  
31 insurance offered by the insurer in this State, to offer a variety of options to  
32 policyholders with respect to the payment of premiums, deductibles or types of  
33 coverage for each such policy, contract or plan of insurance.

34 An insurer that violates the provisions of this bill is guilty of a misdemeanor.  
35 (NRS 679A.180)

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

1 **Section 1.** Chapter 679B of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this  
3 act.

4 **Sec. 2. 1. *The Office of the Consumer Advocate is hereby***  
5 ***created within the Division. The Governor shall appoint the***  
6 ***Consumer Advocate as the executive head of the Office. The***  
7 ***Consumer Advocate is not subject to the supervision or control of***  
8 ***the Division or the Commissioner in carrying out his or her duties.***

9 **2. *The Governor shall appoint the Consumer Advocate for a***  
10 ***term of 4 years. The Governor may remove the Consumer***



1 *Advocate from office for inefficiency, neglect of duty or*  
2 *malfesance in office.*

3 *3. The Consumer Advocate is in the unclassified service of*  
4 *the State.*

5 *4. The Consumer Advocate must be knowledgeable in the*  
6 *various areas of the regulation of insurance.*

7 *5. The Consumer Advocate must be independent of and have*  
8 *no pecuniary interest in any insurer or other person regulated by*  
9 *the Division.*

10 *6. The Consumer Advocate shall carry out his or her duties*  
11 *as prescribed by this section and section 3 of this act.*

12 *7. The Commissioner may apply for any available grants and*  
13 *may accept any gifts, grants and donations from any source to*  
14 *defray the costs of the Consumer Advocate in carrying out his or*  
15 *her duties.*

16 *8. To the extent money is available for this purpose, the*  
17 *Commissioner may employ in the unclassified service of the State*  
18 *any personnel necessary to assist with the duties and*  
19 *responsibilities of the Consumer Advocate.*

20 **Sec. 3. 1. The Consumer Advocate shall:**

21 *(a) Based upon criteria established by the Commissioner*  
22 *pursuant to subsection 2, prepare an annual report card using a*  
23 *letter grade scale for each insurer that offers or issues any policy,*  
24 *contract or plan of insurance in this State.*

25 *(b) Publish on an Internet website maintained by the Division:*

26 *(1) A link to the Internet website maintained by each*  
27 *insurer on which information is published by the insurer as*  
28 *required by section 4 of this act;*

29 *(2) The annual report card for each insurer prepared*  
30 *pursuant to paragraph (a); and*

31 *(3) Any information obtained from an insurer about a rate*  
32 *or proposed rate increase.*

33 *2. The Commissioner shall adopt regulations establishing a*  
34 *letter grade scale for the purpose of the preparation by the*  
35 *Consumer Advocate of an annual report card for each insurer as*  
36 *required by subsection 1.*

37 *3. As used in this section, "Consumer Advocate" means the*  
38 *person appointed by the Governor as the executive head of the*  
39 *Office of the Consumer Advocate pursuant to section 2 of this act.*

40 **Sec. 4. 1. An insurer that offers or issues any policy,**  
41 **contract or plan of insurance in this State shall:**

42 *(a) On or before a date established by the Commissioner,*  
43 *publish on an Internet website maintained by the insurer the*  
44 *provisions, terms, rates, premiums and loss ratio of each policy,*  
45 *contract or plan of insurance offered or issued by the insurer in*



1 *this State and any other state or territory of the United States. An*  
2 *insurer shall update the information published pursuant to this*  
3 *paragraph each time the insurer changes or modifies any*  
4 *provision, term, rate or premium of such a policy, contract or plan*  
5 *of insurance.*

6 *(b) Provide to the Consumer Advocate:*

7 *(1) The information published pursuant to paragraph (a);*

8 *(2) Information concerning any proposed changes in a*  
9 *rate; and*

10 *(3) Any information used to calculate a rate or proposed*  
11 *rate increase.*

12 *2. As used in this section:*

13 *(a) "Consumer Advocate" means the person appointed by the*  
14 *Governor as the executive head of the Office of the Consumer*  
15 *Advocate pursuant to section 2 of this act.*

16 *(b) "Loss ratio" means incurred losses from claims as a*  
17 *percentage of total revenue earned from premiums.*

18 **Sec. 5. 1.** *The Commissioner shall adopt regulations*  
19 *establishing a formula to determine whether an insurer that offers*  
20 *or issues a policy, contract or plan of insurance in this State has*  
21 *received excess profits from the premiums of such policy, contract*  
22 *or plan of insurance.*

23 *2. If the Commissioner determines that an insurer has*  
24 *received excess profits from the premiums of a policy, contract or*  
25 *plan of insurance, the Commissioner shall issue an order directing*  
26 *the insurer to return to each insured a pro rata share of the excess*  
27 *profits.*

28 *3. If the Commissioner determines that an insurer has failed*  
29 *to comply with an order issued by the Commissioner pursuant to*  
30 *subsection 2, the Commissioner shall suspend or terminate the*  
31 *certificate of authority of the insurer until the insurer complies*  
32 *with the provisions of this section and any regulations adopted by*  
33 *the Commissioner pursuant thereto.*

34 **Sec. 6.** *Chapter 686B of NRS is hereby amended by adding*  
35 *thereto a new section to read as follows:*

36 *1. The Commissioner shall adopt regulations establishing the*  
37 *amount by which the rate may fluctuate by market for a policy or*  
38 *contract of homeowner's insurance.*

39 *2. An insurer that offers a policy or contract of homeowner's*  
40 *insurance shall not transact business in this State if the rates of*  
41 *the policy or contract vary by market by an amount that exceeds*  
42 *the allowable amount of fluctuation in such rates established*  
43 *by the Commissioner pursuant to subsection 1.*

44 *3. If the Commissioner determines that the rate of a policy or*  
45 *contract of homeowner's insurance offered by an insurer exceeds*



1 *the allowable amount of fluctuation in such rates established by*  
2 *the Commissioner pursuant to subsection 1, the Commissioner*  
3 *shall suspend or terminate the certificate of authority of the*  
4 *insurer until the insurer:*

5 (a) *Provides proof satisfactory to the Commissioner that the*  
6 *rate of the policy or contract of homeowner's insurance does not*  
7 *exceed the allowable amount of fluctuation in such rates*  
8 *established by the Commissioner pursuant to subsection 1; and*

9 (b) *Complies with the regulations adopted by the*  
10 *Commissioner pursuant to this section.*

11 **Sec. 7.** NRS 686B.010 is hereby amended to read as follows:

12 686B.010 1. The Legislature intends that NRS 686B.010 to  
13 686B.1799, inclusive, *and section 6 of this act* be liberally  
14 construed to achieve the purposes stated in subsection 2, which  
15 constitute an aid and guide to interpretation but not an independent  
16 source of power.

17 2. The purposes of NRS 686B.010 to 686B.1799, inclusive,  
18 *and section 6 of this act* are to:

19 (a) Protect policyholders and the public against the adverse  
20 effects of excessive, inadequate or unfairly discriminatory rates;

21 (b) Encourage, as the most effective way to produce rates that  
22 conform to the standards of paragraph (a), independent action by  
23 and reasonable price competition among insurers;

24 (c) Provide formal regulatory controls for use if independent  
25 action and price competition fail;

26 (d) Authorize cooperative action among insurers in the rate-  
27 making process, and to regulate such cooperation in order to prevent  
28 practices that tend to bring about monopoly or to lessen or destroy  
29 competition;

30 (e) Encourage the most efficient and economic marketing  
31 practices; and

32 (f) Regulate the business of insurance in a manner that will  
33 preclude application of federal antitrust laws.

34 **Sec. 8.** NRS 686B.020 is hereby amended to read as follows:

35 686B.020 As used in NRS 686B.010 to 686B.1799, inclusive,  
36 *and section 6 of this act*, unless the context otherwise requires:

37 1. "Advisory organization," except as limited by NRS  
38 686B.1752, means any person or organization which is controlled  
39 by or composed of two or more insurers and which engages in  
40 activities related to rate making. For the purposes of this subsection,  
41 two or more insurers with common ownership or operating in this  
42 State under common ownership constitute a single insurer. An  
43 advisory organization does not include:

44 (a) A joint underwriting association;

45 (b) An actuarial or legal consultant; or



1 (c) An employee or manager of an insurer.  
2 2. "Market segment" means any line or kind of insurance or, if  
3 it is described in general terms, any subdivision thereof or any class  
4 of risks or combination of classes.

5 3. "Rate service organization" means any person, other than an  
6 employee of an insurer, who assists insurers in rate making or filing  
7 by:

8 (a) Collecting, compiling and furnishing loss or expense  
9 statistics;

10 (b) Recommending, making or filing rates or supplementary rate  
11 information; or

12 (c) Advising about rate questions, except as an attorney giving  
13 legal advice.

14 4. "Supplementary rate information" includes any manual or  
15 plan of rates, statistical plan, classification, rating schedule,  
16 minimum premium, policy fee, rating rule, rule of underwriting  
17 relating to rates and any other information prescribed by regulation  
18 of the Commissioner.

19 **Sec. 9.** NRS 686B.030 is hereby amended to read as follows:

20 686B.030 1. Except as otherwise provided in subsection 2,  
21 NRS 686B.010 to 686B.1799, inclusive, *and section 6 of this act*  
22 apply to all kinds and lines of direct insurance written on risks or  
23 operations in this State by any insurer authorized to do business in  
24 this State, except:

25 (a) Ocean marine insurance;

26 (b) Contracts issued by fraternal benefit societies;

27 (c) Life insurance and credit life insurance;

28 (d) Variable and fixed annuities;

29 (e) Group and blanket health insurance and credit health  
30 insurance;

31 (f) Property insurance for business and commercial risks;

32 (g) Casualty insurance for business and commercial risks other  
33 than insurance covering the liability of a practitioner licensed  
34 pursuant to chapters 630 to 640, inclusive, of NRS; and

35 (h) Surety insurance.

36 2. The exclusions set forth in paragraphs (f) and (g) of  
37 subsection 1 extend only to issues related to the determination or  
38 approval of premium rates.

39 **Sec. 10.** NRS 686B.080 is hereby amended to read as follows:

40 686B.080 Each filing and any supporting information filed  
41 under NRS 686B.010 to 686B.1799, inclusive, *and section 6 of this*  
42 *act* must, as soon as filed, be open to public inspection at any  
43 reasonable time. Copies may be obtained by any person on request  
44 and upon payment of a reasonable charge therefor.



1       **Sec. 11.** NRS 686B.110 is hereby amended to read as follows:

2       686B.110 1. The Commissioner shall consider each proposed  
3 increase or decrease in the rate of any kind or line of insurance or  
4 subdivision thereof filed with the Commissioner pursuant to  
5 subsection 1 of NRS 686B.070. If the Commissioner finds that a  
6 proposed increase will result in a rate which is not in compliance  
7 with NRS 686B.050 or subsection 2 of NRS 686B.070, the  
8 Commissioner shall disapprove the proposal. The Commissioner  
9 shall approve or disapprove each proposal no later than 60 days after  
10 it is determined by the Commissioner to be complete pursuant to  
11 subsection 4. If the Commissioner fails to approve or disapprove the  
12 proposal within that period, the proposal shall be deemed approved.

13       2. Whenever an insurer has no legally effective rates as a result  
14 of the Commissioner's disapproval of rates or other act, the  
15 Commissioner shall on request specify interim rates for the insurer  
16 that are high enough to protect the interests of all parties and may  
17 order that a specified portion of the premiums be placed in an  
18 escrow account approved by the Commissioner. When new rates  
19 become legally effective, the Commissioner shall order the  
20 escrowed funds or any overcharge in the interim rates to be  
21 distributed appropriately, except that refunds to policyholders that  
22 are de minimis must not be required.

23       3. If the Commissioner disapproves a proposed rate and an  
24 insurer requests a hearing to determine the validity of the action of  
25 the Commissioner, the insurer has the burden of showing  
26 compliance with the applicable standards for rates established in  
27 NRS 686B.010 to 686B.1799, inclusive ~~§ 3~~, *and section 6 of this*  
28 *act*. Any such hearing must be held:

29       (a) Within 30 days after the request for a hearing has been  
30 submitted to the Commissioner; or

31       (b) Within a period agreed upon by the insurer and the  
32 Commissioner.

33       ➤ If the hearing is not held within the period specified in paragraph  
34 (a) or (b), or if the Commissioner fails to issue an order concerning  
35 the proposed rate for which the hearing is held within 45 days after  
36 the hearing, the proposed rate shall be deemed approved.

37       4. The Commissioner shall by regulation specify the  
38 documents or any other information which must be included in a  
39 proposal to increase or decrease a rate submitted to the  
40 Commissioner pursuant to subsection 1. Each such proposal shall be  
41 deemed complete upon its filing with the Commissioner, unless the  
42 Commissioner, within 15 business days after the proposal is filed  
43 with the Commissioner, determines that the proposal is incomplete  
44 because the proposal does not comply with the regulations adopted  
45 by the Commissioner pursuant to this subsection.





1 **Sec. 12.** NRS 686B.115 is hereby amended to read as follows:

2 686B.115 1. Any hearing held by the Commissioner to  
3 determine whether rates comply with the provisions of NRS  
4 686B.010 to 686B.1799, inclusive, *and section 6 of this act* must be  
5 open to members of the public.

6 2. All costs for transcripts prepared pursuant to such a hearing  
7 must be paid by the insurer requesting the hearing.

8 3. At any hearing which is held by the Commissioner to  
9 determine whether rates comply with the provisions of NRS  
10 686B.010 to 686B.1799, inclusive, *and section 6 of this act* and  
11 which involves rates for insurance covering the liability of a  
12 practitioner licensed pursuant to chapter 630, 631, 632 or 633 of  
13 NRS for a breach of the practitioner's professional duty toward a  
14 patient, if a person is not otherwise authorized pursuant to this title  
15 to become a party to the hearing by intervention, the person is  
16 entitled to provide testimony at the hearing if, not later than 2 days  
17 before the date set for the hearing, the person files with the  
18 Commissioner a written statement which states:

19 (a) The name and title of the person;

20 (b) The interest of the person in the hearing; and

21 (c) A brief summary describing the purpose of the testimony the  
22 person will offer at the hearing.

23 4. If a person provides testimony at a hearing in accordance  
24 with subsection 3:

25 (a) The Commissioner may, if the Commissioner finds it  
26 necessary to preserve order, prevent inordinate delay or protect the  
27 rights of the parties at the hearing, place reasonable limitations on  
28 the duration of the testimony and prohibit the person from providing  
29 testimony that is not relevant to the issues raised at the hearing.

30 (b) The Commissioner shall consider all relevant testimony  
31 provided by the person at the hearing in determining whether the  
32 rates comply with the provisions of NRS 686B.010 to 686B.1799,  
33 inclusive ~~§~~, *and section 6 of this act*.

34 **Sec. 13.** NRS 686B.130 is hereby amended to read as follows:

35 686B.130 1. A rate service organization and an advisory  
36 organization shall not provide any service relating to the rates of any  
37 insurance subject to NRS 686B.010 to 686B.1799, inclusive, *and*  
38 *section 6 of this act* and an insurer shall not utilize the services of an  
39 organization for such purposes unless the organization has obtained  
40 a license pursuant to NRS 686B.140.

41 2. A rate service organization and an advisory organization  
42 shall not refuse to supply any services for which it is licensed in this  
43 state to any insurer authorized to do business in this state and  
44 offering to pay the fair and usual compensation for the services.





1     **Sec. 14.** Chapter 687B of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     *An insurer that offers or issues any policy, contract or plan of*  
4 *insurance in this State shall:*

5     1. *For each policy, contract or plan of insurance, provide:*

6     (a) *A variety of options with respect to the payment of*  
7 *premiums, including, without limitation, plans for the quarterly*  
8 *and semiannual payment of premiums;*

9     (b) *A variety of options with respect to deductibles; and*

10    (c) *The option for an insured to exclude any type of coverage*  
11 *that is otherwise included with the policy, contract or plan of*  
12 *insurance.*

13    2. *Submit to the Commissioner for approval each option*  
14 *developed pursuant to subsection 1 before making the option*  
15 *available to any policyholder or the public.*

16     **Sec. 15.** Chapter 690B of NRS is hereby amended by adding  
17 thereto a new section to read as follows:

18     *An insurer that:*

19     1. *Offers or issues a policy or contract of motor vehicle*  
20 *insurance in this State;*

21     2. *Offers or issues a policy or contract of motor vehicle*  
22 *insurance in any other state; and*

23     3. *Offers or issues a policy or contract of homeowner's*  
24 *insurance in that other state,*

25     ↳ *shall, subject to approval by the Commissioner of the policy or*  
26 *contract, offer a policy or contract of homeowner's insurance in*  
27 *this State that is substantially similar to the policy or contract of*  
28 *homeowner's insurance offered or issued in the other state.*







