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SENATE BILL NO. 87—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF INSURANCE OF THE  
DEPARTMENT OF BUSINESS AND INDUSTRY)

PREFILED NOVEMBER 21, 2018

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the Nevada Life and Health Insurance Guaranty Association. (BDR 57-219)

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

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

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AN ACT relating to insurance; deeming benefits established by a long-term care rider to a life insurance policy or annuity contract to be the same type of benefits as provided in a basic policy or contract for certain purposes; clarifying the policies and contracts for which the Nevada Life and Health Insurance Guaranty Association is required to provide coverage; requiring a health maintenance organization to be a member of the Association; revising the composition of the Board of Directors of the Association; prescribing the manner in which the Association must calculate and allocate certain assessments; authorizing certain member insurers to recoup assessments; revising certain terminology; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law establishes the Nevada Life and Health Insurance Guaranty  
2 Association for the purpose of protecting owners of or certificate holders under  
3 direct, nongroup life, health and annuity policies or contracts and certain other  
4 persons against failure in the performance of contractual obligations under those  
5 policies or contracts because of the impairment or insolvency of the insurer that  
6 issued the policies or contracts. (NRS 686C.020, 686C.030, 686C.130) **Section 3** of  
7 this bill deems benefits established by a long-term care rider to a life insurance  
8 policy or annuity contract to be the same type of benefits as provided in a basic



9 policy or contract for the purposes of provisions relating to the Association. Under  
10 existing law, such purposes include, without limitation, the determination of the  
11 date by which the Association is required to pay benefits, the calculation of  
12 limitations on the obligations of the Association and the imposition and allocation  
13 of assessments on member insurers. (NRS 686C.153, 686C.210, 686C.240)

14 **Sections 5, 7, 9, 18, 19, 21, 24, 27-31, 35, 39 and 41** of this bill clarify that  
15 provisions relating to the Association apply equally whether coverage or benefits  
16 are established through a policy or a contract. **Section 6** of this bill clarifies that the  
17 Association is required to provide coverage for certain beneficiaries, assignees or  
18 payees of the owners of, enrollees in or certificate holders under covered policies or  
19 contracts. **Section 7** of this bill requires the Association to cover a portion of a  
20 policy or contract that provides long-term care benefits or other health insurance  
21 benefits, regardless of whether the portion of the policy or contract would otherwise  
22 be eligible for certain exemptions. **Section 7** also provides that the Association does  
23 not cover a policy or contract for Medicaid benefits. **Sections 7, 11, 13, 15, 18, 22,**  
24 **25, 26, 28, 34, 36, 38, 40, 42 and 43** of this bill clarify that the provisions relating  
25 to the Association apply only to insurers that are members of the Association.  
26 **Sections 10 and 14** of this bill require a health maintenance organization that  
27 operates in this State to be a member of the Association. **Sections 13, 15, 18, 22,**  
28 **24, 26, 30, 31, 35, 38, 40, 41 and 43** of this bill make conforming changes.  
29 **Sections 14 and 33** of this bill revise the names of the accounts maintained by the  
30 Association.

31 Existing law establishes the Board of Directors of the Association, which  
32 carries out the powers of the Association. (NRS 686C.130, 686C.140) **Section 15**  
33 of this bill increases the minimum and maximum number of members of the Board.

34 Existing law requires the Association to guarantee, assume or reinsure the  
35 policies of an impaired or insolvent insurer, cause such policies or contracts to be  
36 guaranteed, assumed or reinsured or ensure payment of the contractual obligations  
37 of the insolvent insurer. (NRS 686C.150, 686C.152) **Sections 16 and 17** of this bill  
38 additionally require the Association to reissue or cause the reissuance of such  
39 policies or contracts. **Sections 18 and 19** of this bill clarify that, if the Association  
40 issues certain alternative substitute coverage for the policies or contracts of an  
41 insolvent or impaired insurer, the alternative policy or contract must be reissued at  
42 actuarially justified rates. **Section 26** of this bill authorizes the Association to file  
43 for actuarially justified rate or premium increases for any policy for which the  
44 Association provides coverage. **Sections 19 and 20** of this bill remove a  
45 requirement that certain alternative policies or contracts or substitute coverage  
46 issued by the Association must be approved by a court in the insolvent or impaired  
47 insurer's state.

48 Existing law establishes limitations on the obligations of the Association to  
49 cover basic hospital, medical and surgical insurance or major medical insurance.  
50 (NRS 686C.210) **Section 25** of this bill provides that these limitations instead apply  
51 to health benefit plans, which are policies, contracts, certificates or agreements  
52 offered by a carrier to provide for, deliver payment for, arrange for the payment of,  
53 pay for or reimburse any of the costs of health care services. **Sections 1 and 44-47**  
54 of this bill standardize the definition of the term "health benefit plan" for certain  
55 purposes.

56 Existing law authorizes the Board to call for certain assessments, known as  
57 Class B Assessments, to the extent necessary for the Association to provide  
58 coverage for covered policies and contracts. (NRS 686C.230) **Section 32** of this bill  
59 prescribes the manner in which the Association is required to calculate the amount  
60 of a Class B Assessment for long-term care insurance written by an impaired or  
61 insolvent insurer and allocate such an assessment among the accounts of the  
62 Association.



63 Existing law authorizes a member insurer to offset part of the assessments paid  
64 to the Association against its liability for premium tax. (NRS 686C.280) **Section 36**  
65 of this bill authorizes a member insurer that is exempt from its liability for premium  
66 tax to recoup its assessments by imposing a surcharge on premiums. **Section 37** of  
67 this bill requires the plan of operation for the Association to include certain  
68 provisions relating to the recoupment of assessments.

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

1 **Section 1.** NRS 683A.176 is hereby amended to read as  
2 follows:

3 683A.176 “Third party” means:

4 1. An insurer, as that term is defined in NRS 679B.540;

5 2. A health benefit plan, as that term is defined in NRS  
6 ~~689A.540.~~ **687B.470**, for employees which provides a pharmacy  
7 benefits plan;

8 3. A participating public agency, as that term is defined in NRS  
9 287.04052, and any other local governmental agency of the State of  
10 Nevada which provides a system of health insurance for the benefit  
11 of its officers and employees, and the dependents of officers and  
12 employees, pursuant to chapter 287 of NRS; or

13 4. Any other insurer or organization that provides health  
14 coverage or benefits or coverage of prescription drugs as part of  
15 workers’ compensation insurance in accordance with state or federal  
16 law.

17 ↪ The term does not include an insurer that provides coverage  
18 under a policy of casualty or property insurance.

19 **Sec. 2.** Chapter 686C of NRS is hereby amended by adding  
20 thereto the provisions set forth as sections 3 and 4 of this act.

21 **Sec. 3.** *For the purposes of this chapter, benefits provided*  
22 *pursuant to a rider for long-term care to a life insurance policy or*  
23 *annuity contract shall be deemed the same type of benefits*  
24 *provided in the life insurance policy or annuity contract to which*  
25 *the rider applies.*

26 **Sec. 4.** *“Health maintenance organization” has the meaning*  
27 *ascribed to it in NRS 695C.030.*

28 **Sec. 5.** NRS 686C.020 is hereby amended to read as follows:

29 686C.020 The purpose of this chapter is to protect, within  
30 certain limits, the persons specified in subsections 1 and 2 of NRS  
31 686C.030 against failure in the performance of contractual  
32 obligations under life ~~and~~ **insurance**, health insurance **and**  
33 **annuity** policies ~~and~~ **or** contracts ~~[- and annuities.]~~ specified in  
34 subsection 4 of NRS 686C.030 because of the impairment or  
35 insolvency of a member insurer issuing such policies or contracts.



1       **Sec. 6.** NRS 686C.030 is hereby amended to read as follows:

2       686C.030 1. This chapter provides coverage for the *life*  
3 *insurance, health insurance and annuity* policies or contracts  
4 described in subsection 4 to persons who are:

5       (a) Owners of , *enrollees in* or certificate holders under such  
6 policies or contracts, other than structured settlement annuities, and  
7 who:

8           (1) Are residents of this state; or

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

10          (I) The *member* insurer that issued the policies or  
11 contracts is domiciled in this state;

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

14          (III) The persons are not eligible for coverage by an  
15 association in another state because the *member* insurer was not  
16 authorized in the other state at the time specified in that state's law  
17 governing guaranty associations; and

18       (b) ~~[Beneficiaries,]~~ *Regardless of where they reside,*  
19 *beneficiaries,* assignees or payees of the persons covered under  
20 paragraph (a), ~~[wherever they reside,]~~ *including, without limitation,*  
21 *providers of health care rendering services covered under policies*  
22 *or certificates of health insurance,* except for nonresident  
23 certificate holders under group policies or contracts.

24       2. For structured settlement annuities, except as otherwise  
25 provided in subsection 3, this chapter provides coverage to a payee  
26 under the annuity, or beneficiary of a payee if the payee is deceased,  
27 if the payee or beneficiary:

28       (a) Is a resident of this state, regardless of the residence of the  
29 owner of the annuity; or

30       (b) Is not a resident of this state, but:

31           (1) The owner of the annuity is a resident of this state, or the  
32 issuer of the annuity is domiciled in this state and the state in which  
33 the owner resides has an association similar to the Association  
34 created by this chapter; and

35           (2) Neither the payee or beneficiary nor the owner of the  
36 annuity is eligible for coverage by the association of the state in  
37 which the payee, beneficiary or owner resides.

38       3. This chapter does not provide coverage for a payee or  
39 beneficiary of a structured settlement annuity if the owner of the  
40 annuity is a resident of this state and the payee or beneficiary is  
41 afforded any coverage by the association of another state. In  
42 determining the application of the provisions of this chapter to a  
43 situation where a person could be covered by the association of  
44 more than one state, this chapter must be construed in conjunction



1 with the laws of other states to result in coverage by only one  
2 association.

3 4. This chapter provides coverage to the persons described in  
4 subsections 1 and 2 for *policies or contracts of* direct, nongroup life  
5 ~~[-] insurance~~, health *insurance* and ~~[annuity policies or contracts,]~~  
6 *annuities*, for certificates under direct group policies and contracts,  
7 and for supplemental contracts to any of these, in each case issued  
8 by member insurers, except as limited by this chapter.

9 **Sec. 7.** NRS 686C.035 is hereby amended to read as follows:  
10 686C.035 1. This chapter does not provide coverage for:

11 (a) A portion of a policy or contract not guaranteed by the  
12 *member* insurer, or under which the risk is borne by the owner of  
13 the policy or contract.

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

16 (c) A portion of a policy or contract, *other than a portion of a*  
17 *policy or contract of health insurance or that provides benefits for*  
18 *long-term care, including, without limitation, a rider that provides*  
19 *such benefits*, to the extent that the rate of interest on which it is  
20 based, or the interest rate, crediting rate or similar factor determined  
21 by the use of an index or other external reference stated in the policy  
22 or contract employed in calculating returns or changes in value:

23 (1) Averaged over the period of 4 years before the date on  
24 which the association becomes obligated with respect to the policy  
25 or contract, exceeds the rate of interest determined by subtracting 2  
26 percentage points from Moody's Corporate Bond Yield Average  
27 averaged for the same period, or for the period between the date of  
28 issuance of the policy or contract and the date the association  
29 became obligated, whichever period is less; and

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

34 (d) A portion of a policy or contract issued to a plan or program  
35 of an employer, association or other person to provide life, health or  
36 annuity benefits to its employees, members or other persons to the  
37 extent that the plan or program is self-funded or uninsured,  
38 including, but not limited to, benefits payable by an employer,  
39 association or other person under:

40 (1) A multiple employer welfare arrangement described in 29

41 U.S.C. § 1002(40);

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

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

44 (4) A contract for administrative services only.



1 (e) A portion of a policy or contract to the extent that it provides  
2 for dividends, credits for experience, voting rights or the payment of  
3 any fee or allowance to any person, including the owner of a policy  
4 or contract, for services or administration connected with the policy  
5 or contract.

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

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

12 (h) An obligation that does not arise under the express written  
13 terms of the policy or contract issued by the *member* insurer,  
14 including:

15 (1) Claims based on marketing materials;

16 (2) Claims based on side letters or other documents that were  
17 issued by the *member* insurer without satisfying applicable  
18 requirements for filing or approval of policy *or contract* forms;

19 (3) Misrepresentations of or regarding policy *or contract*  
20 benefits;

21 (4) Extra-contractual claims; or

22 (5) A claim for penalties or consequential or incidental  
23 damages.

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

29 (j) A portion of a policy or contract to the extent that it provides  
30 for interest or other changes in value which are determined by the  
31 use of an index or other external reference stated in the policy or  
32 contract, but which have not been credited to the policy or contract,  
33 or as to which the rights of the owner of the policy or contract are  
34 subject to forfeiture, determined on the date the member insurer  
35 becomes an impaired or insolvent insurer, whichever occurs first. If  
36 the interest or changes in value of a policy or contract are credited  
37 less frequently than annually, for the purpose of determining the  
38 values that have been credited and are not subject to forfeiture, the  
39 interest or change in value determined by using procedures stated in  
40 the policy or contract must be credited as if the contractual date for  
41 crediting interest or changing values was the date of the impairment  
42 or insolvency of the insured member, whichever occurs first and is  
43 not subject to forfeiture.

44 (k) An unallocated annuity contract other than an annuity owned  
45 by a governmental retirement plan established under section 401,



1 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,  
2 403(b) and 457, respectively, or the trustees of such a plan.

3 (l) A policy or contract providing any hospital, medical,  
4 prescription drug or other health care benefits pursuant to 42 U.S.C.  
5 §§ 1395w-21 et seq. and 1395w-101 et seq. ~~[3]~~ *or 42 U.S.C. §§ 1396*  
6 *et seq.*, and any regulations adopted pursuant thereto.

7 2. As used in this section, “Moody’s Corporate Bond Yield  
8 Average” means the monthly average for corporate bonds published  
9 by Moody’s Investors Service, Inc., or any successor average.

10 **Sec. 8.** NRS 686C.040 is hereby amended to read as follows:

11 686C.040 As used in this chapter, unless the context otherwise  
12 requires, the words and terms defined in NRS 686C.045 to  
13 686C.127, inclusive, *and section 4 of this act* have the meanings  
14 ascribed to them in those sections.

15 **Sec. 9.** NRS 686C.080 is hereby amended to read as follows:

16 686C.080 “Covered policy ~~[2]~~ *or contract*” means any policy  
17 or contract included within the scope of this chapter, as expressed in  
18 NRS 686C.030 and 686C.035.

19 **Sec. 10.** NRS 686C.100 is hereby amended to read as follows:

20 686C.100 “Member insurer” means an insurer which is  
21 licensed or holds a certificate of authority to transact in this state  
22 any kind of insurance for which coverage is provided in this chapter  
23 ~~[and]~~ *or a health maintenance organization which holds a*  
24 *certificate of authority to operate in this State. The term* includes  
25 an insurer *or health maintenance organization* whose license or  
26 certificate of authority in this state has been suspended, revoked, not  
27 renewed or voluntarily withdrawn. The term does not include:

28 1. ~~[A hospital or medical organization, whether or not for~~  
29 ~~profit;~~

30 ~~—2.— A health maintenance organization;~~

31 ~~—3.— A fraternal benefit society;~~

32 ~~[4.]~~ 2. A mandatory state pooling plan;

33 ~~[5.]~~ 3. A mutual assessment company or other person that  
34 operates on the basis of assessments;

35 ~~[6.]~~ 4. An insurance exchange;

36 ~~[7.]~~ 5. An organization that is authorized only to issue  
37 charitable gift annuities under NRS 688A.281 to 688A.285,  
38 inclusive; ~~[or]~~

39 ~~—8.— 6. A reinsurance program operated by the State~~  
40 ~~Government; or~~

41 7. An organization similar to any of those listed in subsections  
42 1 to ~~[7.]~~ 6, inclusive.

43 **Sec. 11.** NRS 686C.120 is hereby amended to read as follows:

44 686C.120 “Resident” means any person to whom a contractual  
45 obligation is owed and who resides in this state on the date of entry



1 of a court order that determines a member insurer to be impaired or  
2 insolvent. A person may be a resident of but one state, which in the  
3 case of a person other than a natural person is its principal place of  
4 business. A citizen of the United States who is a resident of a  
5 foreign country or of a territory or insular possession subject to the  
6 jurisdiction of the United States which does not have an association  
7 similar to the Association created by this chapter shall be deemed to  
8 be a resident of the state of domicile of the *member* insurer that  
9 issued the policy or contract.

10 **Sec. 12.** NRS 686C.125 is hereby amended to read as follows:

11 686C.125 “Supplemental contract” means a written agreement  
12 for the distribution of proceeds from a life or health insurance policy  
13 *or contract* or an annuity.

14 **Sec. 13.** NRS 686C.128 is hereby amended to read as follows:

15 686C.128 1. The Association shall prepare, and submit to the  
16 Commissioner for approval, a summary document describing the  
17 general purposes and current limitations of this chapter. After the  
18 expiration of 60 days after the approval of the summary document  
19 by the Commissioner, ~~{an}~~ *a member* insurer may not deliver a  
20 policy or contract to the ~~{owner of the}~~ policy or contract *owner,*  
21 *certificate holder or enrollee* unless the summary document is  
22 delivered to the *policy or contract* owner , *certificate holder or*  
23 *enrollee* at the time of delivery of the policy or contract. The  
24 document must also be available upon request by the *policy or*  
25 *contract* owner ~~{of a policy.}~~ , *certificate holder or enrollee.* The  
26 distribution, delivery, contents or interpretation of this document  
27 does not guarantee that the policy or ~~{the}~~ contract or ~~{its}~~ *the policy*  
28 *or contract* owner , *certificate holder or enrollee* is covered in the  
29 event of the impairment or insolvency of a member insurer. The  
30 descriptive document must be revised by the Association as  
31 amendments to this chapter may require. Failure to receive this  
32 document does not give the ~~{owner of a}~~ policy or contract ~~{, or an~~  
33 ~~insured.}~~ *owner, certificate holder or enrollee* any greater rights  
34 than those stated in this chapter.

35 2. The document prepared pursuant to subsection 1 must  
36 contain a clear and conspicuous disclaimer on its face. The  
37 Commissioner shall establish the form and content of the disclaimer.  
38 The disclaimer must:

39 (a) State the name and address of the Association and of the  
40 Division;

41 (b) Prominently warn the ~~{owner of the}~~ policy or contract  
42 *owner, certificate holder or enrollee* that the Association may not  
43 cover the policy *or contract* or, if coverage is available, it will be  
44 subject to substantial limitations and exclusions and conditioned on  
45 continued residence in this State;





1 (c) State the types of policies *and contracts* for which guaranty  
2 funds will provide coverage;

3 (d) State that the *member* insurer and its agents are prohibited  
4 by law from using the existence of the Association for the purpose  
5 of sales, solicitation or inducement to purchase any form of  
6 insurance ~~{}~~ *or coverage offered by a health maintenance*  
7 *organization;*

8 (e) State that the ~~{owner of a}~~ policy or contract *owner,*  
9 *certificate holder or enrollee* should not rely on coverage under the  
10 Association when selecting an insurer;

11 (f) Explain the rights and procedures for filing a complaint to  
12 allege a violation of any provision of this chapter; and

13 (g) Provide other information as directed by the Commissioner,  
14 including sources of information about the financial condition of  
15 insurers, if the information is not proprietary and is subject to  
16 disclosure under the law of the state in which the *member* insurer is  
17 domiciled.

18 3. A member insurer shall retain evidence of compliance with  
19 subsection 1 while the policy or contract for which the notice is  
20 given remains in effect.

21 **Sec. 14.** NRS 686C.130 is hereby amended to read as follows:

22 686C.130 1. There is hereby created a nonprofit legal entity  
23 to be known as the Nevada Life and Health Insurance Guaranty  
24 Association. All member insurers shall be and remain members of  
25 the Association as a condition of their authority to transact insurance  
26 *or operate a health maintenance organization, as applicable,* in  
27 this state. The Association shall perform its functions under the plan  
28 of operation established and approved pursuant to NRS 686C.290  
29 and shall exercise its powers through a Board of Directors  
30 established pursuant to NRS 686C.140.

31 2. For purposes of administration and assessment, the  
32 Association shall maintain two accounts:

33 (a) The *Health* Account ; ~~{for Health Insurance;}~~ and

34 (b) The *Life and Annuity* Account , ~~{for Life Insurance and~~  
35 ~~Annuities,}~~ which consists of:

36 (1) The Subaccount for Life Insurance; and

37 (2) The Subaccount for Annuities, including annuities owned  
38 by a governmental retirement plan, or its trustees, established under  
39 section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C.  
40 §§ 401, 403(b) and 457.

41 3. The Association is under the immediate supervision of the  
42 Commissioner and is subject to the applicable provisions of the  
43 Nevada Insurance Code. Meetings or records of the Association  
44 may be opened to the public by majority vote of the Board of  
45 Directors.



**Sec. 15.** NRS 686C.140 is hereby amended to read as follows:

686C.140 1. The Board of Directors of the Association consists of not less than ~~five~~ 7 nor more than ~~nine~~ 11 members, serving terms as established in the plan of operation.

2. The members of the Board who represent *member* insurers must be selected by member insurers subject to the approval of the Commissioner. If practicable, one of the members of the Board must be an officer of a domestic *member* insurer.

3. Two public representatives must be appointed to the Board by the Commissioner. A public representative may not be an officer, director or employee of ~~an~~ a *member* insurer, ~~or~~ engaged in the business of insurance ~~or~~ or a *health maintenance organization*.

4. Vacancies on the Board must be filled for the remaining period of the term by majority vote of the members of the Board, subject to the approval of the Commissioner, for members who represent *member* insurers, and by the Commissioner for public representatives.

5. To select the initial Board of Directors, and initially organize the Association, the Commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member insurer is entitled to one vote in person or by proxy. If the Board of Directors is not selected within 60 days after notice of the organizational meeting, the Commissioner may appoint the initial members to represent *member* insurers in addition to the public representatives.

6. In approving selections or in appointing members to the Board, the Commissioner shall consider, among other things, whether all member insurers are fairly represented.

7. Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors, but members of the Board may not otherwise be compensated by the Association for their services.

**Sec. 16.** NRS 686C.150 is hereby amended to read as follows:

686C.150 If a member insurer is an impaired insurer, the Association may, subject to any conditions it may impose which do not impair the contractual obligations of the impaired insurer and which are approved by the Commissioner:

1. Guarantee, assume, *reissue* or reinsure, or cause to be guaranteed, assumed, *reissued* or reinsured, any or all of the covered policies or contracts of the impaired insurer.

2. Provide such money, pledges, loans, notes, guarantees or other means as are proper to effectuate subsection 1, and assure payment of the contractual obligations of the impaired insurer pending action under subsection 1.



1       **Sec. 17.** NRS 686C.152 is hereby amended to read as follows:  
2       686C.152 If a member insurer is an insolvent insurer, the  
3 Association shall:

4       1. Guarantee, assume , *reissue* or reinsure, or cause to be  
5 guaranteed, assumed , *reissued* or reinsured, the policies or  
6 contracts of the insolvent insurer; or

7       2. Ensure payment of the contractual obligations of the  
8 insolvent insurer and:

9       (a) Provide such money, pledges, loans, notes, guarantees or  
10 other means as are reasonably necessary to discharge its duties; or

11       (b) Provide benefits and coverages in accordance with NRS  
12 686C.153 and 686C.154.

13       **Sec. 18.** NRS 686C.153 is hereby amended to read as follows:  
14       686C.153 *1.* When proceeding pursuant to paragraph (b) of  
15 subsection 2 of NRS 686C.152, the Association shall:

16       ~~{1.}~~ (a) With respect to ~~{life and health insurance}~~ *covered*  
17 policies ~~{and annuities,}~~ *or contracts*, ensure payment of benefits  
18 ~~{for premiums identical to the premiums and benefits, except for~~  
19 ~~terms of conversion and renewability, which}~~ *that* would have been  
20 payable under *the* policies or contracts of the insolvent insurer, for  
21 claims incurred with respect to:

22       ~~{(a)}~~ (1) A group policy or contract, not later than the earlier of  
23 the next renewal date under the policy or contract or 45 days, but in  
24 no event less than 30 days, after the date when the Association  
25 becomes obligated with respect to that policy or contract.

26       ~~{(b)}~~ (2) A nongroup policy, contract or annuity, not later than  
27 the earlier of the next renewal date, if any, under the policy, contract  
28 or annuity or 1 year, but in no event less than 30 days, after the date  
29 when the Association becomes obligated with respect to that policy,  
30 contract or annuity.

31       ~~{2.}~~ (b) Make diligent efforts to provide all known insureds ~~{or}~~  
32 , *policy or contract* owners *or enrollees* with respect to group  
33 policies or contracts, or annuitants with respect to annuities, 30  
34 days' notice of termination of the benefits provided pursuant to  
35 ~~{subsection 1.~~

36       ~~—3.}~~ *paragraph (a).*

37       (c) With respect to nongroup life ~~{and}~~ *insurance*, health  
38 insurance *or annuity* policies ~~{and annuities,}~~ *or contracts*, make  
39 available substitute coverage on an individual basis, in accordance  
40 with the provisions of subsection ~~{4.}~~ *2*, to each known insured or  
41 annuitant, or owner if other than the insured , *enrollee* or annuitant,  
42 and to each natural person formerly insured, *formerly an enrollee* or  
43 formerly an annuitant, under a group policy *or contract* who is not  
44 eligible for replacement group coverage, if the insured , *enrollee* or  
45 annuitant had a right under law or the terminated policy , *contract* or



1 annuity to convert coverage to individual coverage or to continue an  
2 individual policy , *contract* or annuity in force until a specified age  
3 or for a specified period, during which the *member* insurer had no  
4 right unilaterally to make changes in any provision of the policy ,  
5 *contract* or annuity or had a right only to make changes in premium  
6 by class.

7 ~~[4.]~~ 2. In providing the substitute coverage required under  
8 *paragraph (c) of* subsection ~~[3.]~~ 1, the Association may offer to  
9 reissue the terminated coverage or to issue an alternative policy ~~[that~~  
10 ~~must be offered]~~ *or contract at actuarially justified rates* without  
11 requiring evidence of insurability or a waiting period or exclusion  
12 that would not have applied under the terminated policy ~~[.]~~ *or*  
13 *contract* and may reinsure any alternative or reinsured policy ~~[.]~~ *or*  
14 *contract*.

15 **Sec. 19.** NRS 686C.154 is hereby amended to read as follows:

16 686C.154 1. Alternative policies *or contracts* adopted by the  
17 Association are subject to the approval of the Commissioner . ~~[and~~  
18 ~~the court in the insolvent or impaired insurer's state which has~~  
19 ~~jurisdiction over the conservation, rehabilitation or liquidation of the~~  
20 ~~insurer.]~~ The Association may adopt alternative policies *or*  
21 *contracts* of various types for future issuance without regard to any  
22 particular impairment or insolvency.

23 2. An alternative policy *or contract* must contain at least the  
24 minimum statutory provisions required in this state and provide  
25 benefits that are not unreasonable in relation to the premium  
26 charged. The Association shall set the premium in accordance with a  
27 table of rates which it shall adopt. The premium must reflect the  
28 amount of insurance to be provided and the age and class of risk of  
29 each insured, but must not reflect any changes in the health of the  
30 insured after the original policy *or contract* was last underwritten.

31 3. An alternative policy *or contract* issued by the Association  
32 must provide coverage of a type similar to that of the policy *or*  
33 *contract* issued by the impaired or insolvent insurer, as determined  
34 by the Association.

35 4. If the Association elects to reissue terminated coverage at a  
36 rate of premium different from that charged under the terminated  
37 policy ~~[.]~~ *or contract*, the premium must be set by the Association *at*  
38 *an actuarially justified amount* in accordance with the amount of  
39 insurance provided and the age and class of risk, subject to approval  
40 by the Commissioner ~~[and the court described in]~~ *pursuant to*  
41 subsection 1.

42 **Sec. 20.** NRS 686C.156 is hereby amended to read as follows:

43 686C.156 In carrying out its duties in connection with  
44 guaranteeing, assuming , *reissuing* or reinsuring a policy or contract  
45 under NRS 686C.150 and 686C.152, the Association ~~[, subject to~~



1 ~~the approval of the court in the insolvent or impaired insurer's state~~  
2 ~~which has jurisdiction over the conservation, rehabilitation or~~  
3 ~~liquidation of the insurer.]~~ may issue substitute coverage for a policy  
4 or contract that provides an interest rate, crediting rate or similar  
5 factor determined by use of an index or other external reference  
6 stated in the policy or contract employed in calculating returns or  
7 changes in value by issuing an alternative policy or contract if:

8 1. In lieu of the index or other external reference stated in the  
9 original policy or contract, the alternative policy or contract  
10 provides for a fixed interest rate, payment of dividends guaranteed  
11 as to minimum amount, or a different method of calculating interest  
12 or changes in value;

13 2. There is no requirement for evidence of insurability, waiting  
14 period or other exclusion that would not have applied under the  
15 replaced policy or contract; and

16 3. The alternative policy or contract is substantially similar to  
17 the replaced policy or contract in all other material terms.

18 **Sec. 21.** NRS 686C.160 is hereby amended to read as follows:

19 686C.160 In carrying out its responsibilities under NRS  
20 686C.152, the Association may, subject to approval by a court of  
21 this state:

22 1. Impose permanent liens on policies and contracts in  
23 connection with any guarantee, assumption or reinsurance if the  
24 Association finds that the amounts which can be assessed under this  
25 chapter are less than the amounts needed to ensure full and prompt  
26 performance of the Association's duties or that the economic or  
27 financial conditions as they affect member insurers are sufficiently  
28 adverse that the imposition of such permanent liens is in the public  
29 interest.

30 2. Impose temporary moratoriums or liens on payments of cash  
31 values and policy loans or any right to withdraw money held in  
32 conjunction with policies or contracts, in addition to any contractual  
33 provisions for deferral of paying cash value or lending against the  
34 policy ~~or~~ **or contract**. In addition, in the event of a temporary  
35 moratorium or charge imposed by the court in the insolvent or  
36 impaired insurer's state which has jurisdiction over the  
37 conservation, rehabilitation or liquidation of the insurer on such  
38 payment or lending, or on any other right to withdraw money held in  
39 conjunction with policies or contracts, the Association may defer  
40 such payment, lending or withdrawal for the period of the  
41 moratorium or charge, except for claims covered by the Association  
42 to be paid in accordance with a procedure for cases of hardship  
43 established by the liquidator or rehabilitator and approved by the  
44 court.



1       **Sec. 22.** NRS 686C.175 is hereby amended to read as follows:

2       686C.175 A deposit in this state, held pursuant to law or  
3 required by the Commissioner for the benefit of creditors, including  
4 ~~{owners of policies,}~~ , *without limitation, policy or contract*  
5 *owners, certificate holders and enrollees*, not turned over to the  
6 domiciliary receiver upon the entry of a final order of liquidation or  
7 order approving a plan of rehabilitation of ~~{an}~~ *a member* insurer  
8 domiciled in this state or a reciprocal state pursuant to NRS  
9 696B.290 or 696B.300 must be promptly paid to the Association.  
10 The Association is entitled to retain a portion of an amount so paid  
11 to it that is equal to the percentage determined by dividing the  
12 aggregate amount of ~~{policy owners'}~~ claims *by policy or contract*  
13 *owners, certificate holders and enrollees that are* related to that  
14 insolvency for which the Association has provided statutory benefits  
15 by the aggregate amount of all ~~{policy owners'}~~ claims *by policy or*  
16 *contract owners, certificate holders and enrollees* in this state  
17 related to that insolvency, and shall remit the remainder to the  
18 domiciliary receiver. The amount so remitted is a distribution of the  
19 assets of the *member* insurer for the purposes of chapter 696B of  
20 NRS.

21       **Sec. 23.** NRS 686C.190 is hereby amended to read as follows:

22       686C.190 The Association has standing:

23       1. To appear or intervene before a court or agency in this state  
24 which has jurisdiction over an impaired or insolvent insurer  
25 concerning which the Association is or may become obligated under  
26 this chapter or over any person or property against whom or which  
27 the Association may have rights through subrogation or otherwise.  
28 Its standing extends to all matters germane to the powers and duties  
29 of the Association, including proposals for reinsuring, *reissuing*,  
30 modifying or guaranteeing the policies or contracts of the impaired  
31 or insolvent insurer and the determination of the policies or  
32 contracts and contractual obligations.

33       2. To appear or intervene before a court or agency in another  
34 state which has jurisdiction over an impaired or insolvent insurer for  
35 which the Association is or may become obligated, or over any  
36 person or property against whom or which the Association may  
37 have rights through subrogation or otherwise.

38       **Sec. 24.** NRS 686C.200 is hereby amended to read as follows:

39       686C.200 1. A person receiving benefits under this chapter  
40 shall be deemed to have assigned his or her rights under, and any  
41 causes of action against any person for losses arising under,  
42 resulting from or otherwise relating to, the covered policy or  
43 contract to the Association to the extent of the benefits received  
44 because of this chapter, whether the benefits are payments of or on  
45 account of contractual obligations, continuation of coverage or



1 provision of substitute or alternative coverages. The Association  
2 may require an assignment to it of those rights and causes of action  
3 by any payee, ~~[owner of a]~~ policy or contract ~~[.]~~ *owner, certificate*  
4 *holder, enrollee*, beneficiary, insured or annuitant as a condition  
5 precedent to the receipt of any rights or benefits conferred by this  
6 chapter upon that person.

7 2. The rights of the Association to subrogation under this  
8 subsection have the same priority against the assets of the impaired  
9 or insolvent insurer as that possessed by the person entitled to  
10 receive benefits under this chapter.

11 3. In addition to the rights provided under subsections 1 and 2,  
12 the Association has all rights of subrogation at common law and any  
13 other equitable or legal remedy which would have been available to  
14 the impaired or insolvent insurer or the owner, beneficiary or payee  
15 of a policy or contract , *a certificate holder or an enrollee* with  
16 respect to the policy or contract, including, in the case of a  
17 structured settlement annuity, any rights of the owner, beneficiary or  
18 payee of the annuity, to the extent of benefits received under this  
19 chapter, against a person originally or by succession responsible for  
20 the losses arising from the personal injury relating to the annuity or  
21 payment for it, except any such person responsible solely by reason  
22 of serving as an assignee under section 130 of the Internal Revenue  
23 Code, 26 U.S.C. § 130.

24 4. If the provisions of subsections 1, 2 and 3 are invalid or  
25 ineffective with respect to any person or any claim for any reason,  
26 the amount payable to the Association with respect to the related  
27 covered obligations is reduced by the amount realized by any other  
28 person with respect to the person or claim which is attributable to  
29 the policies *or contracts* or portions thereof covered by the  
30 Association.

31 5. If the Association has provided benefits with respect to a  
32 covered obligation and a person recovers amounts as to which the  
33 Association has rights under subsections 1 to 4, inclusive, the person  
34 shall pay to the Association the portion of the recovery attributable  
35 to the policies *or contracts* or portions thereof covered by the  
36 Association.

37 **Sec. 25.** NRS 686C.210 is hereby amended to read as follows:

38 686C.210 1. The benefits that the Association may become  
39 obligated to cover may not exceed the lesser of:

40 (a) The contractual obligations for which the *member* insurer is  
41 liable or would have been liable if it were not an impaired or  
42 insolvent insurer;

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



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

4 (2) Two hundred fifty thousand dollars in the present value  
5 of benefits from annuities, including net cash for surrender and  
6 withdrawal;

7 (c) With respect to health insurance for any one life:

8 (1) One hundred thousand dollars for coverages other than  
9 disability *income* insurance, *health benefit plans* or long-term care  
10 insurance, ~~[basic hospital, medical and surgical insurance or major~~  
11 ~~medical insurance,]~~ including any net cash for surrender or  
12 withdrawal;

13 (2) Three hundred thousand dollars for disability *income*  
14 insurance or long-term care insurance; or

15 (3) Five hundred thousand dollars for ~~[basic hospital,~~  
16 ~~medical and surgical insurance or major medical insurance,]~~ *health*  
17 *benefit plans*;

18 (d) With respect to each payee of a structured settlement  
19 annuity, or beneficiary or beneficiaries of the payee if deceased,  
20 \$250,000 in present value of benefits from the annuity in the  
21 aggregate, including any net cash for surrender or withdrawal; or

22 (e) With respect to each participant in a governmental retirement  
23 plan covered by an unallocated annuity contract which is owned by  
24 a governmental retirement plan established under section 401,  
25 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401,  
26 403(b) and 457, respectively, or the trustees of such a plan, and  
27 which is approved by the Commissioner, an aggregate of \$250,000  
28 in present-value annuity benefits, including the value of net cash for  
29 surrender and net cash for withdrawal, regardless of the number of  
30 contracts.

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

32 (a) With respect to any one life or person under paragraphs (b)  
33 to (e), inclusive, of subsection 1:

34 (1) An aggregate of \$300,000 in benefits, excluding benefits  
35 for ~~[basic hospital, medical and surgical insurance or major medical~~  
36 ~~insurance,]~~ *health benefit plans*; or

37 (2) An aggregate of \$500,000 in benefits, including benefits  
38 for ~~[basic hospital, medical and surgical insurance or major medical~~  
39 ~~insurance,]~~ *health benefit plans*.

40 (b) With respect to one owner of several nongroup policies of  
41 life insurance, whether the owner is a natural person or an  
42 organization and whether the persons insured are officers, managers,  
43 employees or other persons, more than \$5,000,000 in benefits,  
44 regardless of the number of policies and contracts held by the  
45 owner.





1 3. The limitations set forth in this section are limitations on the  
2 benefits for which the Association is obligated before taking into  
3 account its rights to subrogation or assignment or the extent to  
4 which those benefits could be provided out of the assets of the  
5 impaired or insolvent insurer attributable to covered policies **[H] or**  
6 **contracts**. The cost of the Association's obligations under this  
7 chapter may be met by the use of assets attributable to covered  
8 policies **[H] or contracts**, or reimbursed to the Association pursuant  
9 to its rights to subrogation or assignment.

10 4. In performing its obligation to provide coverage under NRS  
11 686C.150 and 686C.152, the Association need not guarantee,  
12 assume, reinsure , **reissue** or perform, or cause to be guaranteed,  
13 assumed, reinsured , **reissued** or performed, the contractual  
14 obligations of the impaired or insolvent insurer under a covered  
15 policy or contract which do not materially affect the economic value  
16 or economic benefits of the covered policy or contract.

17 **5. As used in this section, "health benefit plan" has the**  
18 **meaning ascribed to it in NRS 687B.470.**

19 **Sec. 26.** NRS 686C.220 is hereby amended to read as follows:  
20 686C.220 The Association may:

21 1. Enter into such contracts as are necessary or proper to carry  
22 out the provisions and purposes of this chapter.

23 2. Sue or be sued, including the taking of any legal action  
24 necessary or proper for recovery of any unpaid assessments under  
25 NRS 686C.230 or to settle claims or potential claims against it.

26 3. Borrow money to effect the purposes of this chapter. Any  
27 notes or other evidence of indebtedness of the Association not in  
28 default are legal investments for domestic **member** insurers and may  
29 be carried as admitted assets.

30 4. Employ or retain such persons as are necessary or  
31 appropriate to handle the financial transactions of the Association,  
32 and to perform such other functions as become necessary or proper  
33 under this chapter.

34 5. Take such legal action as may be necessary or appropriate to  
35 avoid or recover payment of improper claims.

36 6. Exercise, for the purposes of this chapter and to the extent  
37 approved by the Commissioner, the powers of a domestic life or  
38 health insurer **[H] or health maintenance organization**, but in no  
39 case may the Association issue insurance policies or annuities other  
40 than those issued to perform its contractual obligations under this  
41 chapter.

42 7. Join an organization of one or more other state associations  
43 having similar purposes, to further the purposes and administer the  
44 powers and duties of the Association.



1 8. Organize itself as a corporation or in other legal form  
2 permitted by the laws of this state.

3 9. Request information from a person seeking coverage from  
4 the Association to aid the Association in determining its obligations  
5 under this chapter with respect to the person, and the person shall  
6 promptly comply with the request.

7 10. *Except where otherwise provided by law, in accordance*  
8 *with the terms and conditions of the applicable policy or contract,*  
9 *file for actuarially justified rate or premium increases for any*  
10 *policy for which the Association provides coverage under the*  
11 *provisions of this chapter.*

12 11. Take other necessary or appropriate action to perform its  
13 duties and discharge its obligations under this chapter or to exercise  
14 its power under this chapter.

15 **Sec. 27.** NRS 686C.223 is hereby amended to read as follows:

16 686C.223 1. As used in this section, "coverage date" means  
17 the date on which the Association becomes liable for the obligations  
18 of a member insurer.

19 2. At any time after the coverage date, the Association may  
20 elect to succeed to the rights and obligations of the member insurer  
21 which accrue on or after the coverage date and relate to *policies or*  
22 contracts covered, in whole or in part, by the Association under any  
23 one or more agreements for indemnity reinsurance entered into by  
24 the member insurer as ceding insurer and selected by the  
25 Association. However, the Association may not exercise its right of  
26 election with respect to an agreement for reinsurance if the receiver,  
27 rehabilitator or liquidator of the member insurer has previously  
28 expressly disaffirmed the agreement. The election must be effected  
29 by a notice to the receiver, rehabilitator or liquidator and the  
30 affected reinsurers. If the Association makes such an election:

31 (a) The Association is responsible for all unpaid premiums due  
32 under each agreement for periods both before and after the coverage  
33 date, and for the performance of all other obligations to be  
34 performed after the coverage date, in each case which relates to a  
35 *policy or* contract covered in whole or in part by the Association.  
36 The Association may charge a *policy or* contract covered in part by  
37 it, through reasonable methods of allocation, for the costs of  
38 reinsurance in excess of the obligations of the Association.

39 (b) The Association is entitled to any amount payable by the  
40 reinsurer under each agreement with respect to losses or events that  
41 occur in periods after the coverage date and relate to *policies or*  
42 contracts covered in whole or in part by the Association, but upon  
43 receipt of any such amount, the Association is obligated to pay, to  
44 the beneficiary under the *policy or* contract on account of which the  
45 amount was paid, that portion of the amount received by the



1 Association that exceeds the benefits paid by the Association on  
2 account of the *policy or* contract less the retention by the impaired  
3 or insolvent ~~member~~ insurer applicable to the loss or event.

4 (c) The Association and each reinsurer shall, within 30 days  
5 after the election, calculate the net balance due to or from the  
6 Association under each agreement as of the date of the election,  
7 giving full credit for all items paid by the member insurer or its  
8 receiver, rehabilitator or liquidator, or the reinsurer, between the  
9 coverage date and the date of the election. The Association or  
10 the reinsurer shall pay the net balance within 5 days after the  
11 completion of the calculation. If a receiver, rehabilitator or  
12 liquidator has received any amount due the Association pursuant to  
13 paragraph (b), the recipient shall remit the amount to the  
14 Association as promptly as practicable.

15 (d) The reinsurer may not terminate an agreement for  
16 reinsurance insofar as it relates to *policies or* contracts covered by  
17 the Association in whole or in part, or set off any unpaid premium  
18 due for a period before the coverage date against the amount due the  
19 Association, if the Association, within 60 days after the election,  
20 pays the premiums due for periods both before and after the  
21 coverage date which relate to such *policies or* contracts.

22 3. If the Association transfers its obligation to another insurer,  
23 and the Association and the other insurer so agree, the other insurer  
24 succeeds to the rights and obligations of the Association under  
25 subsection 2 effective as of the agreed date, whether or not the  
26 Association has made the election described in subsection 2, except  
27 that:

28 (a) An agreement for indemnity reinsurance automatically  
29 terminates as to new reinsurance unless the reinsurer and the other  
30 insurer agree to the contrary;

31 (b) The obligation of the Association to the beneficiary under  
32 paragraph (b) of subsection 2 ceases on the date of the transfer to the  
33 other insurer; and

34 (c) This subsection does not apply if the Association has  
35 previously expressly determined in writing that it will not exercise  
36 its right of election under subsection 2.

37 4. The provisions of this section supersede an affected  
38 agreement for reinsurance which provides for or requires payment  
39 of proceeds of reinsurance, on account of a loss or event that occurs  
40 after the coverage date, to the receiver, rehabilitator or liquidator of  
41 the insolvent ~~member~~ insurer. The receiver, rehabilitator or  
42 liquidator remains entitled to any amounts payable by the reinsurer  
43 under the agreement with respect to losses or events that occur  
44 before the coverage date, subject to any applicable setoff.



1 5. Except as otherwise expressly provided, this section does  
2 not alter or modify the terms or conditions of any agreement of the  
3 insolvent insurer for reinsurance, abrogate or limit any right of a  
4 reinsurer to rescind an agreement for reinsurance, or give an owner  
5 or beneficiary of a policy *or contract* an independent cause of action  
6 against a reinsurer under an agreement for indemnity reinsurance  
7 that is not otherwise set forth in the agreement.

8 **Sec. 28.** NRS 686C.224 is hereby amended to read as follows:

9 686C.224 1. At any time within 180 days after the date of an  
10 order of liquidation, the Association may elect to succeed to the  
11 rights and obligations of the ceding member insurer that relate to  
12 policies or ~~[annuities]~~ *contracts* covered, in whole or in part, by the  
13 Association, in each case under any one or more reinsurance  
14 contracts entered into by the insolvent insurer and its reinsurers and  
15 selected by the Association. Any such assumption must be effective  
16 on the date of the order of liquidation. The election must be carried  
17 out by the Association sending written notice, return receipt  
18 requested, to the affected reinsurers.

19 2. To facilitate the earliest practicable decision about whether  
20 to assume any of the contracts of reinsurance, and to protect the  
21 financial position of the estate, the receiver and each reinsurer of  
22 the ceding *member* insurer shall make available upon request to the  
23 Association as soon as possible after commencement of formal  
24 delinquency proceedings:

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

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

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

33 (a) The Association is responsible for all unpaid premiums due  
34 pursuant to the reinsurance contracts for periods both before and  
35 after the date of the order of liquidation, and is responsible for the  
36 performance of all other obligations to be performed after the date  
37 of the order of liquidation, in each case which relates to policies or  
38 ~~[annuities]~~ *contracts* covered, in whole or in part, by the  
39 Association. The Association may charge policies or ~~[annuities]~~  
40 *contracts* covered in part by the Association, through reasonable  
41 allocation methods, the costs for reinsurance in excess of the  
42 obligations of the Association and shall provide notice and an  
43 accounting of these changes to the liquidator.

44 (b) The Association may be entitled to any amounts payable by  
45 the reinsurer pursuant to the reinsurance contracts with respect to



1 losses or events that occur in periods after the date of the order of  
2 liquidation and which relate to policies or **{annuities} contracts**  
3 covered, in whole or in part, by the Association, provided that, upon  
4 receipt of any such amounts, the Association is obligated to pay to  
5 the beneficiary, under the policy or **{annuity} contract** on account of  
6 which the amounts were paid, a portion of the amount equal to the  
7 lesser of:

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

9 (2) The excess of the amount received by the Association  
10 over the amount equal to the benefits paid by the Association on  
11 account of the policy or **{annuity,} contract**, less the retention of the  
12 **member** insurer applicable to the loss or event.

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

33 (d) If the Association or receiver, on the Association's behalf,  
34 within 60 days after the election date, pays the unpaid premiums due  
35 for periods both before and after the election date that relate to  
36 policies or **{annuities} contracts** covered, in whole or in part, by the  
37 Association, the reinsurer is not entitled to terminate the reinsurance  
38 contracts for failure to pay premiums insofar as the reinsurance  
39 contracts relate to policies or **{annuities} contracts** covered, in whole  
40 or in part, by the Association, and is not entitled to set off any  
41 unpaid amounts due pursuant to the other contracts, or unpaid  
42 amounts due from parties other than the Association, against  
43 amounts due to the Association.



1     **Sec. 29.** NRS 686C.2245 is hereby amended to read as  
2 follows:

3     686C.2245 When policies or ~~[annuities,]~~ *contracts*, or covered  
4 obligations with respect thereto, are transferred to an assuming  
5 insurer, reinsurance on the policies or ~~[annuities]~~ *contracts* may also  
6 be transferred by the Association, in the case of *policies or* contracts  
7 assumed under NRS 686C.224, subject to the following:

8     1. Unless the reinsurer and the assuming insurer agree  
9 otherwise, the reinsurance contract transferred must not cover any  
10 new policies ~~[of insurance or annuities]~~ *or contracts* in addition to  
11 those transferred.

12     2. The obligations described in NRS 686C.224 no longer apply  
13 with respect to matters arising after the effective date of the transfer.

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

17     **Sec. 30.** NRS 686C.2249 is hereby amended to read as  
18 follows:

19     686C.2249 1. Except as otherwise provided in NRS  
20 686C.130 to 686C.226, inclusive, nothing in NRS 686C.224 to  
21 686C.2249, inclusive, shall alter or modify the terms and conditions  
22 of any reinsurance contract.

23     2. Nothing in this section shall:

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

26     (b) Give a ~~[policyholder]~~ *policy or contract owner, certificate*  
27 *holder, enrollee* or beneficiary an independent cause of action  
28 against a reinsurer that is not otherwise set forth in the reinsurance  
29 contract;

30     (c) Limit or affect the Association's rights as a creditor of the  
31 estate against the assets of the estate; or

32     (d) Apply to reinsurance agreements covering property or  
33 casualty risks.

34     **Sec. 31.** NRS 686C.225 is hereby amended to read as follows:

35     686C.225 The Association's obligations with respect to  
36 coverage under any policy *or contract* of the impaired or insolvent  
37 insurer or under any reissued or alternative policy *or contract* ceases  
38 on the date the ~~[coverage or]~~ policy *or contract* is replaced by  
39 another similar policy *or contract* by the ~~[policyholder, the insured]~~  
40 *policy or contract owner, certificate holder or enrollee* or the  
41 Association.

42     **Sec. 32.** NRS 686C.240 is hereby amended to read as follows:

43     686C.240 1. The Board of Directors of the Association shall  
44 determine the amount of each assessment in Class A and may, but  
45 need not, prorate it. If an assessment is prorated, the Board may



1 provide that any surplus be credited against future assessments in  
2 Class B. An assessment which is not prorated must not exceed \$500  
3 for each member insurer for any 1 calendar year.

4 2. The *Board may determine the amount of each assessment*  
5 *in Class B for long-term care insurance written by an impaired or*  
6 *insolvent insurer according to a methodology included in the plan*  
7 *of operation established and approved pursuant to NRS 686C.290.*  
8 *The methodology must provide for the imposition of:*

9 (a) *One-half of the assessment on member insurers that*  
10 *primarily provide accident and health insurance; and*

11 (b) *One-half of the assessment on member insurers that*  
12 *primarily provide life insurance and annuities.*

13 3. *Except as otherwise provided in subsection 5, the Board*  
14 *may allocate any assessment in Class B among the accounts and*  
15 *among the subaccounts of the Life and Annuity Account*  
16 *according to a formula based on the premiums or reserves of the*  
17 *impaired or insolvent insurer or any other standard which ~~is~~ the*  
18 *Board, in its sole discretion, considers fair and reasonable under the*  
19 *circumstances.*

20 ~~{3.—Assessments}~~

21 4. *Except as otherwise provided in subsection 5, assessments*  
22 *in Class B against member insurers for each account and subaccount*  
23 *must be in the proportion that the premiums received on business in*  
24 *this State by each assessed member insurer on policies or contracts*  
25 *covered by each account or subaccount for the 3 most recent*  
26 *calendar years for which information is available preceding the year*  
27 *in which the insurer became impaired or insolvent bears to*  
28 *premiums received on business in this State for those calendar years*  
29 *by all assessed member insurers.*

30 5. *The Board shall allocate to:*

31 (a) *The Life and Annuity Account the percentage of an*  
32 *assessment in Class B for long-term care insurance written by an*  
33 *impaired or insolvent insurer that is equal to the quotient of:*

34 (1) *The difference between 0.5 and the percentage of the*  
35 *Health Account that was contributed by member insurers that*  
36 *primarily provide life insurance and annuities; and*

37 (2) *The difference between the percentage of the Life and*  
38 *Annuity Account that was contributed by member insurers that*  
39 *primarily provide life insurance and annuities and the percentage*  
40 *of the Health Account that was contributed by such member*  
41 *insurers.*

42 (b) *The Health Account the remainder of an assessment in*  
43 *Class B for long-term care insurance written by an impaired or*  
44 *insolvent insurer that is not allocated to the Life and Annuity*  
45 *Account pursuant to paragraph (a).*



1 ~~[4.]~~ 6. Assessments for money to meet the requirements of the  
2 Association with respect to an impaired or insolvent insurer must  
3 not be authorized or called until necessary to carry out the purposes  
4 of this chapter. Classification of assessments under subsection 2 of  
5 NRS 686C.230 and computation of assessments under this section  
6 must be made with a reasonable degree of accuracy, recognizing  
7 that exact determinations may not always be possible. The  
8 Association shall notify each member insurer of its anticipated  
9 prorated share of an assessment authorized but not yet called within  
10 180 days after it is authorized.

11 7. *For the purposes of this section, a member insurer shall be*  
12 *deemed to:*

13 (a) *Primarily provide life insurance and annuities if the sum of*  
14 *the accessible in-state life insurance premiums and annuity*  
15 *premiums of the member insurer is equal to or greater than the*  
16 *accessible in-state health insurance premiums of the member*  
17 *insurer. For the purposes of this paragraph, health insurance*  
18 *premiums:*

19 (1) *Include, without limitation, premiums for health*  
20 *maintenance organization coverage; and*

21 (2) *Do not include premiums for disability income and*  
22 *long-term care insurance.*

23 (b) *Primarily provide health insurance if the member insurer*  
24 *is not a member insurer described in paragraph (a).*

25 **Sec. 33.** NRS 686C.250 is hereby amended to read as follows:

26 686C.250 1. The Association may abate or defer, in whole or  
27 in part, the assessment of a member insurer if, in the opinion of the  
28 Board of Directors, payment of the assessment would endanger the  
29 ability of the member insurer to fulfill its contractual obligations. If  
30 an assessment against a member insurer is abated or deferred in  
31 whole or in part, the amount by which that assessment is abated or  
32 deferred may be assessed against the other member insurers in a  
33 manner consistent with the basis for assessments set forth in this  
34 section. As soon as the conditions that caused a deferral have been  
35 removed or rectified, the member insurer shall pay all assessments  
36 that were deferred pursuant to a plan of repayment approved by the  
37 Association.

38 2. Except as otherwise provided in subsection 3, the total of all  
39 assessments authorized by the Association with respect to a member  
40 insurer for:

41 (a) The *Life and Annuity* Account ~~[for Life Insurance and~~  
42 ~~Annuities]~~ and each of its subaccounts; and

43 (b) The *Health* Account, ~~[for Health Insurance,]~~  
44 ↪ respectively must not in any 1 calendar year exceed 2 percent of  
45 the *member* insurer's average annual premiums received in this state





1 on the policies and contracts covered by the subaccount or account  
2 during the 3 calendar years preceding the year in which the *member*  
3 insurer became impaired or insolvent.

4 3. If two or more assessments are authorized in 1 calendar year  
5 with respect to *member* insurers that became impaired or insolvent  
6 in different calendar years, the average annual premiums received  
7 for the purposes of the limitation provided in subsection 2 are equal  
8 and limited to the higher of the 3-year annual premiums for the  
9 applicable account or subaccount as calculated pursuant to this  
10 section.

11 4. If the maximum assessment, together with the other assets of  
12 the Association in an account, does not provide in any 1 year in  
13 either account an amount sufficient to carry out the responsibilities  
14 of the Association, the necessary additional money must be assessed  
15 as soon thereafter as permitted by this chapter.

16 5. If the maximum assessment for a subaccount of the *Life and*  
17 *Annuity* Account ~~{for Life Insurance and Annuities}~~ in any 1 year  
18 does not provide an amount sufficient to carry out the  
19 responsibilities of the Association, then pursuant to subsection ~~{3}~~ 4  
20 of NRS 686C.240, the Board shall assess the other subaccount for  
21 the necessary additional amount, subject to the maximum stated in  
22 subsection 2.

23 6. The Board may provide in the plan of operation a method of  
24 allocating funds among claims, whether relating to one or more  
25 impaired or insolvent insurers, when the maximum assessment is  
26 insufficient to cover anticipated claims.

27 **Sec. 34.** NRS 686C.260 is hereby amended to read as follows:

28 686C.260 The Board of Directors may, by an equitable method  
29 as established in the plan of operation, refund to member insurers, in  
30 proportion to the contribution of each *member* insurer to that  
31 account, the amount by which the assets of the account exceed the  
32 amount the Board finds is necessary to carry out during the coming  
33 year the obligations of the Association with regard to that account,  
34 including assets accruing from assignment, subrogation, net realized  
35 gains and income from investments. A reasonable amount may be  
36 retained in any account to provide funds for the continuing expenses  
37 of the Association and for future claims.

38 **Sec. 35.** NRS 686C.270 is hereby amended to read as follows:

39 686C.270 It is proper for any member insurer, in determining  
40 its rates of premium and dividends to owners of policies *or*  
41 *contracts* as to any kind of insurance *or coverage offered by a*  
42 *health maintenance organization* within the scope of this chapter,  
43 to consider the amount reasonably necessary to meet its obligations  
44 for assessment under this chapter.



1       **Sec. 36.** NRS 686C.280 is hereby amended to read as follows:

2       686C.280 1. The Association shall issue to each *member*  
3 insurer paying an assessment under this chapter, other than an  
4 assessment in Class A, a certificate of contribution, in a form  
5 prescribed by the Commissioner, for the amount of the assessment  
6 so paid. All outstanding certificates are of equal dignity and priority  
7 without reference to amounts or dates of issue. A member insurer  
8 may show a certificate of contribution as an asset in its financial  
9 statement in such form, for such amount, if any, and for such period  
10 as the Commissioner may approve.

11       2. A member insurer may offset against its liability for  
12 premium tax to this state, accrued with respect to business  
13 transacted in a calendar year, an amount equal to 20 percent of the  
14 amount certified pursuant to subsection 1 in each of the 5 calendar  
15 years following the year in which the assessment was paid. If ~~an~~ *a*  
16 *member* insurer ceases to transact business, it may offset all  
17 uncredited assessments against its liability for premium tax for the  
18 year in which it so ceases.

19       3. *A member insurer that is exempt from its liability for*  
20 *premium tax described in subsection 2 may recoup its assessments*  
21 *under this chapter by imposing a surcharge on its premiums in an*  
22 *amount approved by the Commissioner. The Commissioner shall*  
23 *approve such a surcharge upon determining that the amount of*  
24 *the surcharge is reasonably calculated to recoup the assessments*  
25 *over a reasonable period of time. Any amount recouped under this*  
26 *subsection shall not be deemed to constitute a premium for any*  
27 *purpose relating to this Code.*

28       4. *If a member insurer recoups a larger amount through a*  
29 *surcharge imposed pursuant to subsection 3 than it paid in*  
30 *assessments over a period of time prescribed in the plan of*  
31 *operation established and approved pursuant to NRS 686C.290,*  
32 *the member insurer shall remit the excess amount to the*  
33 *Association. The Association shall apply such excess amounts to*  
34 *reduce future assessments in the appropriate account in*  
35 *accordance with the plan of operation.*

36       5. Any sum acquired by refund from the Association pursuant  
37 to NRS 686C.260 which previously had been written off by the  
38 contributing *member* insurer and offset against premium taxes as  
39 provided in subsection 2 must be paid to the Department of Taxation  
40 and deposited by it with the State Treasurer for credit to the State  
41 General Fund. The Association shall notify the Commissioner and  
42 the Department of Taxation of each refund made.

43       **Sec. 37.** NRS 686C.290 is hereby amended to read as follows:

44       686C.290 1. The Association shall submit to the  
45 Commissioner a plan of operation and any amendments thereto



1 necessary or suitable to ensure the fair, reasonable and equitable  
2 administration of the Association. The plan of operation and any  
3 amendments thereto become effective upon approval in writing by  
4 the Commissioner, or 30 days after submission if the Commissioner  
5 has not disapproved them. All member insurers shall comply with  
6 the plan of operation.

7 2. If at any time the Association fails to submit suitable  
8 amendments to the plan, the Commissioner shall adopt, after notice  
9 and hearing, such reasonable regulations as are necessary or  
10 advisable to effectuate the provisions of this chapter. The  
11 regulations continue in force until modified by the Commissioner or  
12 superseded by a plan submitted by the Association and approved by  
13 the Commissioner.

14 3. In addition to satisfying the other requirements of this  
15 chapter, the plan of operation must:

16 (a) Establish procedures for handling the assets of the  
17 Association.

18 (b) Establish the amount and method of reimbursing members of  
19 the Board of Directors under NRS 686C.140.

20 (c) Establish regular places and times for meetings of the Board.

21 (d) Establish procedures for records to be kept of all financial  
22 transactions of the Association, its agents and the Board.

23 (e) Establish the procedures whereby selections for the Board  
24 will be made and submitted to the Commissioner.

25 (f) Establish *the methodology required by subsection 2 of NRS*  
26 *686C.240 and* any additional procedures for assessments under  
27 NRS 686C.230 to 686C.270, inclusive.

28 (g) *Establish the period of time over which a member insurer*  
29 *must determine whether the member insurer has recouped an*  
30 *excess amount pursuant to subsection 4 of NRS 686C.280, the*  
31 *manner in which the member insurer must remit any excess*  
32 *amount to the Association and the manner in which the*  
33 *Association must apply any such excess amount to reduce future*  
34 *assessments.*

35 (h) Contain additional provisions necessary or proper for the  
36 execution of the powers and duties of the Association.

37 4. The plan of operation may provide that any or all powers  
38 and duties of the Association, except those under subsection 3 of  
39 NRS 686C.220 and NRS 686C.230 to 686C.285, inclusive, are  
40 delegated to a corporation, Association or other organization which  
41 performs or will perform functions similar to those of this  
42 Association, or its equivalent, in two or more states. Such an  
43 organization must be reimbursed for any payments made on behalf  
44 of the Association and paid for its performance of any function of  
45 the Association. A delegation under this subsection takes effect only



1 with the approval of the Board of directors and the Commissioner,  
2 and may be made only to an organization that extends protection not  
3 substantially less favorable and effective than that provided by this  
4 chapter.

5 **Sec. 38.** NRS 686C.300 is hereby amended to read as follows:

6 686C.300 1. In addition to the duties and powers otherwise  
7 provided in this chapter, the Commissioner:

8 (a) Shall, upon request of the Board of Directors, provide the  
9 Association with a statement of the premiums in this and any other  
10 appropriate states for each member insurer.

11 (b) Shall, when an impairment is declared and the amount of the  
12 impairment is determined, serve a demand upon the impaired  
13 insurer to make good the impairment within a reasonable time.  
14 Notice to the insurer is notice to its stockholders, if any. The failure  
15 of the insurer to comply with such demand promptly does not  
16 excuse the Association from the performance of its powers and  
17 duties under this chapter.

18 (c) Must, in any liquidation or rehabilitation involving a  
19 domestic *member* insurer, be appointed as the liquidator or  
20 rehabilitator.

21 2. The Commissioner may suspend or revoke, after notice and  
22 hearing, the certificate of authority to transact insurance *or operate*  
23 *a health maintenance organization* in this state , *as applicable*, of  
24 any member insurer which fails to pay an assessment when due or  
25 fails to comply with the plan of operation. As an alternative, the  
26 Commissioner may levy a forfeiture on any member insurer which  
27 fails to pay an assessment when due. The forfeiture may not exceed  
28 5 percent of the unpaid assessment per month, but no forfeiture may  
29 be less than \$100 per month.

30 3. A final action of the Board of Directors or the Association  
31 may be appealed to the Commissioner by any member insurer if the  
32 appeal is taken within 60 days after the insurer receives notice of the  
33 final action. A final action or order of the Commissioner is subject  
34 to judicial review in a court of competent jurisdiction pursuant to the  
35 procedure provided in chapter 233B of NRS for contested cases.

36 4. The liquidator, rehabilitator or conservator of any impaired  
37 insurer may notify all interested persons of the effect of this chapter.

38 **Sec. 39.** NRS 686C.306 is hereby amended to read as follows:

39 686C.306 1. The Commissioner shall notify the  
40 commissioners of insurance of all the other states within 30 days  
41 after the Commissioner takes any of the following actions against a  
42 member insurer:

43 (a) Revokes a member insurer's license;

44 (b) Suspends a member insurer's license; or



1 (c) Makes any formal order that a member insurer is to restrict  
2 its premium writing, obtain additional contributions to surplus,  
3 withdraw from the state, reinsure all or any part of its business, or  
4 increase capital, surplus, or any other account for the security of the  
5 owners of its policies *or contracts* or its creditors.

6 2. The Commissioner shall report to the Board of Directors  
7 when the Commissioner has taken any of the actions set forth in  
8 subsection 1, or has received a report from any other commissioner  
9 indicating that any such action has been taken in another state. The  
10 report to the Board must contain all significant details of the action  
11 taken or the report received from another commissioner.

12 3. The Commissioner shall report to the Board of Directors  
13 when the Commissioner has reasonable cause to believe from an  
14 examination of a member insurer, whether completed or in process,  
15 that the insurer may be impaired or insolvent.

16 4. The Commissioner shall furnish to the Board the ratios of  
17 the "Insurance Regulatory Information System" developed by the  
18 National Association of Insurance Commissioners and listings of  
19 companies not included in those ratios, and the Board may use the  
20 information contained therein in carrying out its duties and  
21 responsibilities under this chapter. Such reports and the information  
22 contained therein must be kept confidential by the Board until such  
23 time as made public by the Commissioner or other lawful authority.

24 **Sec. 40.** NRS 686C.310 is hereby amended to read as follows:

25 686C.310 1. The Board of Directors may, upon majority  
26 vote, notify the Commissioner of any information indicating any  
27 member insurer may be impaired or insolvent.

28 2. The Board may, upon majority vote, make reports and  
29 recommendations to the Commissioner upon any matter germane to  
30 the solvency, liquidation, rehabilitation or conservation of any  
31 member insurer or germane to the solvency of any person seeking  
32 admission to transact insurance *or operate a health maintenance*  
33 *organization* in this state. These reports and recommendations are  
34 not open to public inspection.

35 3. The Commissioner may seek the advice and  
36 recommendations of the Board concerning any matter affecting the  
37 duties and responsibilities of the Commissioner regarding the  
38 financial condition of member insurers and of persons seeking  
39 admission to transact insurance *or operate a health maintenance*  
40 *organization* in this state.

41 4. The Board may, upon majority vote, make recommendations  
42 to the Commissioner for the detection and prevention of the  
43 insolvency of *member* insurers.



1       **Sec. 41.** NRS 686C.330 is hereby amended to read as follows:  
2       686C.330 1. This chapter does not reduce the liability for  
3       unpaid assessments of the insureds of an impaired insurer operating  
4       under a plan with liability for assessments.

5       2. Records must be kept of all meetings of the Board of  
6       Directors to discuss the activities of the Association in carrying out  
7       its powers and duties under NRS 686C.150 to 686C.220, inclusive.  
8       The records of the Association with respect to an impaired or  
9       insolvent insurer may not be disclosed before the termination of a  
10      proceeding for liquidation, rehabilitation or conservation involving  
11      the impaired or insolvent insurer or the termination of the  
12      impairment or insolvency of the insurer, except upon the order of a  
13      court of competent jurisdiction. This subsection does not limit the  
14      duty of the Association to render a report of its activities under  
15      NRS 686C.350.

16     3. For the purpose of carrying out its obligations under this  
17     chapter, the Association shall be deemed to be a creditor of the  
18     impaired or insolvent insurer to the extent of assets attributable to  
19     covered policies reduced by any amounts to which the Association  
20     is entitled as subrogee pursuant to NRS 686C.200. Assets of the  
21     impaired or insolvent insurer attributable to covered policies *or*  
22     *contracts* must be used to continue all covered policies *and*  
23     *contracts* and pay all contractual obligations of the impaired or  
24     insolvent insurer as required by this chapter. Assets attributable to  
25     covered policies ~~and~~ *or contracts*, as used in this subsection, are that  
26     proportion of the assets which the reserves that should have been  
27     established for covered policies *or contracts* bear to the reserves  
28     that should have been established for all policies of insurance  
29     written by the impaired or insolvent insurer.

30     4. As a creditor of the impaired or insolvent insurer under  
31     subsection 3 and consistent with NRS 696B.415, the Association  
32     and other similar associations are entitled to receive a disbursement  
33     out of the marshaled assets, from time to time as the assets become  
34     available to reimburse it, as a credit against contractual obligations  
35     under this chapter. If the liquidator has not, within 120 days after a  
36     final determination of insolvency of ~~an~~ *a member* insurer by the  
37     court in the insolvent or impaired insurer's state which has  
38     jurisdiction over the conservation, rehabilitation or liquidation of the  
39     *member* insurer, made an application to the court for the approval of  
40     a proposal to disburse assets out of marshaled assets to guaranty  
41     associations having obligations because of the insolvency, the  
42     Association is entitled to make application to the court for approval  
43     of its own proposal to disburse those assets.

44     5. Before the termination of any proceeding for liquidation,  
45     rehabilitation or conservation, the court may take into consideration



1 the contributions of the respective parties, including the Association,  
2 the shareholders ~~[and]~~, *policy or contract* owners ~~[of policies and~~  
3 ~~contracts]~~, *certificate holders and enrollees* of the impaired or  
4 insolvent insurer, and any other party with a bona fide interest, in  
5 making an equitable distribution of the ownership of the impaired or  
6 insolvent insurer. In making such a determination, consideration  
7 must be given to the welfare of the owners of policies issued by the  
8 continuing or successor insurer. No distribution to stockholders, if  
9 any, of an impaired or insolvent insurer may be made until the total  
10 amount of valid claims of the Association, with interest thereon, for  
11 money expended in exercising its powers and performing its duties  
12 under NRS 686C.150 to 686C.155, inclusive, with respect to that  
13 insurer have been fully recovered by the Association.

14 **Sec. 42.** NRS 686C.333 is hereby amended to read as follows:

15 686C.333 1. If an order for liquidation or rehabilitation of  
16 ~~[an]~~ *a member* insurer domiciled in this state has been entered, the  
17 receiver appointed under such order is entitled to recover on behalf  
18 of the *member* insurer, from any affiliate that controlled it, the  
19 amount of distributions, other than stock dividends paid by the  
20 *member* insurer on its capital stock, made at any time during the 5  
21 years preceding the petition for liquidation or rehabilitation, subject  
22 to the limitations of subsections 2, 3 and 4.

23 2. No distribution is recoverable if the *member* insurer shows  
24 that when paid the distribution was lawful and reasonable, and that  
25 the *member* insurer did not know and could not reasonably have  
26 known that the distribution might adversely affect the ability of the  
27 *member* insurer to fulfill its contractual obligations.

28 3. Any person who was an affiliate that controlled the *member*  
29 insurer at the time the distributions were paid is liable up to the  
30 amount of distributions the person received. Any person who was an  
31 affiliate that controlled the *member* insurer at the time the  
32 distributions were declared, is liable up to the amount of  
33 distributions the person would have received if they had been paid  
34 immediately. If two or more persons are liable with respect to the  
35 same distributions, they are jointly and severally liable.

36 4. The maximum amount recoverable pursuant to this  
37 subsection is the amount needed in excess of all other available  
38 assets of the impaired or insolvent insurer to pay the contractual  
39 obligations of the impaired or insolvent insurer.

40 5. If any person liable under subsection 3 is insolvent, all its  
41 affiliates that controlled it at the time the dividend was paid are  
42 jointly and severally liable for any resulting deficiency in the  
43 amount recovered from the insolvent affiliate.



1       **Sec. 43.** NRS 686C.390 is hereby amended to read as follows:

2       686C.390 It is unlawful for ~~an~~ *a member* insurer, agent or  
3 affiliate of ~~an~~ *a member* insurer, or other person to make, publish,  
4 circulate or place before the public, or cause any other person to do  
5 so, in any publication, notice, circular, letter or poster, or over any  
6 radio or television station, any advertisement or statement, written  
7 or oral, which uses the existence of the Association for the sale,  
8 solicitation or inducement to purchase any form of insurance *or*  
9 *coverage offered by a health maintenance organization that is*  
10 covered by the Association. This section does not apply to the  
11 association or any other person that does not sell or solicit insurance  
12 ~~or coverage offered by a health maintenance organization.~~

13       **Sec. 44.** NRS 689A.540 is hereby amended to read as follows:

14       689A.540 ~~“Health benefit plan” means a policy,~~  
15 ~~contract, certificate or agreement offered by a carrier to provide for,~~  
16 ~~deliver payment for, arrange for the payment of, pay for or~~  
17 ~~reimburse any of the costs of health care services. Except as~~  
18 ~~otherwise provided in this section, the term includes catastrophic~~  
19 ~~health insurance policies and a policy that pays on a cost incurred~~  
20 ~~basis.~~

- 21       ~~2. The term does not include:~~  
22       ~~—(a) Coverage that is only for accident or disability income~~  
23 ~~insurance, or any combination thereof;~~  
24       ~~—(b) Coverage issued as a supplement to liability insurance;~~  
25       ~~—(c) Liability insurance, including general liability insurance and~~  
26 ~~automobile liability insurance;~~  
27       ~~—(d) Workers’ compensation or similar insurance;~~  
28       ~~—(e) Coverage for medical payments under a policy of automobile~~  
29 ~~insurance;~~  
30       ~~—(f) Credit insurance;~~  
31       ~~—(g) Coverage for on site medical clinics;~~  
32       ~~—(h) Other similar insurance coverage specified in federal~~  
33 ~~regulations issued pursuant to Public Law 104 191 under which~~  
34 ~~benefits for medical care are secondary or incidental to other~~  
35 ~~insurance benefits;~~  
36       ~~—(i) Coverage under a short term health insurance policy; and~~  
37       ~~—(j) Coverage under a blanket student accident and health~~  
38 ~~insurance policy.~~

39       ~~3. The term does not include the following benefits if the~~  
40 ~~benefits are provided under a separate policy, certificate or contract~~  
41 ~~of insurance or are otherwise not an integral part of a health benefit~~  
42 ~~plan:~~

- 43       ~~—(a) Limited scope dental or vision benefits;~~  
44       ~~—(b) Benefits for long term care, nursing home care, home health~~  
45 ~~care or community based care, or any combination thereof; and~~





1 ~~—(c) Such other similar benefits as are specified in any federal~~  
2 ~~regulations adopted pursuant to the Health Insurance Portability and~~  
3 ~~Accountability Act of 1996, Public Law 104 191.~~

4 ~~—4. The term does not include the following benefits if the~~  
5 ~~benefits are provided under a separate policy, certificate or contract~~  
6 ~~of insurance, there is no coordination between the provision of the~~  
7 ~~benefits and any exclusion of benefits under any group health plan~~  
8 ~~maintained by the same plan sponsor, and the benefits are paid for a~~  
9 ~~claim without regard to whether benefits are provided for such a~~  
10 ~~claim under any group health plan maintained by the same plan~~  
11 ~~sponsor;~~

12 ~~—(a) Coverage that is only for a specified disease or illness; and~~

13 ~~—(b) Hospital indemnity or other fixed indemnity insurance.~~

14 ~~—5. The term does not include any of the following, if offered as~~  
15 ~~a separate policy, certificate or contract of insurance:~~

16 ~~—(a) Medicare supplemental health insurance as defined in section~~  
17 ~~1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that~~  
18 ~~section existed on July 16, 1997;~~

19 ~~—(b) Coverage supplemental to the coverage provided pursuant to~~  
20 ~~the Civilian Health and Medical Program of Uniformed Services,~~  
21 ~~CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and~~

22 ~~—(c) Similar supplemental coverage provided under a group~~  
23 ~~health plan.] *has the meaning ascribed to it in NRS 687B.470.*~~

24 **Sec. 45.** NRS 439B.260 is hereby amended to read as follows:

25 439B.260 1. A major hospital shall reduce or discount the  
26 total billed charge by at least 30 percent for hospital services  
27 provided to an inpatient who:

28 (a) Has no policy of health insurance or other contractual  
29 agreement with a third party that provides health coverage for the  
30 charge;

31 (b) Is not eligible for coverage by a state or federal program of  
32 public assistance that would provide for the payment of the charge;  
33 and

34 (c) Makes reasonable arrangements within 30 days after the date  
35 that notice was sent pursuant to subsection 2 to pay the hospital bill.

36 2. A major hospital shall include on or with the first statement  
37 of the hospital bill provided to the patient after his or her discharge a  
38 notice of the reduction or discount available pursuant to this section,  
39 including, without limitation, notice of the criteria a patient must  
40 satisfy to qualify for a reduction or discount.

41 3. A major hospital or patient who disputes the reasonableness  
42 of arrangements made pursuant to paragraph (c) of subsection 1 may  
43 submit the dispute to the Bureau for Hospital Patients for resolution  
44 as provided in NRS 232.462.



1 4. A major hospital shall reduce or discount the total billed  
2 charge of its outpatient pharmacy by at least 30 percent to a patient  
3 who is eligible for Medicare.

4 5. As used in this section, "third party" means:

5 (a) An insurer, as that term is defined in NRS 679B.540;

6 (b) A health benefit plan, as that term is defined in NRS  
7 ~~689A.540;~~ 687B.470, for employees which provides coverage for  
8 services and care at a hospital;

9 (c) A participating public agency, as that term is defined in NRS  
10 287.04052, and any other local governmental agency of the State of  
11 Nevada which provides a system of health insurance for the benefit  
12 of its officers and employees, and the dependents of officers and  
13 employees, pursuant to chapter 287 of NRS; or

14 (d) Any other insurer or organization providing health coverage  
15 or benefits in accordance with state or federal law.

16 ➔ The term does not include an insurer that provides coverage  
17 under a policy of casualty or property insurance.

18 **Sec. 46.** NRS 439B.665 is hereby amended to read as follows:

19 439B.665 1. On or before February 1 of each year, a  
20 nonprofit organization that advocates on behalf of patients or funds  
21 medical research in this State and has received a payment, donation,  
22 subsidy or anything else of value from a manufacturer, third party or  
23 pharmacy benefit manager or a trade or advocacy group for  
24 manufacturers, third parties or pharmacy benefit managers during  
25 the immediately preceding calendar year shall:

26 (a) Compile a report which includes:

27 (1) For each such contribution, the amount of the  
28 contribution and the manufacturer, third party or pharmacy benefit  
29 manager or group that provided the payment, donation, subsidy or  
30 other contribution; and

31 (2) The percentage of the total gross income of the  
32 organization during the immediately preceding calendar year  
33 attributable to payments, donations, subsidies or other contributions  
34 from each manufacturer, third party, pharmacy benefit manager or  
35 group; and

36 (b) Except as otherwise provided in this paragraph, post the  
37 report on an Internet website that is maintained by the nonprofit  
38 organization and accessible to the public. If the nonprofit  
39 organization does not maintain an Internet website that is accessible  
40 to the public, the nonprofit organization shall submit the report  
41 compiled pursuant to paragraph (a) to the Department.

42 2. As used in this section, "third party" means:



1 (a) An insurer, as that term is defined in NRS 679B.540;

2 (b) A health benefit plan, as that term is defined in NRS  
3 ~~[689A.540.]~~ **687B.470**, for employees which provides coverage for  
4 prescription drugs;

5 (c) A participating public agency, as that term is defined in NRS  
6 287.04052, and any other local governmental agency of the State of  
7 Nevada which provides a system of health insurance for the benefit  
8 of its officers and employees, and the dependents of officers and  
9 employees, pursuant to chapter 287 of NRS; or

10 (d) Any other insurer or organization that provides health  
11 coverage or benefits in accordance with state or federal law.

12 ➤ The term does not include an insurer that provides coverage  
13 under a policy of casualty or property insurance.

14 **Sec. 47.** NRS 449A.162 is hereby amended to read as follows:

15 449A.162 1. Except as otherwise provided in subsection 3, if  
16 a hospital provides hospital care to a person who has a policy of  
17 health insurance issued by a third party that provides health  
18 coverage for care provided at that hospital and the hospital has a  
19 contractual agreement with the third party, the hospital:

20 (a) Shall proceed with any efforts to collect on any amount  
21 owed to the hospital for the hospital care in accordance with the  
22 provisions of NRS 449A.159.

23 (b) Shall not collect or attempt to collect from the patient or  
24 other responsible party more than the sum of the amounts of any  
25 deductible, copayment or coinsurance payable by or on behalf of the  
26 patient under the policy of health insurance.

27 (c) Shall not collect or attempt to collect that amount from:

28 (1) Any proceeds or potential proceeds of a civil action  
29 brought by or on behalf of the patient, including, without limitation,  
30 any amount awarded for medical expenses; or

31 (2) An insurer other than an insurer that provides coverage  
32 under a policy of health insurance or an insurer that provides  
33 coverage for medical payments under a policy of casualty insurance.

34 2. If the hospital collects or receives any payments from an  
35 insurer that provides coverage for medical payments under a policy  
36 of casualty insurance, the hospital shall, not later than 30 days after  
37 a determination is made concerning coverage, return to the patient  
38 any amount collected or received that is in excess of the deductible,  
39 copayment or coinsurance payable by or on behalf of the patient  
40 under the policy of health insurance.

41 3. This section does not apply to:

42 (a) Amounts owed to the hospital which are not covered under  
43 the policy of health insurance; or



1 (b) Medicaid, Medicare, the Children's Health Insurance  
2 Program or any other public program which may pay all or part of  
3 the bill.

4 4. This section does not limit any rights of a patient to contest  
5 an attempt to collect an amount owed to a hospital, including,  
6 without limitation, contesting a lien obtained by a hospital.

7 5. As used in this section, "third party" means:

8 (a) An insurer, as defined in NRS 679B.540;

9 (b) A health benefit plan, as defined in NRS ~~689A.540,~~  
10 **687B.470**, for employees which provides coverage for services and  
11 care at a hospital;

12 (c) A participating public agency, as defined in NRS 287.04052,  
13 and any other local governmental agency of the State of Nevada  
14 which provides a system of health insurance for the benefit of its  
15 officers and employees, and the dependents of officers and  
16 employees, pursuant to chapter 287 of NRS; or

17 (d) Any other insurer or organization providing health coverage  
18 or benefits in accordance with state or federal law.

19 **Sec. 48.** 1. The amendatory provisions of sections 10, 13, 14,  
20 15, 18, 22, 24, 26, 30, 31, 35, 38, 40, 41 and 43 of this act apply to  
21 any policy or contract for coverage by a health maintenance  
22 organization which has been delivered, or which is delivered, issued  
23 for delivery or renewed in this State on or after January 1, 2020.

24 2. Any other amendatory provisions of this act that revise the  
25 coverage that the Nevada Life and Health Insurance Guaranty  
26 Association is required to provide apply to any policy or contract for  
27 coverage to which the provisions would otherwise apply that has  
28 been delivered, or that is delivered, issued for delivery or renewed in  
29 this State on or after January 1, 2020.

30 3. As used in this section, "health maintenance organization"  
31 has the meaning ascribed to it in NRS 695C.030.

32 **Sec. 49.** This act becomes effective:

33 1. Upon passage and approval for the purpose of adopting any  
34 regulations and performing any other preparatory administrative  
35 tasks that are necessary to carry out the provisions of this act; and

36 2. On January 1, 2020, for all other purposes.

