

ASSEMBLY BILL NO. 460—ASSEMBLYWOMAN JAUREGUI

MARCH 27, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits insurers from using consumer credit information for certain purposes. (BDR 57-1056)

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.

AN ACT relating to insurance; prohibiting an insurer from using the consumer credit information of a person for certain purposes relating to insurance policies; repealing provisions authorizing an insurer to use consumer credit information as a basis for making certain determinations and taking certain actions regarding insurance policies; providing administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 14** of this bill repeals provisions of existing law which authorize an
2 insurer or an agent or employee of an insurer to use the credit information of a
3 person in conjunction with certain other factors to deny, cancel or fail to renew an
4 insurance policy or to take certain other adverse actions against an applicant for
5 insurance or an existing policyholder. (NRS 686A.600-686A.730) **Section 2** of this
6 bill prohibits an insurer or an agent or employee of an insurer from using consumer
7 credit information as a basis to deny, cancel or fail to renew a policy, to determine
8 the rate of a new or existing policy or to make any change in the terms or amount of
9 coverage of a new or existing policy.
10 An insurer or an agent or employee of an insurer who violates the provisions of
11 **section 2** is subject to an administrative fine imposed by the Commissioner of
12 Insurance. Additionally, the Commissioner is authorized to suspend or revoke the
13 license of a licensed insurer or agent who knowingly violates **section 2**. (NRS
14 686A.020, 686A.183)



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

1 **Section 1.** NRS 679B.630 is hereby amended to read as
2 follows:

3 679B.630 The Commissioner shall establish a program within
4 the Division to investigate any act or practice which:

5 1. Violates the provisions of NRS 686A.010 to 686A.310,
6 inclusive ~~†~~, *and section 2 of this act*; or

7 2. Defrauds or is an attempt to defraud an insurer.

8 **Sec. 2.** Chapter 686A of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 **1.** *An insurer or an agent or employee of an insurer shall not*
11 *use credit information or the absence of credit information, a*
12 *consumer credit report or any other information from a consumer*
13 *reporting agency as a basis to:*

14 **(a)** *Deny, cancel or fail to renew a policy;*

15 **(b)** *Determine the rate of a new or existing policy; or*

16 **(c)** *Make any change in the terms or amount of coverage of a*
17 *new or existing policy.*

18 **2.** *As used in this section:*

19 **(a)** *“Consumer credit report” means any written, oral or other*
20 *communication of information by a consumer reporting agency*
21 *bearing on the credit worthiness, credit standing or credit capacity*
22 *of an applicant or policyholder.*

23 **(b)** *“Consumer reporting agency” means any person who, for*
24 *monetary fees, dues or on a cooperative nonprofit basis, regularly*
25 *engages in whole or in part in the practice of assembling or*
26 *evaluating consumer credit information or other information on*
27 *consumers for the purpose of furnishing consumer credit reports*
28 *to third parties.*

29 **(c)** *“Credit information” means any information that is related*
30 *to credit and derived from a consumer credit report, found on a*
31 *consumer credit report or provided on an application for a policy.*
32 *The term does not include information that is not related to credit,*
33 *regardless of whether it is contained in a consumer credit report*
34 *or in an application for a policy, or is used to calculate an*
35 *insurance score.*

36 **Sec. 3.** NRS 686A.010 is hereby amended to read as follows:

37 686A.010 The purpose of NRS 686A.010 to 686A.310,
38 inclusive, *and section 2 of this act* is to regulate trade practices in
39 the business of insurance in accordance with the intent of Congress
40 as expressed in the Act of Congress approved March 9, 1945, being
41 c. 20, 59 Stat. 33, also designated as 15 U.S.C. §§ 1011 to 1015,



1 inclusive, and Title V of Public Law 106-102, 15 U.S.C. §§ 6801 et
2 seq.

3 **Sec. 4.** NRS 686A.015 is hereby amended to read as follows:

4 686A.015 1. Notwithstanding any other provision of law, the
5 Commissioner has exclusive jurisdiction in regulating the subject of
6 trade practices in the business of insurance in this state.

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

11 **Sec. 5.** NRS 686A.020 is hereby amended to read as follows:

12 686A.020 A person shall not engage in this state in any
13 practice which is defined in NRS 686A.010 to 686A.310, inclusive,
14 *and section 2 of this act* as, or determined pursuant to NRS
15 686A.170 to be, an unfair method of competition or an unfair or
16 deceptive act or practice in the business of insurance.

17 **Sec. 6.** NRS 686A.120 is hereby amended to read as follows:

18 686A.120 1. Nothing in NRS 686A.100 and 686A.110 shall
19 be construed as including within the definition of discrimination or
20 rebates any of the following practices:

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

28 (b) In the case of life insurance policies issued on the debit plan,
29 making allowance to policyholders who have continuously for a
30 specified period made premium payments directly to an office of the
31 insurer in an amount which fairly represents the saving in collection
32 expense.

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

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

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



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

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

15 **Sec. 7.** NRS 686A.160 is hereby amended to read as follows:

16 686A.160 If the Commissioner has cause to believe that any
17 person has been engaged or is engaging, in this state, in any unfair
18 method of competition or any unfair or deceptive act or practice
19 prohibited by NRS 686A.010 to 686A.310, inclusive, *and section 2*
20 *of this act* and that a proceeding by the Commissioner in respect
21 thereto would be in the interest of the public, the Commissioner may
22 issue and serve upon such person a statement of the charges and a
23 notice of the hearing to be held thereon. The statement of charges
24 and notice of hearing ~~{shall}~~ *must* comply with the requirements of
25 NRS 679B.320 and ~~{shall}~~ *must* be served upon such person directly
26 or by certified or registered mail, return receipt requested.

27 **Sec. 8.** NRS 686A.170 is hereby amended to read as follows:

28 686A.170 1. If the Commissioner believes that any person
29 engaged in the insurance business is in the conduct of such business
30 engaging in this state in any method of competition or in any act or
31 practice not defined in NRS 686A.010 to 686A.310, inclusive, *and*
32 *section 2 of this act* which is unfair or deceptive and that a
33 proceeding by the Commissioner in respect thereto would be in the
34 public interest, the Commissioner shall, after a hearing of which
35 notice and of the charges against such person are given to the
36 person, make a written report of the findings of fact relative to such
37 charges and serve a copy thereof upon such person and any
38 intervener at the hearing.

39 2. If such *a* report charges a violation of NRS 686A.010 to
40 686A.310, inclusive, *and section 2 of this act* and if such method of
41 competition, act or practice has not been discontinued, the
42 Commissioner may, through the Attorney General, at any time after
43 20 days after the service of ~~{such}~~ *the* report cause an action to be
44 instituted in the district court of the county wherein the person
45 resides or has his or her principal place of business to enjoin and



1 restrain ~~{such}~~ *the* person from engaging in such method, act or
2 practice. The court ~~{shall have}~~ *has* jurisdiction of the proceeding
3 and ~~{shall have}~~ *has* power to make and enter appropriate orders in
4 connection therewith and to issue such writs or orders as are
5 ancillary to its jurisdiction or necessary in its judgment to prevent
6 injury to the public pendente lite, ~~{;}~~ but the State of Nevada ~~{shall}~~
7 *must* not be required to give security before the issuance of any such
8 order or injunction under this section. If a stenographic record of the
9 proceedings in the hearing before the Commissioner was made, a
10 certified transcript thereof including all evidence taken and the
11 report and findings ~~{shall}~~ *must* be received in evidence in such
12 action.

13 3. If the court finds that:

14 (a) The method of competition complained of is unfair or
15 deceptive;

16 (b) The proceedings by the Commissioner with respect thereto
17 are to the interest of the public; and

18 (c) The findings of the Commissioner are supported by the
19 weight of the evidence,

20 ➔ it shall issue its order enjoining and restraining the continuance
21 of such method of competition, act or practice.

22 4. Either party may appeal from such final judgment or order
23 or decree of court in a like manner as provided for appeals in civil
24 cases.

25 5. If the Commissioner's report made under subsection 1 or
26 order on hearing made under NRS 679B.360 does not charge a
27 violation of NRS 686A.010 to 686A.310, inclusive, *and section 2 of*
28 *this act*, then any intervener in the proceedings may appeal
29 therefrom within the time and in the manner provided in this Code
30 for appeals from the Commissioner generally.

31 6. Upon violation of any injunction issued under this section,
32 the Commissioner, after a hearing thereon, may impose the
33 appropriate penalties provided for in NRS 686A.187.

34 **Sec. 9.** NRS 686A.180 is hereby amended to read as follows:

35 686A.180 1. Service of all process, statements of charges and
36 notices under NRS 686A.010 to 686A.310, inclusive, *and section 2*
37 *of this act* upon unauthorized insurers ~~{shall}~~ *must* be made by
38 delivering to and leaving with the Commissioner or some person in
39 apparent charge of the office of the Commissioner two copies
40 thereof, or in the manner provided for by subsection 2 of NRS
41 685B.050 (service of process).

42 2. The Commissioner shall forward all such process,
43 statements of charges and notices to the insurer in the manner
44 provided in subsection 3 of NRS 685B.050.



1 3. No default ~~shall~~ *may* be taken against any such
2 unauthorized insurer until expiration of 30 days after the date of
3 forwarding by the Commissioner under subsection 2, or date of
4 service of process if under subsection 2 of NRS 685B.050.

5 4. *The provisions of* NRS 685B.050 ~~applies~~ *apply* to all
6 process, statements of charges and notices under this section.

7 **Sec. 10.** NRS 686A.183 is hereby amended to read as follows:

8 686A.183 1. After the hearing provided for in NRS
9 686A.160, the Commissioner shall issue an order on hearing
10 pursuant to NRS 679B.360. If the Commissioner determines that the
11 person charged has engaged in an unfair method of competition or
12 an unfair or deceptive act or practice in violation of NRS 686A.010
13 to 686A.310, inclusive, *and section 2 of this act*, the Commissioner
14 shall order the person to cease and desist from engaging in that
15 method of competition, act or practice, and may order one or both of
16 the following:

17 (a) If the person knew or reasonably should have known that he
18 or she was in violation of NRS 686A.010 to 686A.310, inclusive,
19 *and section 2 of this act*, payment of an administrative fine of not
20 more than \$5,000 for each act or violation, except that as to licensed
21 agents, brokers, solicitors and adjusters, the administrative fine must
22 not exceed \$500 for each act or violation.

23 (b) Suspension or revocation of the person's license if the
24 person knew or reasonably should have known that he or she was in
25 violation of NRS 686A.010 to 686A.310, inclusive ~~+~~, *and section*
26 *2 of this act*.

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

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

42 **Sec. 11.** NRS 686A.270 is hereby amended to read as follows:

43 686A.270 No insurer ~~shall~~ *may* be held guilty of having
44 committed any of the acts prohibited by NRS 686A.010 to
45 686A.310, inclusive, *and section 2 of this act* by reason of the act of



1 any agent, solicitor or employee not an officer, director or
2 department head thereof, unless an officer, director or department
3 head of the insurer has knowingly permitted such act or has had
4 prior knowledge thereof.

5 **Sec. 12.** NRS 686A.520 is hereby amended to read as follows:
6 686A.520 1. The provisions of NRS 683A.341, 683A.451,
7 683A.461, 683A.480 and 686A.010 to 686A.310, inclusive, *and*
8 *section 2 of this act* apply to companies.

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

12 **Sec. 13.** NRS 613.540 is hereby amended to read as follows:
13 613.540 “Consumer reporting agency” ~~has the meaning~~
14 ~~ascribed to it in NRS 686A.640.~~ *means any person which, for*
15 *monetary fees, dues or on a cooperative nonprofit basis, regularly*
16 *engages in whole or in part in the practice of assembling or*
17 *evaluating consumer credit information or other information on*
18 *consumers for the purpose of furnishing consumer credit reports*
19 *to third parties.*

20 **Sec. 14.** NRS 686A.600, 686A.610, 686A.620, 686A.630,
21 686A.640, 686A.650, 686A.660, 686A.670, 686A.680, 686A.685,
22 686A.690, 686A.700, 686A.710, 686A.720 and 686A.730 are
23 hereby repealed.

LEADLINES OF REPEALED SECTIONS

- 686A.600 Definitions.
- 686A.610 “Adverse action” defined.
- 686A.620 “Affiliate” defined.
- 686A.630 “Consumer credit report” defined.
- 686A.640 “Consumer reporting agency” defined.
- 686A.650 “Credit information” defined.
- 686A.660 “Insurance score” defined.
- 686A.670 Applicability.
- 686A.680 Consumer credit reports: Uses; limitations.
- 686A.685 Insurer that uses credit information to provide reasonable exceptions in certain circumstances.
- 686A.690 Reunderwriting or rerating of insured; refund of premium.
- 686A.700 Disclosure of use of credit information.
- 686A.710 Notice requirements after taking adverse action.



686A.720 Indemnification of agent by insurer.
686A.730 Consumer reporting agencies: Prohibitions;
exemptions.

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