ASSEMBLY BILL NO. 453–COMMITTEE ON COMMERCE AND LABOR

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

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions relating to insurance. (BDR 57-546)

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; expanding the authority of the Commissioner of Insurance to enter into cooperative agreements and to share certain information; revising the requirements for a person to act as a broker for reinsurance; authorizing an insurance consultant to qualify for a license in certain lines of authority; increasing the amount of surplus required to accept surplus lines; requiring an essential insurance association to qualify as a domestic mutual insurer if requested to do so by the Commissioner; clarifying that underinsured vehicle coverage includes coverage for certain damages to the extent those damages exceed a limitation of liability for a governmental agency; revising the amount of money that the Nevada Insurance Guaranty Association and the Nevada Life and Health Insurance Guaranty Association are obligated to pay for a covered claim; requiring an insurer that issues a policy of insurance covering the liability of certain physicians to submit a report to the Commissioner within a certain period after closing a claim under the policy; revising the order of distribution of certain claims from the estate of an insurer on

liquidation of the insurer; prohibiting a bail agent from acting as an attorney-in-fact for an insurer on an undertaking unless the bail agent registers in the office of the sheriff and with the clerk of the district court in which the bail agent resides; requiring a member of an association of self-insured public or private employers to include certain information in a notice of intent to withdraw from the association; providing penalties; and providing other matters properly relating thereto.

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

Section 1. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the authority conferred upon him pursuant to NRS 679B.120, the Commissioner may:

(a) Enter into and comply with any cooperative or coordination agreement with any governmental entity within or outside this state relating to the regulation and administration of insurance and persons who are materially involved in the business of insurance;

(b) Share any document, material or other information, including any document, material or information that is confidential or privileged, with any state, federal or international regulatory, law enforcement or legislative agency, and the National Association of Insurance Commissioners and any of its affiliates or subsidiaries, if the recipient of the document, material or other information agrees:

(1) To ensure that the document, material or other information remains confidential and privileged; and

(2) To submit to the jurisdiction of the courts of this state if the recipient violates a provision of subparagraph (1); and

(c) Receive any document, material or other information from any agency, association, affiliate or subsidiary specified in paragraph (b). The Commissioner shall ensure that any document, material or information received pursuant to this paragraph remains confidential if the document, material or information is provided to the Commissioner with a notice or the understanding that it is confidential or privileged under the laws of the jurisdiction from which it is submitted.

2. The sharing or receipt of any document, material or other information by the Commissioner pursuant to this section does not waive any applicable privilege or claim of confidentiality in the document, material or other information.

Sec. 2. NRS 679B.130 is hereby amended to read as follows:

679B.130 1. The Commissioner may adopt reasonable regulations ~~[for]~~ ***:***

(a) For the administration of any provision of this Code, NRS 287.04335 or chapters 616A to 617, inclusive, of NRS ~~[.]~~ ***; or***

(b) As required to ensure compliance by the Commissioner with any federal law or regulation relating to insurance.

2. A person who willfully violates any regulation of the Commissioner is subject to such suspension or revocation of a certificate of authority or license, or administrative fine in lieu of such suspension or revocation, as may be applicable under this Code or chapter 616A, 616B, 616C, 616D or 617 of NRS for violation of the provision to which the regulation relates. No penalty applies to any act done or omitted in good faith in conformity with any such regulation, notwithstanding that the regulation may, after the act or omission, be amended, rescinded or determined by a judicial or other authority to be invalid for any reason.

Sec. 3. NRS 679B.144 is hereby amended to read as follows:

679B.144 1. The Commissioner shall collect and maintain ***the*** information ***provided by insurers pursuant to NRS 690B.050*** regarding each closed claim for medical malpractice filed against ~~[physicians and surgeons]~~ ***a person who is covered by a policy of insurance for medical malpractice*** in this state, including, without limitation:

(a) The cause of the loss;

(b) A description of the injury for which the claim was filed;

(c) The sex of the injured person;

(d) The names and number of defendants in each claim;

(e) The type of coverage provided;

(f) The amount of the initial, highest and last reserves of an insurer for each claim before final resolution of the claim by settlement or trial;

(g) The disposition of each claim;

(h) The amount of money awarded through settlement or by verdict;

(i) The sum of money paid to each claimant and the source of that sum; ~~[and]~~

(j) Any sum of money allocated to expenses for the adjustment of losses ~~[.]~~ ***; and***

(k) Any other information the Commissioner determines to be necessary or appropriate.

2. The Commissioner shall submit with his report to the Legislature required pursuant to NRS 679B.410 ~~[,]~~ a summary of the information collected pursuant to this section.

3. The Commissioner shall adopt regulations necessary to carry out the provisions of this section.

4. As used in this section, "policy of insurance for medical malpractice" means a policy that provides coverage for any medical professional liability of the insured under the policy.

Sec. 4. NRS 679B.440 is hereby amended to read as follows:

679B.440 1. The Commissioner may require that reports submitted pursuant to NRS 679B.430 include, without limitation, information regarding:

(a) Liability insurance provided to:

(1) Governmental agencies and political subdivisions of this state, reported separately for:

(I) Cities and towns;

(II) School districts; and

(III) Other political subdivisions;

(2) Public officers;

(3) Establishments where alcoholic beverages are sold;

(4) Facilities for the care of children;

(5) Labor, fraternal or religious organizations; and

(6) Officers or directors of organizations formed pursuant to title 7 of NRS, reported separately for nonprofit entities and entities organized for profit;

(b) Liability insurance for:

(1) Defective products;

(2) Medical ***or dental*** malpractice ~~[,]~~ ***of:***

(I) A practitioner licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639 or 640 of NRS;

(II) A hospital or other health care facility; or

(III) Any related corporate entity.

(3) Malpractice of attorneys;

(4) Malpractice of architects and engineers; and

(5) Errors and omissions by other professionally qualified persons;

(c) Vehicle insurance, reported separately for:

(1) Private vehicles;

(2) Commercial vehicles;

(3) Liability insurance; and

(4) Insurance for property damage; ~~[and]~~

(d) Workers' compensation insurance ~~[.]~~ ***; and***

(e) In addition to any information provided pursuant to subparagraph (2) of paragraph (b) or NRS 690B.050, a policy of insurance for medical malpractice. As used in this paragraph, "policy of insurance for medical malpractice" has the meaning ascribed to it in NRS 679B.144.

2. The Commissioner may require that the report include, without limitation, information specifically pertaining to this state or to an insurer in its entirety, in the aggregate or by type of insurance, and for a previous or current year, regarding:

(a) Premiums directly written;

(b) Premiums directly earned;

(c) Number of policies issued;

(d) Net investment income, using appropriate estimates when necessary;

(e) Losses paid;

(f) Losses incurred;

(g) Loss reserves, including:

(1) Losses unpaid on reported claims; and

(2) Losses unpaid on incurred but not reported claims;

(h) Number of claims, including:

(1) Claims paid; and

(2) Claims that have arisen but are unpaid;

(i) Expenses for adjustment of losses, including allocated and unallocated losses;

(j) Net underwriting gain or loss;

(k) Net operation gain or loss, including net investment income; and

(l) Any other information requested by the Commissioner.

3. The Commissioner may also obtain, based upon an insurer in its entirety, information regarding:

(a) Recoverable federal income tax;

(b) Net unrealized capital gain or loss; and

(c) All other expenses not included in subsection 2.

Sec. 5. NRS 679B.460 is hereby amended to read as follows:

679B.460 1. An insurer who willfully or repeatedly violates or fails to comply with a provision of NRS 679B.400 to 679B.450, inclusive, or ***690B.050 or*** a regulation adopted pursuant to NRS 679B.430 is subject, after notice and ***a*** hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, to payment of an administrative fine of not more than $1,000 for each day of the violation or failure to comply, up to a maximum fine of $50,000.

2. An insurer who fails or refuses to comply with an order issued by the Commissioner pursuant to NRS 679B.430 is subject, after notice and ***a*** hearing held pursuant to NRS 679B.310 to 679B.370, inclusive, to suspension or revocation of his certificate of authority to transact insurance in this state.

3. The imposition of an administrative fine pursuant to this section must not be considered by the Commissioner in any other administrative proceeding unless the fine has been paid or a court order for payment of the fine has become final.

Sec. 6. NRS 680A.270 is hereby amended to read as follows:

680A.270 1. Each authorized insurer shall annually on or before March 1, or within any reasonable extension of time therefor which the Commissioner for good cause may have granted on or before that date, file with the Commissioner a full and true statement of its financial condition, transactions and affairs as of December 31 preceding. The statement must be ~~[in]~~ ***:***

(a) In the general form and context of, and require information as called for by, ~~[the form of]~~ ***an*** annual statement as ***is*** currently in general and customary use in the United States for the type of insurer and kinds of insurance to be reported upon, with any useful or necessary modification or adaptation thereof, supplemented by additional information required by the Commissioner ~~[. The statement must be verified]~~ ***;***

(b) Prepared in accordance with:

(1) The Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement; and

(2) The Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(c) Verified by the oath of the insurer's president or vice president and secretary or actuary, as applicable, or, in the absence of the foregoing, by two other principal officers, or if a reciprocal insurer, by the oath of the attorney-in-fact, or its like officers if a corporation.

2. The statement of an alien insurer must be verified by its United States manager or other officer ~~[duly authorized,]~~ ***who is authorized to do so,*** and may relate only to the insurer's transactions and affairs in the United States unless the Commissioner requires otherwise. If the Commissioner requires a statement as to ~~[such an]~~ ***the*** insurer's affairs throughout the world, the insurer shall file the statement with the Commissioner as soon as reasonably possible.

3. The Commissioner may refuse to continue, or may suspend or revoke, the certificate of authority of any insurer failing to file its annual statement when due.

4. At the time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by NRS 680B.010.

5. The Commissioner may adopt regulations requiring each domestic, foreign and alien insurer which is authorized to transact insurance in this state to file the insurer's annual statement with the National Association of Insurance Commissioners or its successor organization.

6. All ratios of financial analyses and synopses of examinations concerning insurers that are submitted to the Division by the National Association of Insurance Commissioners' Insurance Regulatory Information System are confidential and may not be disclosed by the Division.

Sec. 7. NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer's certificate of authority:

(a) Filing initial application $2,450

(b) Issuance of certificate:

(1) For any one kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive 283

(2) For two or more kinds of insurance as so defined 578

(3) For a reinsurer 2,450

(c) Each annual continuation of a certificate 2,450

(d) Reinstatement pursuant to NRS 680A.180, 50 percent of the annual continuation fee otherwise required.

(e) Registration of additional title pursuant to NRS 680A.240 50

(f) Annual renewal of the registration of additional title pursuant to NRS 680A.240 25

2. Charter documents, other than those filed with an application for a certificate of authority. Filing amendments to articles of incorporation, charter, bylaws, power of attorney and other constituent documents of the insurer, each document $10

3. Annual statement or report. For filing annual statement or report $25

4. Service of process:

(a) Filing of power of attorney $5

(b) Acceptance of service of process 30

5. Licenses, appointments and renewals for producers of insurance:

(a) Application and license $125

(b) Appointment fee for each insurer 15

(c) Triennial renewal of each license 125

(d) Temporary license 10

(e) Modification of an existing license 50

6. Surplus lines brokers:

(a) Application and license ..... ***$*** 125

(b) Triennial renewal of each license 125

7. Managing general agents' licenses, appointments and renewals:

(a) Application and license $125
(b) Appointment fee for each insurer 15
(c) Triennial renewal of each license 125

8. Adjusters' licenses and renewals:
(a) Independent and public adjusters:
(1) Application and license $125
(2) Triennial renewal of each license 125
(b) Associate adjusters:
(1) Application and license 125
(2) Triennial renewal of each license 125

9. Licenses and renewals for appraisers of physical damage to motor vehicles:
(a) Application and license $125
(b) Triennial renewal of each license 125

10. Additional title and property insurers pursuant to NRS 680A.240:
(a) Original registration $50
(b) Annual renewal 25

11. Insurance vending machines:
(a) Application and license, for each machine $125
(b) Triennial renewal of each license 125

12. Permit for solicitation for securities:
(a) Application for permit $100
(b) Extension of permit 50

13. Securities salesmen for domestic insurers:
(a) Application and license $25
(b) Annual renewal of license 15

14. Rating organizations:
(a) Application and license $500
(b) Annual renewal 500

15. Certificates and renewals for administrators licensed pursuant to chapter 683A of NRS:
(a) Application and certificate of registration $125
(b) Triennial renewal 125

16. For copies of the insurance laws of Nevada, a fee which is not less than the cost of producing the copies.

17. Certified copies of certificates of authority and licenses issued pursuant to the Insurance Code $10

18. For copies and amendments of documents on file in the Division, a reasonable charge fixed by the Commissioner, including charges for duplicating or amending the forms and for certifying the copies and affixing the official seal.

19. Letter of clearance for a producer of insurance or other licensee ~~[,]~~ if requested by someone other than the licensee $10

20. Certificate of status as a producer of insurance or other licensee ~~[,]~~ if requested by someone other than the licensee $10

21. Licenses, appointments and renewals for bail agents:

(a) Application and license $125

(b) Appointment for each surety insurer 15

(c) Triennial renewal of each license 125

22. Licenses and renewals for bail enforcement agents:

(a) Application and license $125

(b) Triennial renewal of each license 125

23. Licenses, appointments and renewals for general agents for bail:

(a) Application and license $125

(b) Initial appointment by each insurer 15

(c) Triennial renewal of each license 125

24. Licenses and renewals for bail solicitors:

(a) Application and license..... $125

(b) Triennial renewal of each license 125

25. Licenses and renewals for title agents and escrow officers:

(a) Application and license $125

(b) Triennial renewal of each license 125

(c) Appointment fee for each title insurer 15

(d) Change in name or location of business or in association 10

26. Certificate of authority and renewal for a seller of prepaid funeral contracts $125

27. Licenses and renewals for agents for prepaid funeral contracts:

(a) Application and license $125

(b) Triennial renewal of each license 125

28. Licenses, appointments and renewals for agents for fraternal benefit societies:

(a) Application and license $125

(b) Appointment for each insurer 15

(c) Triennial renewal of each license 125

29. Reinsurance intermediary broker or manager:

(a) Application and license..... $125

(b) Triennial renewal of each license 125

30. Agents for and sellers of prepaid burial contracts:

(a) Application and certificate or license $125

(b) Triennial renewal $125
31. Risk retention groups:
(a) Initial registration and review of an application $2,450
(b) Each annual continuation of a certificate of registration 2,450
32. Required filing of forms:
(a) For rates and policies $25
(b) For riders and endorsements 10
33. Viatical settlements:
(a) Provider of viatical settlements:
(1) Application and license $1,000
(2) Annual renewal 1,000
(b) Broker of viatical settlements:
(1) Application and license 500
(2) Annual renewal 500
34. Insurance consultants:
(a) Application and license $125
(b) Triennial renewal 125
35. Licensee's association with or appointment or sponsorship by an organization:
(a) Initial appointment, association or sponsorship, for each organization $50
(b) Renewal of each association or sponsorship 50
(c) Annual renewal of appointment 15
36. Purchasing groups:
(a) Initial registration and review of an application $100
(b) Each annual continuation of registration 100

Sec. 8. NRS 680B.070 is hereby amended to read as follows:

680B.070 1. Each authorized insurer, fraternal benefit society, health maintenance organization, organization for dental care ***, prepaid limited health service organization*** and motor club shall on or before March 1 of each year pay to the Commissioner ~~[the]~~ ***a reasonable*** uniform amount, not to exceed ~~[$15,]~~ ***$30,*** as the Commissioner requires, to cover the assessment levied upon this state in the same calendar year by the National Association of Insurance Commissioners to defray:

(a) The general expenses of the Association; and

(b) Reasonable and necessary travel and related expenses incurred by the Commissioner and members of his staff, without limitation as to number, in attending meetings of the Association and its committees, subcommittees, hearings and other official activities.

The Commissioner shall give written notice of the required amount.

2. Expenses incurred for the purposes described in paragraphs (a) and (b) of subsection 1 must be paid in full and are not subject to

the limitations expressed in NRS 281.160 or in the regulations of any state agency.

3. All money received by the Commissioner pursuant to subsection 1 must be deposited in the State Treasury for credit to the National Association Account of the Division of Insurance, which is hereby created in the State General Fund. Except as otherwise provided in subsection 2, all claims against the Account must be paid as other claims against the State are paid.

Sec. 9. NRS 681A.160 is hereby amended to read as follows:

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

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

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

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

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

(e) Maintains a surplus as regards policyholders in an amount which is not less than $20,000,000 and whose accreditation:

(1) Has not been denied by the Commissioner within 90 days after its submission; or

(2) Has been approved by the Commissioner.

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

Sec. 10. NRS 681A.180 is hereby amended to read as follows:

681A.180 1. ~~[Credit]~~ ***Except as otherwise provided in subsection 4, credit*** must be allowed if reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified financial institution in the United States for the payment of the valid claims of its policyholders and ceding insurers in the United States, their assigns and successors in interest. The assuming insurer shall report annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' form of annual statement by licensed

insurers to enable the Commissioner to determine the sufficiency of the trust fund.

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

3. In the case of a group of incorporated and individual unincorporated underwriters, the trust must consist of an account in trust equal to the group's liabilities attributable to business written in the United States and the group shall maintain a surplus in trust of which $100,000,000 must be held jointly for the benefit of ceding insurers in the United States to any member of the group, and the group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

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

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

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

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

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

(1) Is otherwise available to him under the laws of the United States; and

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

Sec. 11. NRS 681A.190 is hereby amended to read as follows:

681A.190 1. Credit must be allowed if reinsurance is ceded to a group of incorporated insurers under common administration which:

(a) ***Does not engage in any business other than underwriting as a member of the group;***

(b) Is subject to the same amount of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members of the group;

(c) Reports annually to the Commissioner the information required by subsection 1 of NRS 681A.180;

~~[(b)]~~ ***(d)*** Has continuously transacted insurance outside the United States for at least 3 years immediately before making ***an*** application for accreditation;

~~[(c)]~~ ***(e)*** Submits to this state's authority to examine its books and records and bears the expense of the examination;

~~[(d)]~~ ***(f)*** Has aggregate policyholders' surplus of $10,000,000,000; and

~~[(e)]~~ ***(g)*** Maintains a trust pursuant to subsection 2.

2. The trust must be in an amount equal to the group's several liabilities attributable to business ceded by ceding insurers in the United States to any member of the group pursuant to contracts of reinsurance issued in the name of the group, and the group shall maintain a joint surplus in trust of which $100,000,000 must be held jointly for the benefit of ceding insurers in the United States to any member of the group as additional security for any such liabilities.

3. Each member of the group shall ***, within 90 days after the date its financial statements must be filed with the group's domiciliary regulator,*** make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

Sec. 12. NRS 681A.200 is hereby amended to read as follows:

681A.200 1. A trust for the purposes of NRS 681A.180 or 681A.190 ***, and any amendment to the trust,*** must be established ***or amended*** in a form approved by ~~[the Commissioner.]~~ ***:***

(a) The Commissioner; and

(b) The commissioner of insurance or other appropriate person of:

(1) The state in which the trust is domiciled; or

(2) Any other state that, pursuant to the trust instrument, accepts regulatory authority over the trust.

2. The form of the trust and any amendment to the trust must be filed with the commissioner of insurance or other appropriate person of each state in which the policyholders of the ceding insurer who are the beneficiaries of the trust are domiciled.

3. The trust instrument must provide that contested claims become valid ~~[and enforceable upon]~~ ***, enforceable and payable from money held in the trust fund to the extent that the contested claims remain unsatisfied, within 30 days after the entry of*** the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in the trustees of the trust for its policyholders and ceding insurers in the United States, their assigns and successors in interest. The trust and the assuming insurer are subject to examination as determined by the Commissioner. The trust must remain in effect for as long as the assuming insurer ***or any member or former member of the group of insurers*** has outstanding obligations due under the agreements for reinsurance subject to the trust.

~~[2. No]~~

4. Not later than February 28 of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year and shall certify the date of termination of the trust, if so planned, or certify that the trust will not expire before the next following December 31.

Sec. 13. NRS 681A.210 is hereby amended to read as follows:

681A.210 1. Except as otherwise provided in subsection 2, if the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by NRS 681A.170 or 681A.180 must not be allowed unless the assuming insurer agrees in the agreements for reinsurance:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the agreement, the assuming insurer, at the request of the ceding insurer, will submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; ~~[and]~~

(b) To designate the Commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in an action, suit or proceeding instituted by or on behalf of the ceding company ~~[.]~~ ***; and***

(c) To comply with the conditions set forth in subsection 4 of NRS 681A.180.

2. This section does not conflict with or override the obligation of the parties to an agreement for reinsurance to arbitrate their disputes ~~[,]~~ if such an obligation is created in the agreement.

Sec. 14. NRS 681A.420 is hereby amended to read as follows:

681A.420 1. A person shall not act as a broker for reinsurance ~~[if he maintains an office, directly or as a member or employee of a firm or association or as an officer, director or employee of a corporation:~~

~~(a) In this state,~~ ***for a domestic insurer or reinsurer*** unless he is ~~[a]~~ ***:***

(a) A licensed producer in this state; or

(b) ~~[In another state, unless he is a licensed producer]~~ ***Licensed as a nonresident intermediary for reinsurance*** in this state ***.*** ~~[or in another state having a law substantially similar to this title or he is licensed in this state as a nonresident intermediary.]~~

2. A person shall not act as a ~~[manager]~~ ***broker*** for reinsurance ~~[:~~

~~(a) For]~~ ***for*** a ***foreign or alien insurer or*** reinsurer ~~[domiciled]~~ ***if he maintains an office, directly or as a member or employee of a firm or association or as an officer, director or employee of a corporation*** in this state, unless he is ~~[a]~~ ***:***

(a) A licensed producer in this state; ***or***

(b) ~~[In]~~ ***Licensed as a nonresident intermediary for reinsurance in*** this state ***.*** ~~[, if he maintains an office individually or as a member or employee of a firm or association or as an officer, director or employee of a corporation in this state, unless he is a licensed producer in this state; or~~

~~(c) In another state for a foreign insurer, unless he is a licensed producer in this state or in another state having a law substantially similar to this title or he is licensed in this state as a nonresident intermediary.]~~

3. A ***person shall not act as a*** manager for reinsurance ~~[shall:]~~ ***for a domestic insurer or reinsurer unless he is:***

(a) A licensed producer in this state; or

(b) Licensed as a nonresident manager for reinsurance in this state.

4. A person shall not act as a manager for reinsurance for any foreign or alien insurer or reinsurer if he maintains an office, directly or as a member or employee of a firm or association or as an officer, director or employee of a corporation in this state, unless he is:

(a) A licensed producer in this state; or

(b) Licensed as a nonresident manager for reinsurance in this state.

5. A manager for reinsurance shall:

(a) File a bond from an insurer in an amount that is acceptable to the Commissioner for the protection of the reinsurer; and

(b) Maintain a policy covering errors and omissions in an amount that is acceptable to the Commissioner.

Sec. 15. NRS 681B.160 is hereby amended to read as follows:

681B.160 1. ~~[All]~~ ***Except as otherwise provided in subsection 5, all*** bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made ~~[,]~~ or **,** in lieu of ~~[such]~~ ***that*** method, according to ~~[such]~~ ***an*** accepted method of valuation ~~[as]~~ ***that*** is approved by the Commissioner.

2. The purchase price ~~[shall in no case]~~ ***must not*** be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

3. Unless otherwise provided by ***a*** valuation established or approved by the Commissioner, ~~[no such security shall]~~ ***the security must not*** be carried at above the call price for the entire issue during any period within which the security may be so called.

4. The Commissioner ~~[shall have]~~ ***has*** full discretion in determining the method of calculating values ~~[according to the rules set forth in]~~ ***pursuant to*** this section.

5. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

Sec. 16. NRS 681B.170 is hereby amended to read as follows:

681B.170 1. ~~[Securities,]~~ ***Except as otherwise provided in subsection 4, securities,*** other than those ~~[referred to]~~ ***specified*** in NRS 681B.160, held by an insurer ~~[shall]~~ ***must*** be valued, in the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value.

2. Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with ~~[such]~~ ***a*** method of computation ~~[as he may approve.]~~ ***approved by the Commissioner.***

3. The stock of a subsidiary of an insurer ~~[shall]~~ ***must*** be valued on the basis of the value of only ~~[such of the]~~ ***those*** assets of

~~[such]~~ ***the*** subsidiary as would constitute lawful investments of the insurer if acquired or held directly by the insurer.

4. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the National Association of Insurance Commissioners or its successor organization.

Sec. 17. NRS 682A.080 is hereby amended to read as follows:

682A.080 1. An insurer may invest any of its funds in obligations other than those eligible for investment under NRS 682A.230 ~~[(]~~ **,** ***relating to*** real property mortgages **,** ~~[),]~~ if they are issued, assumed or guaranteed by any solvent institution ~~[created or existing under the laws of the United States of America, Canada or Mexico, or of any state, district, province or territory thereof,]~~ and are qualified under any of the following:

(a) Obligations which are secured by adequate collateral security and bear fixed interest if **,** during each of any 3, including the last 2, of the 5 fiscal years next preceding the date of acquisition by the insurer, the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges, as defined in NRS 682A.090, have been not less than 1 1/2 times the total of its fixed charges for ~~[such]~~ ***that*** year. In determining the adequacy of collateral security **,** not more than one-third of the total value of ~~[such]~~ ***the*** required collateral may consist of stock other than stock meeting the requirements of NRS 682A.100 ~~[(]~~ **,** ***relating to*** preferred or guaranteed stock **.** ~~[).]~~

(b) Fixed interest-bearing obligations, other than those described in paragraph (a), if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of 5 fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than 1 1/2 times its average annual fixed charges applicable to ~~[such]~~ ***that*** period and if **,** during the last year of ~~[such period such]~~ ***that period, the*** net earnings have been not less than 1 1/2 times its fixed charges for ~~[such]~~ ***that*** year.

(c) Adjustment, income or other contingent interest obligations if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of 5 fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than 1 1/2 times the sum of its average annual fixed charges and its average annual maximum contingent interest applicable to such period and if **,** during each of the last 2 years of ~~[such period such]~~ ***that period, the*** net earnings have not been less than 1 1/2 times the sum of its fixed charges and maximum contingent interest for such year.

(d) Capital stock and other securities of:

(1) A state development corporation organized under the provisions of chapter 670 of NRS.

(2) A corporation for economic revitalization and diversification organized under the provisions of chapter 670A of NRS, if the insurer is a member of the corporation, and to the extent of its loan limit established under NRS 670A.200.

2. No insurer may invest in any such bonds or evidences of indebtedness in excess of 10 percent of any issue of such bonds or evidences of indebtedness or, subject to subsection 1 of NRS 682A.050 ~~[(diversification),]~~ ***, relating to diversification,*** more than an amount equal to 10 percent of the insurer's admitted assets in any issue.

Sec. 18. NRS 682A.100 is hereby amended to read as follows:

682A.100 1. An insurer may invest in preferred or guaranteed stocks or shares of any solvent institution ~~[existing under the laws of the United States of America, Canada or Mexico, or of any state or province thereof,]~~ if all of the prior obligations and prior preferred stocks, if any, of the institution at the date of acquisition of the investment by the insurer are eligible as investments under this chapter and if the net earnings of the institution available for its fixed charges during either of the last 2 years have been, and during each of the last 5 years have averaged, not less than 1 1/2 times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements. For the purposes of this section, the computation refers to the fiscal years immediately preceding the date of acquisition of the investment by the insurer, and the term "preferred dividend requirement" means cumulative or noncumulative dividends, whether paid or not.

2. No insurer may invest in any such preferred or guaranteed stocks in an amount in excess of 35 percent of the particular issue of guaranteed or preferred stock or, subject to subsection 1 of NRS 682A.050 , more than an amount equal to 10 percent of the insurer's admitted assets in any one issue.

Sec. 19. NRS 682A.110 is hereby amended to read as follows:

682A.110 1. An insurer may invest up to 35 percent of its assets in nonassessable common stocks, other than insurance stocks, of any solvent corporation , ~~[organized and existing under the laws of the United States of America, Canada or Mexico, or of any state or province thereof,]~~ except that bank or trust company stocks may be assessable and any stocks may be assessable for taxes ~~[,]~~ if the corporation has had net earnings available for dividends on the stock in each of the 5 fiscal years next preceding acquisition by the insurer. If the issuing corporation has not been in legal existence for all of the 5 fiscal years but was formed as a consolidation or merger

of two or more businesses of which at least one was in operation on a date 5 years before the investment, the test of eligibility of its common stock under this section must be based upon consolidated pro forma statements of the predecessor or constituent institutions.

2. Any amount invested in a fund or trust under NRS 682A.140 must not be included in computing the amounts prescribed in subsection 1.

Sec. 20. NRS 683A.08524 is hereby amended to read as follows:

683A.08524 1. Except as otherwise provided ~~[by]~~ ***in*** subsection 2, the Commissioner shall issue a certificate of registration as an administrator to an applicant who:

(a) Submits an application on a form prescribed by the Commissioner;

(b) Has complied with the provisions of NRS 683A.08522; and

(c) Pays the fee for the issuance of a certificate of registration prescribed in NRS 680B.010.

2. The Commissioner may refuse to issue a certificate of registration as an administrator to an applicant if the Commissioner determines that the applicant or any person who has completed an affidavit pursuant to subsection 6 of NRS 683A.08522:

(a) Is not competent to act as an administrator;

(b) Is not trustworthy or financially responsible;

(c) Does not have a good personal or business reputation;

(d) Has had a license or certificate to transact insurance denied for cause, suspended or revoked in this state or any other state; ~~[or]~~

(e) Has failed to comply with any provision of this chapter ~~[.]~~ ***; or***

(f) Is financially unsound.

Sec. 21. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 ***1.*** Not later than ~~[March]~~ ***July*** 1 of each year, each holder of a certificate of registration as an administrator shall file ~~[a financial statement]~~ ***an annual report*** with the Commissioner ***.*** ~~[on a form approved by the Commissioner.]~~ ***The report must be verified by at least two officers of the administrator.***

2. Each annual report filed pursuant to subsection 1 must include:

(a) An audited financial statement of the administrator prepared by an independent certified public accountant;

(b) The complete name and address of each person for whom the administrator agreed to act as an administrator during the immediately preceding fiscal year; and

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated audited financial statement;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the report, pay a filing fee in an amount determined by the Commissioner.

5. On or before September 1 of each year, the Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and the audited financial statement included in the report, the administrator has a positive net worth and is currently licensed and in good standing in this state; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and the audited financial statement included in the report, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 22. NRS 683A.0892 is hereby amended to read as follows:

683A.0892 ***1.*** The Commissioner:

~~[1.]~~ ***(a)*** Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

~~[(a)]~~ ***(1)*** Is in an unsound financial condition;

~~[(b)]~~ ***(2)*** Uses methods or practices in the conduct of his business that are hazardous or injurious to insured persons or members of the general public; or

~~[(c)]~~ ***(3)*** Has failed to pay any judgment against him in this state within 60 days after the judgment became final.

~~[2.]~~ ***(b)*** May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

~~[(a)]~~ ***(1)*** Has willfully violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

~~[(b)]~~ ***(2)*** Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

~~[(c)]~~ ***(3)*** Has, without just cause, refused to pay claims or perform services pursuant to his contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against him to receive full payment or settlement of claims;

~~[(d)]~~ ***(4)*** Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this state without a certificate of authority or certificate of registration;

~~[(e)]~~ ***(5)*** Fails to comply with any of the requirements for a certificate of registration;

~~[(f)]~~ ***(6)*** Has been convicted of ~~[,]~~ or has entered a plea of guilty or nolo contendere to a felony, whether or not adjudication was withheld; ~~[or~~

~~(g)]~~ ***(7)*** Has had his authority to act as an administrator in another state limited, suspended or revoked ~~[.~~

~~3. May,]~~ ***; or***

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of or has entered a plea of guilty or nolo contendere to a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

~~[(a)]~~ ***(1)*** The administrator is impaired or insolvent;

~~[(b)]~~ ***(2)*** A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

~~[(c)]~~ ***(3)*** The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this state.

~~[4.]~~ ***(e)*** May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of $2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

Sec. 23. NRS 683A.201 is hereby amended to read as follows:

683A.201 1. A person shall not sell, solicit or negotiate insurance in this state for any class of insurance unless he is licensed for that class of insurance.

2. An insurer is exempt from the requirement for licensure as a producer of insurance, but this exemption does not extend to an insurer's officers, directors, employees, subsidiaries or affiliates ~~[.]~~ ***who sell, solicit or negotiate insurance.***

3. A person required to be licensed in this state who transacts insurance without a license is subject to an administrative fine of not more that $1,000 for each violation.

Sec. 24. NRS 683A.211 is hereby amended to read as follows:

683A.211 The following persons need not be licensed as producers of insurance:

1. An officer, director or employee of an insurer or of a producer of insurance if the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(a) The officer, director or employee's activities are executive, administrative, managerial ~~[,]~~ ***or*** clerical ***,*** or a combination ~~[of these,]~~ ***thereof,*** and are only indirectly related to the sale, solicitation or negotiation of insurance;

(b) The officer, director or employee's function relates to underwriting, control of losses, inspection or the processing, adjusting, investigating or settling of claims on contracts of insurance; or

(c) The officer, director or employee is acting in the capacity of a special agent or supervisor of an agency assisting producers of insurance where his activities are limited to providing technical advice and assistance to licensed producers and do not include sale, solicitation or negotiation of insurance.

2. A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and health insurance, or for the purpose of enrolling natural persons under plans, issuing certificates under plans or otherwise assisting in administering plans, or who performs administrative services related to mass marketed property and casualty insurance, if no commission is paid to him for the service ~~[.]~~ ***and he does not sell, solicit or negotiate insurance.*** As used in this subsection, "blanket accident and health insurance" has the meaning ascribed to it in NRS 689B.070.

3. An employer or association or its officers, directors or employees, or the trustees of an employees' trust plan, to the extent that the employer, association, officers, directors, employees or trustees are engaged in the administration or operation of a program of employees' benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, if the program involves the use of insurance issued by an insurer and the employer, association, officers, directors, employees or trustees are not compensated by the insurer issuing the contracts.

4. Employees of insurers or organizations employed by insurers who are engaged in the inspection, rating or classification of risks or in the supervision of the training of producers of insurance and are not individually engaged in the sale, solicitation or negotiation of insurance.

5. A person whose activities in this state are limited to advertising, without the intent to solicit insurance in this state, through communications in printed publications or electronic mass media whose distribution is not limited to residents of this state, if he does not sell, solicit or negotiate insurance of risks residing, located or to be performed in this state.

6. A salaried full-time employee who counsels or advises his employer concerning the interests of the employer, or of the subsidiaries or affiliates of the employer, in insurance, if the employee does not sell or solicit insurance or receive a commission.

7. An employee of a producer of insurance or an insurer who responds to requests from holders of policies previously issued, if the employee is not directly compensated according to the volume of premiums that may result from those services and does not solicit insurance or offer advice concerning terms or conditions of policies.

Sec. 25. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which ***the*** application is made, unless the applicant is exempt from this requirement;

(d) Paid the fee prescribed for the license and a fee of $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee of $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(b) Designated a natural person ***who is*** licensed as a producer of insurance ***and who is affiliated with the business organization*** to be responsible for the organization's compliance with the laws and regulations of this state relating to insurance.

3. A natural person who is a resident of this state applying for a license must furnish a copy of a search concerning him conducted by the Federal Bureau of Investigation in its national criminal records ~~[,]~~ and of a search concerning him of the Central Repository for Nevada Records of Criminal History. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 26. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer ***of insurance*** may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts ~~[,]~~ or financial guaranty.

(f) Variable annuities ~~[,]~~ ***and variable life insurance,*** including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended ~~[, allowed to expire]~~ or otherwise terminated ~~[, if the license is renewed when due,]~~ ***if a request for a renewal is submitted on or before the date for the renewal specified on the license,*** the fee for renewal and a fee of $15 for deposit in the Insurance Recovery Account are paid for each license and each affiliation with a business organization licensed pursuant to subsection 2 of NRS 683A.251 **,** and any requirement for education

or any other requirement to renew the license is satisfied by the ~~[due date.]~~ ***date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.***

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date ***specified on the license for a*** renewal ~~[was due]~~ without passing a written examination ~~[,]~~ ***or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251,*** but a penalty of twice the ~~[unpaid]~~ renewal fee is required for any ***request for a*** renewal ~~[fee]~~ ***of the license that is*** received after the ~~[due date.]~~ ***date specified on the license for the renewal.***

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of ~~[an examination,]~~ ***any*** fine or sanction otherwise required or imposed because of ***the*** failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and ***must*** contain any other information the Commissioner considers necessary. A resident producer ***of insurance*** shall maintain a place of business in this state which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of ~~[a]~~ ***each*** change of ***location from which he conducts business as a producer of insurance and each change of business or residence*** address, in writing or by other means acceptable to the Commissioner ***,*** within 30 days after the change. If a licensee changes ~~[his]~~ ***the location from which he conducts business as a producer of insurance or his business or residence*** address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the

Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 27. NRS 683A.301 is hereby amended to read as follows:

683A.301 1. An applicant for a license as a producer of insurance ***or a licensee*** who desires to use a name other than his true name as shown on the license shall ***submit a request for approval of the name and*** file with the Commissioner a certified copy of the certificate or any renewal certificate filed pursuant to chapter 602 of NRS. An incorporated applicant or licensee shall file with the Commissioner a document showing the corporation's true name and all fictitious names under which it conducts or intends to conduct business. A licensee shall file promptly with the Commissioner ***a*** written notice of any change in or discontinuance of the use of a fictitious name.

2. The Commissioner may disapprove in writing the use of a true name, other than the true name of a natural person who is the applicant or licensee, or a fictitious name of any applicant or licensee, on any of the following grounds:

(a) The name interferes with or is deceptively similar to a name already filed and in use by another licensee.

(b) Use of the name may mislead the public in any respect.

(c) The name states or implies that the applicant or licensee is an insurer, motor club or hospital service plan or is entitled to engage in activities related to insurance not permitted under the license applied for or held.

(d) The name states or implies that the licensee is an underwriter, but:

(1) A natural person licensed as an agent or broker for life insurance may describe himself as an underwriter or "chartered life underwriter" if entitled to do so;

(2) A natural person licensed for property and casualty insurance may use the designation "chartered property and casualty underwriter" if entitled thereto; and

(3) An insurance agent or brokers' trade association may use a name containing the word "underwriter."

(e) The licensee ~~[has already filed and not discontinued the use of]~~ ***submits a request to use*** more than ~~[two names, including the true name.]~~ ***one fictitious name at a single business location.***

3. A licensee shall not use a name after written notice from the Commissioner ***indicates*** that its use violates the provisions of this section. If the Commissioner determines that the use is justified by mitigating circumstances, he may permit, in writing, the use of the name to continue for a specified reasonable period upon conditions imposed by him for the protection of the public consistent with this section.

4. Paragraphs (a), (c) and (d) of subsection 2 do not apply to the true name of an organization which on July 1, 1965, held under that name a type of license similar to those governed by this chapter, or to a fictitious name used on July 1, 1965, by a natural person or organization holding such a license, if the fictitious name was filed with the Commissioner on or before July 1, 1965.

Sec. 28. NRS 683A.351 is hereby amended to read as follows:

683A.351 1. Every producer of insurance shall keep complete records of transactions under his license. The records must show, for each insurance policy placed or countersigned by or through the licensee, not less than the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, the names of all other persons from whom business is accepted or to whom commissions are promised or paid, all premiums collected, and such additional information as the Commissioner may reasonably require.

2. The records must be open to examination of the Commissioner at all times, and the Commissioner may at any time require the licensee to furnish to him, in such ***a*** manner or form as he requires, any information kept or required to be kept in those records. ***The records may be kept in an electronic format if, using the electronic format, the records are retained in accordance with this section.***

3. Records of a particular policy or contract may be destroyed 3 years after expiration of the policy or contract.

Sec. 29. Chapter 683C of NRS is hereby amended by adding thereto the provisions set forth as sections 30 and 31 of this act.

Sec. 30. ***The provisions of chapters 679A and 679B of NRS and NRS 683A.301, 683A.341 and 683A.351 apply to an insurance consultant.***

Sec. 31. ***A licensee shall inform the Commissioner of all locations from which business is conducted and of any change of business or residence address, in writing or by any other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes his address without giving written notice and the Commissioner is unable to locate the licensee after making a diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.***

Sec. 32. NRS 683C.020 is hereby amended to read as follows:

683C.020 1. Except as otherwise provided in subsection 2, no person may engage in the business of an insurance consultant unless a license has been issued to him by the Commissioner.

2. An insurance consultant's license is not required for:

(a) An attorney licensed to practice law in this state who is acting in his professional capacity;

(b) A licensed insurance agent, broker or surplus lines broker;

(c) A trust officer of a bank who is acting in the normal course of his employment; or

(d) An actuary or a certified public accountant who provides information, recommendations, advice or services in his professional capacity.

3. A person required to be licensed in this state who acts as an insurance consultant without a license is subject to an administrative fine of not more than $1,000 for each act or violation.

Sec. 33. NRS 683C.030 is hereby amended to read as follows:

683C.030 1. An application for a license to act as an insurance consultant must be submitted to the Commissioner on forms prescribed by the Commissioner and ***must*** be accompanied by ~~[a]~~ ***the applicable*** license fee ~~[of $78]~~ ***set forth in NRS 680B.010*** and an additional fee of $15 which must be deposited in the Insurance Recovery Account created pursuant to NRS 679B.305. ***The license fee and the additional fee are not refundable.*** If the applicant is a natural person, the application must include the social security number of the applicant.

2. An applicant for an insurance consultant's license must successfully complete an examination and a course of instruction which the Commissioner shall establish by regulation.

3. Each license issued pursuant to this chapter is valid for 3 years from the date of issuance ~~[.]~~ or until it is suspended, revoked or otherwise terminated.

Sec. 34. NRS 683C.035 is hereby amended to read as follows:

683C.035 1. The Commissioner shall prescribe the form of application by a natural person for a license as an insurance consultant. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years.

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license ~~[.]~~ ***pursuant to NRS 683A.451.***

(c) Paid the fee prescribed for the license and a fee of $15 for deposit in the Insurance Recovery Account, neither of which may be refunded.

(d) Passed each examination required for the license and successfully completed each course of instruction which the Commissioner requires by regulation, unless he is a resident of another state and holds a similar license in that state.

2. A business organization must be licensed as an insurance consultant in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid the fee prescribed for the license and a fee of $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(b) Designated a natural person ***who is*** licensed as an insurance consultant ***in this state and who is affiliated with the business organization*** to be responsible for the organization's compliance with the laws and regulations of this state relating to insurance.

3. The Commissioner may require any document reasonably necessary to verify information contained in an application.

4. A license issued pursuant to this chapter is valid for 3 years after the date of issuance or until it is suspended, revoked or otherwise terminated.

5. An insurance consultant may qualify for a license pursuant to this chapter in one or more of the lines of authority set forth in paragraphs (a) to (d), inclusive, of subsection 1 of NRS 683A.261.

Sec. 35. NRS 683C.040 is hereby amended to read as follows:

683C.040 ***1.*** A license may be renewed for additional 3-year periods by submitting to the Commissioner an application for renewal and:

~~[1.]~~ ***(a)*** If the application is made:

~~[(a)]~~ ***(1)*** On or before the expiration date of the license, the applicable renewal fee and an additional fee of $15 for deposit in the Insurance Recovery Account; or

~~[(b)]~~ ***(2)*** Not more than 30 days after the expiration date of the license, the applicable renewal fee plus any late fee required and an additional fee of $15 for deposit in the Insurance Recovery Account;

~~[2.]~~ ***(b)*** If the applicant is a natural person, the statement required pursuant to NRS 683C.043; and

~~[3.]~~ ***(c)*** If the applicant is a resident, proof of the successful completion of appropriate courses of study required for renewal, as established by the Commissioner by regulation.

2. The fees specified in this section are not refundable.

Sec. 36. NRS 683C.070 is hereby amended to read as follows:

683C.070 ~~[No]~~ ***A*** person licensed pursuant to this chapter may ***not*** concurrently hold ~~[an insurance agent's license, broker's]~~ ***a*** license ***as a producer of insurance*** or ***a*** surplus lines broker's license in any line.

Sec. 37. NRS 683C.080 is hereby amended to read as follows:

683C.080 ~~[No]~~ ***A*** licensed insurance consultant ~~[may]~~ ***shall not*** employ, be employed by or be in partnership with, or receive any remuneration arising out of his activities as an insurance consultant from, any licensed ***producer of*** insurance ~~[agent, broker]~~ or surplus lines broker or insurer.

Sec. 38. NRS 685A.070 is hereby amended to read as follows:

685A.070 1. A broker shall not knowingly place surplus lines insurance with an insurer which is unsound financially or ineligible pursuant to this section.

2. Except as otherwise provided in this section, ~~[no]~~ ***an*** insurer is ***not*** eligible ~~[for the acceptance of]~~ ***to accept*** surplus lines risks pursuant to this chapter unless it has surplus as to policyholders in an amount of not less than ~~[$5,000,000]~~ ***$15,000,000*** and, if an alien insurer, unless it has and maintains in a bank or trust company which is a member of the United States Federal Reserve System a trust fund established pursuant to terms ***that are*** reasonably adequate ~~[for the protection of]~~ ***to protect*** all of its policyholders in the United States ***.*** ~~[in an amount of not less than $1,500,000.]~~ Such a trust fund must not have an expiration date which is at any time less than 5 years in the future, on a continuing basis. In the case of:

(a) A ***single alien insurer, such a trust fund must not be less than the greater of $5,400,000 or 30 percent of the gross liabilities of the alien insurer for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance, not to exceed $60,000,000, to be determined annually on the basis of accounting practices and procedures that are substantially equivalent to the accounting practices and procedures applicable in this state as of December 31 of the year immediately preceding the date of the determination where:***

(1) The liabilities are maintained in an irrevocable trust account in a qualified financial institution in the United States, on behalf of policyholders in the United States, consisting of cash, securities, letters of credit or any other investments of substantially the same character and quality as investments that are eligible investments pursuant to chapter 682A of NRS for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this state. The trust fund, which must be included in any calculation of capital and surplus or its equivalent, must

comply with the requirements set forth in the Standard Trust Agreement required for listing with the International Insurers Department of the National Association of Insurance Commissioners;

(2) The alien insurer may request approval by the Commissioner to use the trust fund to pay any valid claim against a surplus line if the balance of the trust fund is not, during any period, less than $5,400,000 or 30 percent of the alien insurer's current gross liabilities for surplus lines in the United States, excluding any liabilities for aviation, wet marine and transportation insurance; and

(3) In calculating the amount of the trust fund required by this subsection, credit must be given for any deposits for any surplus lines that are separately required and maintained within a state or territory of the United States, not to exceed the amount of the alien insurer's loss and loss adjustment reserves maintained in that state or territory.

(b) A group of insurers which includes individual unincorporated insurers, such a trust fund must not be less than $100,000,000.

~~[(b)]~~ ***(c)*** A group of incorporated insurers under common administration, such a trust fund must not be less than $100,000,000. ***Each insurer within the group must individually maintain capital and surplus of not less than $25,000,000.*** The group of incorporated insurers must:

(1) Operate under the supervision of the Department of Trade and Industry of the United Kingdom;

(2) Possess aggregate policyholders surplus of $10,000,000,000, which must consist of money in trust in an amount not less than the assuming insurers' liabilities attributable to insurance written in the United States; and

(3) Maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group.

~~[(c)]~~ ***(d)*** An insurance exchange created by the laws of a state, the insurance exchange shall have and maintain a trust fund in an amount of not less than ~~[$50,000,000]~~ ***$75,000,000*** or have a surplus as to policyholders in an amount of not less than ~~[$50,000,000.]~~ ***$75,000,000.*** If an insurance exchange maintains money for the protection of all policyholders, each syndicate shall maintain minimum capital and surplus of not less than ~~[$5,000,000]~~ ***$15,000,000*** and must qualify separately to be eligible for the acceptance of surplus lines risks pursuant to this chapter.

The Commissioner may require larger trust funds or surplus as to policyholders than those set forth in this section if, in his judgment,

the volume of business being transacted or proposed to be transacted warrants larger amounts.

3. ~~[No]~~ ***An*** insurer is ***not*** eligible to write surplus lines of insurance unless it has established a reputation for financial integrity and satisfactory practices in underwriting and handling claims. In addition, a foreign insurer must be authorized in the state of its domicile to write the kinds of insurance which it intends to write in Nevada.

4. The Commissioner may from time to time compile or approve a list of all surplus lines insurers deemed by him to be eligible currently, and may mail a copy of the list to each broker at his office last of record with the Commissioner. To be placed on the list, a surplus lines insurer must file an application with the Commissioner. The application must be accompanied by a nonrefundable fee of $2,450. This subsection does not require the Commissioner to determine the actual financial condition or claims practices of any unauthorized insurer. The status of eligibility, if granted by the Commissioner, indicates only that the insurer appears to be sound financially and to have satisfactory claims practices, and that the Commissioner has no credible evidence to the contrary. While any such list is in effect, the broker shall restrict to the insurers so listed all surplus lines business placed by him.

Sec. 38.3. NRS 685A.080 is hereby amended to read as follows:

685A.080 1. Upon placing a surplus lines coverage, the broker shall promptly issue and deliver to the insured evidence of the insurance consisting either of the policy as issued by the insurer, or, if such a policy is not then available, the surplus lines broker's certificate executed by the broker or a cover note **.** ~~[endorsed by the broker.]~~ Such a certificate or ~~[endorsed]~~ cover note must show the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and insurer and must state that the broker has verified that the insurance described has been granted or issued. If the direct risk is assumed by more than one insurer, the certificate must state the name and address and proportion of the entire direct risk assumed by each such insurer.

2. A broker shall not issue any such certificate or any cover note, or purport to insure or represent that insurance will be or has been granted by any unauthorized insurer, unless he has prior written authority from the insurer for the insurance, or has received information from the insurer in the regular course of business that the insurance has been granted, or an insurance policy providing the

insurance actually has been issued by the insurer and delivered to the insured.

3. If after the issuance and delivery of any such certificate there is any change as to the identity of the insurers, or the proportion of the direct risk assumed by an insurer as stated in the broker's original certificate, or in any other material respect as to the insurance evidenced by the certificate, the broker shall promptly issue and deliver to the insured a substitute certificate accurately showing the current status of the coverage and the insurers responsible thereunder.

4. If a policy issued by the insurer is not available upon placement of the insurance and the broker has issued and delivered his certificate as provided in this section, upon request therefor by the insured the broker shall as soon as reasonably possible procure from the insurer its policy evidencing the insurance and deliver the policy to the insured in replacement of the broker's certificate theretofore issued.

5. Any surplus lines broker who knowingly or negligently issues a false certificate of insurance or who fails promptly to notify the insured of any material change with respect to the insurance by delivery to the insured of a substitute certificate as provided in subsection 3 is subject to the penalty provided by NRS 679A.180 or to any greater applicable penalty otherwise provided by law.

Sec. 38.7. NRS 685A.090 is hereby amended to read as follows:

685A.090 ~~[Every]~~ ***Each*** insurance contract procured and delivered as a surplus lines coverage pursuant to this chapter must ~~[be countersigned by the broker who procured it, and must]~~ have conspicuously stamped upon it:

> This insurance contract is issued pursuant to the Nevada insurance laws by an insurer neither licensed by nor under the supervision of the Division of Insurance of the Department of Business and Industry of the State of Nevada. If the insurer is found insolvent, a claim under this contract is not covered by the Nevada Insurance Guaranty Association Act.

Sec. 39. NRS 685A.120 is hereby amended to read as follows:

685A.120 1. No person ~~[in this state]~~ may act as, hold himself out as ~~[,]~~ or be a surplus lines broker with respect to subjects of insurance resident, located or to be performed in this state or elsewhere unless he is licensed as such by the Commissioner pursuant to this chapter.

2. Any person who has been licensed by this state as a ~~[broker]~~ ***producer of insurance*** for general lines for at least 6 months, or has

been licensed in another state as a surplus lines broker ~~[for at least 1 year]~~ and continues to be licensed in that state, and who is deemed by the Commissioner to be competent and trustworthy with respect to the handling of surplus lines may be licensed as a surplus lines broker upon:

(a) Application for a license and payment of the applicable fee for a license and a fee of $15 for deposit in the Insurance Recovery Account created by NRS 679B.305;

(b) Submitting the statement required pursuant to NRS 685A.127; and

(c) Passing any examination prescribed by the Commissioner on the subject of surplus lines.

3. An application for a license must be submitted to the Commissioner on a form designated and furnished by him. The application must include the social security number of the applicant.

4. A license issued pursuant to this chapter continues in force for 3 years unless it is suspended, revoked or otherwise terminated. The license may be renewed upon submission of the statement required pursuant to NRS 685A.127 and payment of the applicable fee for renewal and a fee of $15 for deposit in the Insurance Recovery Account created by NRS 679B.305 to the Commissioner on or before the last day of the month in which the license is renewable.

5. A license which is not renewed expires at midnight on the last day specified for its renewal. The Commissioner may accept a request for renewal received by him within 30 days after the expiration of the license if the request is accompanied by ~~[the]~~ ***:***

(a) The statement required pursuant to NRS 685A.127 ~~[, a]~~ ***;***

(b) The applicable fee for renewal ~~[of 150]~~ ***;***

(c) A penalty in an amount that is equal to 50 percent of the ***applicable*** fee ~~[otherwise required and a]~~ ***for renewal; and***

(d) A fee of $15 for deposit in the Insurance Recovery Account created by NRS 679B.305.

Sec. 39.5. NRS 685A.180 is hereby amended to read as follows:

685A.180 1. On or before March 1 of each year each broker shall pay to the Commissioner a tax on surplus lines coverages written by him in unauthorized insurers during the preceding calendar year at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers. If a broker has paid any taxes pursuant to NRS 685A.175, he shall deduct the total paid from the tax due and pay the remainder, if any.

2. For the purposes of this section, the "premium" on surplus lines coverages includes:

(a) The gross amount charged by the insurer for the insurance, less any return premium;

(b) Any fee allowed by NRS 685A.155;

(c) Any policy fee;

(d) Any membership fee; ~~[and]~~

(e) Any ***inspection fee; and***

(f) Any other fees or assessments charged by the insurer as consideration for the insurance.

Premium does not include any additional amount charged for state or federal tax, ***or for*** filing affidavits or reports of coverage ***.*** ~~[, inspection fee or the communication expenses of the broker.]~~

3. If a contract for surplus lines insurance covers risks or exposures only partially in this state, the tax so payable must be computed on that portion of the premium properly allocable to the risks or exposures located in this state. The Commissioner may adopt regulations which establish standards for allocating premiums for risks located in this state in the same manner as premiums are allocated pursuant to NRS 680B.030.

4. The Commissioner shall promptly deposit all taxes collected by him pursuant to this section with the State Treasurer, to the credit of the State General Fund.

5. A broker who receives a credit for tax paid shall refund to each insured the amount of the credit attributable to the insured when the insurer pays a return premium or within 30 days, whichever is earlier.

Sec. 40. NRS 685B.080 is hereby amended to read as follows:

685B.080 ***1.*** Any unauthorized insurer who transacts any unauthorized act of an insurance business as set forth in the Unauthorized Insurers Act may be fined not more than $10,000 for each act or violation.

2. In addition to any other penalties provided in this Code:

(a) Any producer of insurance or surplus lines broker licensed in this state who in this state knowingly represents or aids an unauthorized insurer in violation of the Unauthorized Insurers Act is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(b) Any person other than a producer of insurance or surplus lines broker licensed in this state who in this state represents or aids an unauthorized insurer in violation of the Unauthorized Insurers Act is guilty of a category C felony and shall be punished as provided in NRS 193.130.

(c) Any person who commits a second or subsequent violation of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term

of not less than 1 year and a maximum term of not more than 20 years.

3. In addition to the penalties provided in subsection 2, such a violator is liable, personally, jointly and severally with any other person liable therefor, for the payment of premium taxes at the same rate of tax as imposed by law on the premiums of similar coverages written by authorized insurers.

Sec. 41. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 42 to 46, inclusive, of this act.

Sec. 42. ***As used in sections 42 to 46, inclusive, of this act, unless the context otherwise requires, "insured" has the meaning ascribed to it in NRS 686B.260.***

Sec. 43. ***The provisions of NRS 81.130 and 81.510 do not apply to the conversion of an essential insurance association to a domestic mutual insurer or a domestic reciprocal insurer as provided in sections 42 to 46, inclusive, of this act.***

Sec. 44. ***1. An essential insurance association shall, if requested to do so by the Commissioner, file a notice of intent to qualify as a domestic mutual insurer or a domestic reciprocal insurer. In the absence of a request by the Commissioner, an essential insurance association may file such a notice at such time as the association determines appropriate.***

2. The notice must be filed with the Commissioner at least 4 months before the date the association is to become a domestic mutual insurer or a domestic reciprocal insurer and must include:

(a) An application prepared pursuant to chapter 680A of NRS for a certificate of authority to transact business in Nevada as a domestic mutual insurer or a domestic reciprocal insurer;

(b) A valuation of the policyholder's surplus according to both market and amortized value based on the association's annual financial statement for the previous year; and

(c) A provision for the return of any unused portion of the insured's capital stabilization charges.

Sec. 45. ***1. At the time the association files a notice of intent to qualify as a domestic mutual insurer or domestic reciprocal insurer, it must give a notice of intent to all participating insurers and all insureds on a form approved by the Commissioner.***

2. Any participating insurer or insured may, within 30 days after the date of the notice, apply to the Division for a hearing concerning the association's ability to qualify as a domestic mutual insurer or domestic reciprocal insurer.

3. An association must comply with the provisions of:

(a) Chapter 692B of NRS, as applicable to mutual insurers, to qualify as a domestic mutual insurer; or

(b) Chapter 694B of NRS, as applicable to reciprocal insurers, to qualify as a domestic reciprocal insurer.

Sec. 46. ***Upon determining that an association has complied with sections 42 to 46, inclusive, of this act and all other requirements applicable to domestic mutual insurers, if the association is qualifying as a domestic mutual insurer, or to domestic reciprocal insurers, if the association is qualifying as a domestic reciprocal insurer, the Commissioner may issue to the association a certificate of authority to transact business as a domestic mutual insurer or a domestic reciprocal insurer.***

Sec. 47. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this state by any insurer authorized to do business in this state, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

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

(f) Property insurance for business and commercial risks; ~~[and]~~

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS ~~[.]~~ ***; and***

(h) Surety insurance.

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

Sec. 48. NRS 686B.1781 is hereby amended to read as follows:

686B.1781 ~~[NRS 686B.1751 to 686B.1799, inclusive, do not prohibit or regulate the payment of dividends, savings, unearned premiums deposits or an equivalent abatement of premiums allowed or returned by insurers to their policyholders, members or subscribers.]~~

1. An insurer shall not unfairly discriminate among its policyholders in paying a dividend ~~[.]~~ ***, savings, unearned premium deposits or an equivalent abatement of premiums allowed or returned by an insurer for a policy of industrial insurance.***

2. A plan for the payment of dividends ~~[is not a rating system or plan.]~~ ***for industrial insurance must be filed before there is a dividend payment. The plan shall be deemed approved unless the***

Commissioner disapproves the plan within 30 days after it is filed and received by the Commissioner. An insurer shall not condition the payment of ~~[such]~~ a dividend upon the renewal of a policy or contract by the policyholder, member or subscriber.

3. An insurer paying savings, unearned premium deposits or an equivalent abatement for premiums allowed or returned for a policy of industrial insurance must receive prior approval.

Sec. 49. NRS 686B.230 is hereby amended to read as follows:

686B.230 1. The Nevada Essential Insurance Association has, for purposes of this section and to the extent approved by the Commissioner, the general powers and authority granted under the laws of this state to carriers licensed to transact the kinds of insurance defined in NRS 681A.020 to 681A.080, inclusive.

2. The Association may take any necessary action to make available necessary insurance, including ***,*** but not limited to ***,*** the following:

(a) Assess participating insurers amounts necessary to pay the obligations of the Association, administration expenses, the cost of examinations conducted pursuant to NRS 687A.110 and other expenses authorized by this chapter. The assessment of each member insurer for the kind or kinds of insurance designated in the plan ~~[shall]~~ ***must*** be in the proportion that the net direct written premiums of the member insurer for the preceding calendar year bear to the net direct written premiums of all member insurers for the preceding calendar year. A member insurer may not be assessed in any year an amount greater than 5 percent of his net direct written premiums for the preceding calendar year. Each member insurer ~~[shall]~~ ***must*** be allowed a premium tax credit at the rate of 20 percent per year for 5 successive years ~~[following termination of the Association.]~~ ***beginning on the first day of the calendar year after the calendar year in which the insurer pays the assessment pursuant to this subsection.***

(b) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section.

(c) Sue or be sued, including taking any legal action necessary to recover any assessments for, on behalf of or against participating carriers.

(d) Investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the association's obligation and deny all other claims. Process claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a service facility is subject to the approval of the Commissioner ***,*** but such ***a*** designation may be declined by a member insurer.

(e) Classify risks as may be applicable and equitable.

(f) Establish appropriate rates, rate classifications and rating adjustments and file ~~[such]~~ ***those*** rates with the Commissioner in accordance with this chapter.

(g) Administer any type of reinsurance program for or on behalf of the Association or any participating carriers.

(h) Pool risks among participating carriers.

(i) Issue and market, through agents, policies of insurance providing the coverage required by this section in its own name or on behalf of participating carriers.

(j) Administer separate pools, separate accounts or other plans as may be deemed appropriate for separate carriers or groups of carriers.

(k) Invest, reinvest and administer all funds and moneys held by the Association.

(l) Borrow funds needed by the Association to ~~[effect]~~ ***carry out*** the purposes of this section.

(m) Develop, effectuate and promulgate any loss-prevention programs aimed at the best interests of the Association and the insuring public.

(n) Operate and administer any combination of plans, pools, reinsurance arrangements or other mechanisms as deemed appropriate to best accomplish the fair and equitable operation of the Association for the purposes of making available essential insurance coverage.

3. In providing for the recoupment of a deficit of the Association, an option ~~[shall]~~ ***must*** be offered to an insured each policy year to pay a capital stabilization charge which ~~[shall]~~ ***must*** not exceed 100 percent of the premium charged to the insured in that year. The Board of Directors shall determine the amount of the charge from appropriate factors of loss experience and risk associated with the Association and the insured. An insured who pays the stabilization charge ~~[shall]~~ ***must*** not be required to pay any assessment to recoup a deficit of the Association incurred in any policy year for which the charge is paid. The Association's plan of operation ~~[shall]~~ ***must*** provide for the return to the insured of so much of his payment as remains after all actual or potential liabilities under the policy have been discharged.

Sec. 50. NRS 686B.240 is hereby amended to read as follows:

686B.240 The Commissioner and the Nevada Essential Insurance Association may:

1. Give consideration to the need for adequate and readily accessible coverage, to alternative methods of improving the market affected, to the preferences of the insurers and agents, to the inherent limitations of the insurance mechanism, to the need for

reasonable underwriting standards and to the requirement of reasonable loss-prevention measures.

2. Establish procedures that will create minimum interference with the voluntary market.

3. Spread the burden imposed by the facility equitably and efficiently.

4. Establish procedures for applicants and participants to have grievances reviewed.

5. Take all reasonable and necessary steps to dissolve the Association at the earliest date when essential insurance becomes readily available in the private market. The dissolution of the Association, including its assets and liabilities, ~~[shall]~~ ***must*** be accomplished under the supervision of the Commissioner in an equitable and reasonable manner. ***The dissolution must, if determined to be appropriate by the Commissioner, provide for the repayment of any loans or other money provided or contributed by the State of Nevada for the formation or continuance of the Association.***

Sec. 51. NRS 686B.290 is hereby amended to read as follows:

686B.290 1. At the time the Association files a notice of intent to qualify as a domestic stock insurer, it must give notice of its intent to all participating insurers and all insureds ~~[in]~~ ***on*** a form approved by the Commissioner. The notice to each insured must state the total amount of stock to be issued and the amount of shares to which he is entitled.

2. Any participating insurer or insured may, within 30 days after the date of the notice, apply to the Division for a hearing concerning the Association's ability to qualify as a domestic insurer, the valuation of capital and surplus **,** or the proposed number and distribution of shares of stock.

Sec. 52. NRS 686B.320 is hereby amended to read as follows:

686B.320 Upon determining that ~~[an]~~ ***the*** Association has complied with NRS 686B.280 to 686B.310, inclusive, and all other requirements applicable to domestic stock insurers, the Commissioner may issue to the Association a certificate of authority to transact business as a domestic stock insurer **.** ~~[to become effective the next following January 1.]~~

Sec. 53. NRS 687A.033 is hereby amended to read as follows:

687A.033 1. "Covered claim" means an unpaid claim or judgment, including a claim for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this chapter applies issued by an insurer which becomes an insolvent insurer, if one of the following conditions exists:

(a) The claimant or insured, if a natural person, is a resident of this state at the time of the insured event.

(b) The claimant or insured, if other than a natural person, maintains its principal place of business in this state at the time of the insured event.

(c) The property from which the first party property damage claim arises is permanently located in this state.

(d) The claim is not a covered claim pursuant to the laws of any other state and the premium tax imposed on the insurance policy is payable in this state pursuant to NRS 680B.027.

2. The term does not include:

(a) An amount that is directly or indirectly due a reinsurer, insurer, insurance pool or underwriting association, as recovered by subrogation, indemnity or contribution, or otherwise.

(b) That part of a loss which would not be payable because of a provision for a deductible or a self-insured retention specified in the policy.

(c) Except as otherwise provided in this paragraph, any claim filed with the Association ~~[after:~~

~~(1) Eighteen]~~ ***:***

(1) More than 18 months after the date of the order of liquidation; or

(2) ~~[The]~~ ***After the*** final date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer,

whichever is earlier. The provisions of this paragraph do not apply to a claim for workers' compensation that is reopened pursuant to the provisions of NRS 616C.390.

(d) A claim filed with the Association for a loss that is incurred but is not reported to the Association before the expiration of the period specified in subparagraph (1) or (2) of paragraph (c).

(e) An obligation to make a supplementary payment for adjustment or attorney's fees and expenses, court costs or interest and bond premiums incurred by the insolvent insurer before the appointment of a liquidator, unless the expenses would also be a valid claim against the insured.

(f) A first party or third party claim brought by or against an insured, if the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than $25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer. The provisions of this paragraph do not apply to a claim for workers' compensation. ***As used in this paragraph, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms "owns," "is owned" and***

"ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 54. NRS 687A.060 is hereby amended to read as follows:

687A.060 1. The Association:

(a) Is obligated to the extent of the covered claims existing before the determination of insolvency and arising within 30 days after the determination of insolvency, or before the expiration date of the policy if that date is less than 30 days after the determination, or before the insured replaces the policy or on request cancels the policy if he does so within 30 days after the determination. The obligation of the Association to pay a covered claim is limited to the payment of:

(1) The entire amount of the claim, if the claim is for workers' compensation pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(2) ~~[More than $100 but not]~~ ***Not*** more than $300,000 for each policy ~~[,]~~ if the claim is for the return of unearned premiums; or

(3) The limit specified in a policy or $300,000, whichever is less, for each occurrence for any covered claim other than a covered claim specified in subparagraph (1) or (2).

(b) Shall be deemed the insurer to the extent of its obligations on the covered claims and to that extent has any rights, duties and obligations of the insolvent insurer as if the insurer had not become insolvent. The rights include, without limitation, the right to seek and obtain any recoverable salvage and to subrogate a covered claim, to the extent that the Association has paid its obligation under the claim.

(c) Shall assess member insurers amounts necessary to pay the obligations of the Association pursuant to paragraph (a) after an insolvency, the expenses of handling covered claims subsequent to an insolvency, the cost of examinations pursuant to NRS 687A.110 ~~[,]~~ and other expenses authorized by this chapter. The assessment of each member insurer must be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bear to the net direct written premiums of all member insurers for the same calendar year. Each member insurer must be notified of the assessment not later than 30 days before it is due. No member insurer may be assessed in any year an amount greater than 2 percent of the net direct written premiums of that member insurer for the calendar year preceding the assessment. If the maximum assessment, together with the other assets of the Association, does not provide in any 1 year an amount sufficient to make all necessary payments, the money available may be prorated and the unpaid portion must be paid as soon as money becomes

available. The Association may pay claims in any order, including the order in which the claims are received or in groups or categories. The Association may exempt or defer, in whole or in part, the assessment of any member insurer if the assessment would cause the financial statement of the member insurer to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. During the period of deferment, no dividends may be paid to shareholders or policyholders. Deferred assessments must be paid when payment will not reduce capital or surplus below required minimums. Payments must be refunded to those companies receiving larger assessments because of deferment, or, in the discretion of the company, credited against future assessments. Each member insurer must be allowed a premium tax credit for any amounts paid pursuant to the provisions of this chapter:

(1) For assessments made before January 1, 1993, at the rate of 10 percent per year for 10 successive years beginning March 1, 1996; or

(2) For assessments made on or after January 1, 1993, at the rate of 20 percent per year for 5 successive years beginning with the calendar year following the calendar year in which the assessments are paid.

(d) Shall investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the obligation of the Association and deny any other claims.

(e) Shall notify such persons as the Commissioner directs pursuant to paragraph (a) of subsection 2 of NRS 687A.080.

(f) Shall act on claims through its employees or through one or more member insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the Commissioner, but the designation may be declined by a member insurer.

(g) Shall reimburse each servicing facility for obligations of the Association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Association ~~[,]~~ and pay the other expenses of the Association authorized by this chapter.

2. The Association may:

(a) Appear in, defend and appeal any action on a claim brought against the Association.

(b) Employ or retain persons necessary to handle claims and perform other duties of the Association.

(c) Borrow money necessary to carry out the purposes of this chapter in accordance with the plan of operation.

(d) Sue or be sued.

(e) Negotiate and become a party to contracts necessary to carry out the purposes of this chapter.

(f) Perform other acts necessary or proper to effectuate the purposes of this chapter.

(g) If, at the end of any calendar year, the Board of Directors finds that the assets of the Association exceed its liabilities as estimated by the Board of Directors for the coming year, refund to the member insurers in proportion to the contribution of each that amount by which the assets of the Association exceed the liabilities.

(h) Assess each member insurer equally not more than $100 per year for administrative expenses not related to the insolvency of any insurer.

Sec. 55. NRS 687A.090 is hereby amended to read as follows:

687A.090 1. Any person recovering under this chapter shall be deemed to have assigned his rights under the policy to the Association to the extent of his recovery from the Association. Every insured or claimant seeking the protection of this chapter shall cooperate with the Association to the same extent as ~~[such]~~ ***the*** person would have been required to cooperate with the insolvent insurer. ~~[The Association shall have no]~~ ***Except as otherwise provided in subsection 2, the Association does not have a*** cause of action against the insured of the insolvent insurer for any sums it has paid out.

2. The ***Association may recover the amount of money paid to or on behalf of an insured of an insolvent insurer:***

(a) If the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than $25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer; or

(b) If the Association paid the money in error.

3. The receiver, liquidator or statutory successor of an insolvent insurer ~~[shall be]~~ ***is*** bound by ***any*** settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant ~~[such]~~ ***those*** claims priority equal to that to which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the Association or similar organization in handling claims ~~[shall]~~ ***must*** be accorded the same priority as the liquidator's expenses.

~~[3.]~~ ***4.*** The Association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the Association and estimates of anticipated claims on the Association, which statements shall preserve the rights of the Association against the assets of the insolvent insurer.

5. As used in this section, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 55.5. NRS 687B.145 is hereby amended to read as follows:

687B.145 1. Any policy of insurance or endorsement providing coverage under the provisions of NRS 690B.020 or other policy of casualty insurance may provide that if the insured has coverage available to him under more than one policy or provision of coverage, any recovery or benefits may equal but not exceed the higher of the applicable limits of the respective coverages, and the recovery or benefits must be prorated between the applicable coverages in the proportion that their respective limits bear to the aggregate of their limits. Any provision which limits benefits pursuant to this section must be in clear language and be prominently displayed in the policy, binder or endorsement. Any limiting provision is void if the named insured has purchased separate coverage on the same risk and has paid a premium calculated for full reimbursement under that coverage.

2. Except as otherwise provided in subsection 5, insurance companies transacting motor vehicle insurance in this state must offer, on a form approved by the Commissioner, uninsured and underinsured vehicle coverage in an amount equal to the limits of coverage for bodily injury sold to an insured under a policy of insurance covering the use of a passenger car. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage. Uninsured and underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of his own coverage any amount of damages for bodily injury from his insurer which he is legally entitled to recover from the owner or operator of the other vehicle to the extent that those damages exceed the limits of the coverage for bodily injury carried by that owner or operator. ***If an insured suffers actual damages subject to the limitation of liability provided pursuant to NRS 41.035, underinsured vehicle coverage must include a provision which enables the insured to recover up to the limits of his own coverage any amount of damages for bodily injury from his insurer for the actual damages suffered by the insured that exceed that limitation of liability.***

3. An insurance company transacting motor vehicle insurance in this state must offer an insured under a policy covering the use of a passenger car, the option of purchasing coverage in an amount of at least $1,000 for the payment of reasonable and necessary medical expenses resulting from an accident. The offer must be made on a form approved by the Commissioner. The insurer is not required to reoffer the coverage to the insured in any replacement, reinstatement, substitute or amended policy, but the insured may purchase the coverage by requesting it in writing from the insurer. Each renewal must include a copy of the form offering such coverage.

4. An insurer who makes a payment to an injured person on account of underinsured vehicle coverage as described in subsection 2 is not entitled to subrogation against the underinsured motorist who is liable for damages to the injured payee. This subsection does not affect the right or remedy of an insurer under subsection 5 of NRS 690B.020 with respect to uninsured vehicle coverage. As used in this subsection, "damages" means the amount for which the underinsured motorist is alleged to be liable to the claimant in excess of the limits of bodily injury coverage set by the underinsured motorist's policy of casualty insurance.

5. An insurer need not offer, provide or make available uninsured or underinsured vehicle coverage in connection with a general commercial liability policy, an excess policy, an umbrella policy or other policy that does not provide primary motor vehicle insurance for liabilities arising out of the ownership, maintenance, operation or use of a specifically insured motor vehicle.

6. As used in this section:

(a) "Excess policy" means a policy that protects a person against loss in excess of a stated amount or in excess of coverage provided pursuant to another insurance contract.

(b) "Passenger car" has the meaning ascribed to it in NRS 482.087.

(c) "Umbrella policy" means a policy that protects a person against losses in excess of the underlying amount required to be covered by other policies.

Sec. 56. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. An insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least ~~[30]~~ ***60*** days before ~~[those terms or rates become effective.]~~ ***the expiration of the policy.*** If the insurer ~~[offers or purports to]~~ ***fails to provide adequate and timely notice, the insurer shall*** renew the policy ~~[but on different terms, including different rates, the policyholder may, for 30 days after he receives notice of the changes in the policy, cancel~~

~~the policy. If he elects to cancel, the insurer shall refund to him the excess of the premium paid by him above the pro rata premium for the expired portion of the new term.]~~ ***at the expiring terms and rates:***

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. For the purpose of subsection 1, if the policy is a policy of industrial insurance, the term "rate" means the cost of insurance based on a unit of exposure to liability before any adjustments are made for an individual employer's losses or expenses, or a combination of both. The term does not include:

(a) The minimum premiums charged by an insurer;

(b) The prospective loss cost portion of the rate as filed by the Advisory Organization and approved by the Commissioner pursuant to NRS 686B.177; or

(c) Any experience modification factor applicable to the holder of the policy.

Sec. 57. NRS 690B.050 is hereby amended to read as follows:

690B.050 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his professional duty toward a patient shall ***, within 30 days after a claim is closed under the policy, submit a*** report to the Commissioner ~~[within 30 days each settlement or award made or judgment rendered by reason of a claim, giving the]~~ ***concerning the claim. The report must include, without limitation:***

(a) The name and address of the claimant and ~~[physician and]~~ the ***insured under the policy;***

(b) A statement setting forth the circumstances of the case ~~[. 2.]~~ ***;***

(c) Information indicating whether any payment was made on the claim and the amount of the payment, if any; and

(d) The information specified in subsection 2 of NRS 679B.144.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall ***, within 30 days after receiving a report from an insurer pursuant to this section, submit a*** report to the Board of Medical Examiners or the state board of osteopathic medicine, as applicable, ~~[within 30 days after receiving the report of the insurer, each claim made and each settlement, award or judgment.]~~ ***setting forth the information provided to the Commissioner by the insurer pursuant to this section.***

Sec. 58. Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 59 to 65, inclusive, of this act.

Sec. 59. ***"Acquisition" means any agreement, arrangement or activity, the consummation of which results in a person directly or indirectly acquiring the control of another person. The term includes, but is not limited to:***

1. The acquiring of a voting security;

2. The acquiring of any asset;

3. Bulk reinsurance; and

4. A merger.

Sec. 60. ***"Involved insurer" includes an insurer that:***

1. Acquires a person or is acquired by a person;

2. Is affiliated with an insurer that acquires a person or is acquired by a person; or

3. Is the result of a merger.

Sec. 61. ***The provisions of this chapter apply to any acquisition in which a change in control of an insurer who is authorized to do business in this state occurs, except:***

1. An acquisition that is subject to approval or disapproval by the Commissioner pursuant to NRS 692C.180 to 692C.250, inclusive.

2. A purchase of securities solely for investment purposes if the securities are not used for voting or not otherwise used to cause or attempt to cause a substantial lessening of competition in any insurance market in this state, except that, if a purchase of securities creates a presumption of control of the insurer pursuant to subsection 2 of NRS 692C.050, the purchase is not solely for investment purposes unless the Commissioner of insurance of the insurer's state of domicile:

(a) Accepts a disclaimer of control or affirmatively finds that control does not exist; and

(b) Submits the accepted disclaimer or a statement setting forth the affirmative finding to the Commissioner.

3. An acquisition of a person by another person if:

(a) Each of those persons is not directly or through an affiliate primarily engaged in the business of insurance; and

(b) At least 30 days before the effective date of the acquisition, a notice is filed with the Commissioner in accordance with section 62 of this act, if required.

4. An acquisition by a person of an affiliate of that person.

5. An acquisition that does not immediately cause:

(a) The combined market share of the involved insurers to exceed 5 percent of the total market;

(b) An increase in any market share; or

(c) For any market:

(1) The combined market share of the involved insurers to exceed 12 percent of the total market; and

(2) The market share to increase by more than 2 percent of the total market.

As used in this subsection, "market" means direct written premiums in this state for a line of authority set forth in the annual statement required to be filed by insurers authorized to do business in this state.

6. An acquisition for which, solely because of the effect of the acquisition on ocean marine insurance, a notification is required pursuant to this section.

7. An acquisition of an insurer whose domiciliary commissioner of insurance:

(a) Determines that:

(1) The insurer is in a failing condition;

(2) A feasible alternative for improving that condition does not exist; and

(3) The public benefit received from improving that condition through the acquisition of the insurer outweighs the public benefit received from increasing competition; and

(b) Submits his determination made pursuant to paragraph (a) to the Commissioner.

Sec. 62. *1. An acquisition to which the provisions of section 61 of this act apply is subject to an order issued pursuant to section 64 of this act unless:*

(a) The acquiring person files a notice of acquisition pursuant to this section; and

(b) The waiting period specified in subsection 4 has expired.

2. The Commissioner shall prescribe the form of the notice required pursuant to subsection 1. A notice of acquisition filed pursuant to this section must include:

(a) The information required by the National Association of Insurance Commissioners relating to any market that, pursuant to subsection 5 of section 61 of this act, causes the acquisition not to be exempted from the provisions of this section; and

(b) Any other material or information required by the Commissioner to determine whether or not the proposed acquisition, if consummated, would violate the provisions of section 63 of this act.

3. The information required pursuant to subsection 2 may include the opinion of an economist relating to the competitive effect of the acquisition on the business of insurance in this state if the opinion is accompanied by a summary of the education and

experience of the economist and a statement indicating his ability to provide an informed opinion.

4. Except as otherwise provided in subsection 5, the waiting period for an acquisition required pursuant to subsection 1 begins on the date the Commissioner receives the notice filed pursuant to subsection 1 and ends on the expiration of 30 days after that date or on the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

5. Before the expiration of the waiting period specified in subsection 4, the Commissioner may, not more than once, require a person to submit additional information relating to the proposed acquisition. If the Commissioner requires the submission of additional information, the waiting period for the acquisition ends upon the expiration of 30 days after the Commissioner receives the additional information or upon the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

Sec. 63. *1. The Commissioner may issue an order pursuant to section 64 of this act relating to an acquisition if:*

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

(b) The acquiring person fails to file sufficient materials or information pursuant to section 62 of this act.

2. In determining whether to issue an order pursuant to subsection 1, the Commissioner shall consider the standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to section 62 of this act.

3. The Commissioner shall not issue an order specified in subsection 1:

(a) If:

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

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

(b) If:

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

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

4. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection 3 may be considered

together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

5. The Commissioner has the burden of establishing a violation of the competitive standard set forth in subsection 1.

Sec. 64. *1. Except as otherwise provided in this section, if the Commissioner determines that an acquisition may substantially lessen competition in any line of insurance in this state or tends to create a monopoly, he may issue an order:*

(a) Requiring an involved insurer to cease and desist from doing business in this state relating to that line of insurance; or

(b) Denying the application of an acquired or acquiring insurer for a license or authority to do business in this state.

2. The Commissioner shall not issue an order pursuant to subsection 1 unless:

(a) He conducts a hearing concerning the acquisition in accordance with NRS 679B.310 to 679B.370, inclusive;

(b) A notice of the hearing is issued before the expiration of the waiting period for the acquisition specified in section 62 of this act, but not less than 15 days before the hearing; and

(c) The hearing is conducted and the order is issued not later than 60 days after the expiration of the waiting period.

3. Each order issued pursuant to subsection 1 must include a written decision of the Commissioner setting forth his findings of fact and conclusions of law relating to the acquisition.

4. An order issued pursuant to this section does not become final until 30 days after it is issued, during which time the involved insurer may submit to the Commissioner a plan to remedy, within a reasonable period, the anticompetitive effect of the acquisition. As soon as practicable after receiving the plan, the Commissioner shall, based upon the plan and any information included in the plan, issue a written determination setting forth:

(a) The conditions or actions, if any, required to:

(1) Eliminate the anticompetitive effect of the acquisition; and

(2) Vacate or modify the order; and

(b) The period in which the conditions or actions specified in paragraph (a) must be performed.

5. An order issued pursuant to subsection 1 does not apply to an acquisition that is not consummated.

6. A person who violates a cease and desist order issued pursuant to this section during any period in which the order is in effect is subject, at the discretion of the Commissioner, to:

(a) The imposition of a civil penalty of not more than $10,000 per day for each day the violation continues;

(b) The suspension or revocation of the person's license or certificate of authority; or

(c) Both the imposition of a civil penalty pursuant to paragraph (a) and the suspension or revocation of the person's license or certificate of authority pursuant to paragraph (b).

7. In addition to any fine imposed pursuant to NRS 692C.480, any insurer or other person who fails to make any filing required by sections 61 to 64, inclusive, of this act and who fails to make a good faith effort to comply with any such requirement is subject to a fine of not more than $50,000.

8. The provisions of NRS 692C.430, 692C.440 and 692C.460 do not apply to an acquisition to which the provisions of section 61 of this act apply.

Sec. 65. ***1. A director or officer of an insurance holding company system who knowingly violates, or knowingly participates in or assents to a violation of, NRS 692C.350, 692C.360, 692C.363 or 692C.390, or who knowingly permits any officer or agent of the insurance holding company to engage in a transaction in violation of NRS 692C.360 or 692C.363 or to pay a dividend or make an extraordinary distribution in violation of NRS 692C.390 shall pay, after receiving notice and a hearing before the Commissioner, a fine of not more than $10,000 for each violation. In determining the amount of the fine, the Commissioner shall consider the appropriateness of the fine in relation to:***

(a) The gravity of the violation;

(b) The history of any previous violations committed by the director or officer; and

(c) Any other matters as justice may require.

2. Whenever it appears to the Commissioner that an insurer or any director, officer, employee or agent of the insurer has engaged in a transaction or entered into a contract to which the provisions of NRS 692C.363 apply and for which the insurer has not obtained the Commissioner's approval, the Commissioner may order the insurer to cease and desist immediately from engaging in any further activity relating to the transaction or contract. In addition to issuing such an order, the Commissioner may order the insurer to rescind the contract and return each party to the contract to the position he was in before the execution of the contract if the issuing of the order is in the best interest of:

(a) The policyholders or creditors of the insurer; or

(b) The members of the general public.

Sec. 66. NRS 692C.020 is hereby amended to read as follows:

692C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 692C.030 to

692C.110, inclusive, ***and sections 59 and 60 of this act,*** have the meanings ascribed to them in those sections.

Sec. 67. NRS 692C.080 is hereby amended to read as follows:

692C.080 "Person" ***includes an individual, corporation, limited-liability company, partnership, association, joint stock company, trust, unincorporated organization or any similar entity, or any combination thereof acting in concert. The term*** does not include ~~[any]~~ ***:***

1. Any joint venture partnership that is exclusively engaged in owning, managing, leasing or developing any real or tangible personal property; or

2. Any securities broker performing no more than the usual and customary broker's function.

Sec. 68. NRS 692C.140 is hereby amended to read as follows:

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

1. In common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 10 percent of the insurer's assets or 50 percent of its surplus as regards policyholders, if the insurer's surplus as regards policyholders remains at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, the following must be included:

(a) Total money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

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

2. Any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, if ~~[the insurer's total liabilities, as calculated for the National Association of Insurance Commissioners' annual statement purposes, are less than 10 percent of assets and if the insurer's surplus remains as regards policyholders, considering such investment as if it were a disallowed asset, at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs.~~

~~3. Any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries if~~] each subsidiary agrees to limit its investments in any asset so that those

investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subsection 1 or in chapter 682A of NRS. For the purpose of this subsection, "total investment of the insurer" includes any direct investment by the insurer in an asset and the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which must be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of the subsidiary.

~~[4.]~~ ***3.*** Any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries, with the approval of the Commissioner, if the insurer's surplus as regards policyholders remains at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs.

~~[5. Any amount in the common stock, preferred stock, debt obligations or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property, if after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will remain at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs, and if after the investment all voting securities of the subsidiary are owned by the insurer.]~~

Sec. 69. NRS 692C.180 is hereby amended to read as follows:

692C.180 1. No person other than the issuer may make a tender for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, he would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer **,** nor may any person enter into an agreement to merge with or otherwise acquire control of a domestic insurer, unless, at the time any such offer, request or invitation is made or any such agreement is entered into, or before the acquisition of those securities if no offer or agreement is involved, he has filed with the Commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a statement containing the information required by NRS 692C.180 to 692C.250, inclusive, and the offer, request, invitation, agreement or acquisition has been approved by the Commissioner in the manner prescribed in this chapter.

2. For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the other person

is ~~[either]~~ directly or through ~~[its]~~ ***his*** affiliates primarily engaged in ***a*** business other than the business of insurance. ~~[However,]~~ ***If*** a person ***is directly or through his affiliates*** primarily engaged in ~~[another]~~ ***a*** business ***other than the business of insurance, he*** shall ***, at least 60 days before the proposed effective date of the acquisition,*** file a notice of intent to acquire ~~[, on a form prescribed by]~~ ***with*** the Commissioner ~~[, at least 60 days before the proposed effective date of the acquisition.]~~ ***setting forth the information required by section 62 of this act.***

Sec. 70. NRS 692C.210 is hereby amended to read as follows:

692C.210 1. ~~[The]~~ ***Except as otherwise provided in subsection 5, the*** Commissioner shall approve any merger or other acquisition of control referred to in NRS 692C.180 unless, after a public hearing thereon, he finds that:

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

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly ***;*** ~~[therein;]~~

(c) The financial condition of any acquiring party ~~[is such as might]~~ ***may*** jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

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

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

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control ~~[.]~~ ***; or***

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

2. The public hearing ~~[referred to]~~ ***specified*** in subsection 1 must be held within 30 days after the statement required by NRS 692C.180 has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement.

Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to ~~[such other persons as may be]~~ ***any other person*** designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 30 days after the conclusion of the hearing. If he determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent ~~[,]~~ and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and **,** in connection therewith **,** may conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

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

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire ***required pursuant to subsection 2 of NRS 692C.180*** and the date of ***the*** proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

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

(a) Shall require the submission of the information specified in subsection 2 of section 62 of this act;

(b) Shall not disapprove the merger or acquisition of control if he finds that any of the circumstances specified in subsection 3 of section 63 of this act exist; and

(c) May condition his approval of the merger or acquisition of control in the manner provided in subsection 4 of section 64 of this act.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this state, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection 2 of NRS 692C.180 is filed with the Commissioner.

Sec. 71. NRS 692C.260 is hereby amended to read as follows:

692C.260 1. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by ***a*** statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in NRS 692C.260 to 692C.350, inclusive.

2. Any insurer which is subject to registration under NRS 692C.260 to 692C.350, inclusive, shall register ~~[no]~~ ***not*** later than September 1, 1973, or 15 days after it becomes subject to registration, whichever is later, unless the Commissioner for good cause shown extends the time for registration. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by ~~[such]~~ ***the*** insurance company with the insurance regulatory authority of domiciliary jurisdiction.

3. Any person within an insurance holding company system subject to registration shall, upon request by an insurer, provide complete and accurate information to the insurer if the information is reasonably necessary to enable the insurer to comply with the provisions of this section.

Sec. 72. NRS 692C.270 is hereby amended to read as follows:

692C.270 Every insurer subject to registration shall file a registration statement on a form provided by the Commissioner, which ~~[shall]~~ ***must*** contain current information about:

1. The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

2. The identity of every member of the insurance holding company system.

3. The following agreements in force, relationships subsisting and transactions currently outstanding between ~~[such]~~ ***the*** insurer and its affiliates:

(a) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(b) Purchases, sales or exchanges of assets.

(c) Transactions not in the ordinary course of business.

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

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

(f) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(g) Any dividend or other distribution made to a shareholder.

(h) Any consolidated agreement to allocate taxes.

4. ~~[Other]~~ ***Any pledge of the insurer's stock, including the stock of any subsidiary or controlling affiliate of the insurer, for a loan made to any member of the insurance holding company system.***

5. Any other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

Sec. 73. NRS 692C.330 is hereby amended to read as follows:

692C.330 1. Any person may file with the Commissioner ~~[a]~~ ***:***

(a) A disclaimer of affiliation with any authorized insurer ***specified in the disclaimer;*** or ~~[such a]~~

(b) A request for a termination of registration on the basis that the person does not, or will not after taking an action specified in the request for termination, control another person specified in the request.

2. A disclaimer ***of affiliation or request for a termination of registration specified in subsection 1*** may be filed by ~~[such]~~ ***the authorized*** insurer or any member of an insurance holding company system. ~~[The disclaimer shall fully disclose]~~ ***A disclaimer of affiliation or request for a termination of registration filed pursuant to subsection 1 must include:***

(a) A statement indicating the number of authorized, issued and outstanding voting securities of the person specified in the disclaimer of affiliation or request for a termination of registration;

(b) A statement indicating the number and percentage of shares of the person specified in the disclaimer of affiliation or request for a termination of registration that are owned or beneficially owned by the person disclaiming control, and the number of those shares for which the person disclaiming control has a direct or indirect right to acquire;

(c) A statement setting forth all material relationships and bases for affiliation between ~~[such person and such insurer as well as the basis for disclaiming such affiliation.~~

~~2.]~~ ***the person specified in the disclaimer of affiliation or request for a termination of registration and the person and any***

affiliate of the person who is disclaiming control of the person specified in the disclaimer of affiliation or request for a termination of registration; and

(d) An explanation of why the person who is disclaiming control does not control the person specified in the disclaimer of affiliation or request for a termination of registration.

3. A request for a termination of registration filed pursuant to subsection 1 shall be deemed granted upon filing unless the Commissioner, within 30 days after receipt of the request for a termination of registration, notifies the person, authorized insurer or member of an insurance holding company system that the request is denied.

4. After a disclaimer ***of affiliation*** has been filed, the insurer ~~[shall be]~~ ***is*** relieved of any duty to register or report under NRS 692C.260 to 692C.350, inclusive, which may arise out of the insurer's relationship with ~~[such]~~ ***the*** person unless the Commissioner disallows ~~[such a]~~ ***the*** disclaimer. The Commissioner ~~[shall disallow such a]~~ ***may disallow the*** disclaimer only after furnishing all parties in interest with ***a*** notice and opportunity to be heard and after making specific findings of fact to support ~~[such]~~ ***the*** disallowance.

Sec. 74. NRS 692C.350 is hereby amended to read as follows:

692C.350 ***1.*** The failure to file a registration statement or any amendment thereto required by NRS 692C.260 to 692C.350, inclusive, within the time specified for ~~[such filing, shall be]~~ ***the filing is*** a violation of NRS 692C.260 to 692C.350, inclusive.

2. Except as otherwise provided in subsection 3, if an insurer fails, without just cause, to file a registration statement required pursuant to NRS 692C.270, the insurer shall, after receiving notice and a hearing, pay a civil penalty of $100 for each day the insurer fails to file the registration statement. The civil penalty may be recovered in a civil action brought by the Commissioner. Any civil penalty paid pursuant to this subsection must be deposited in the State General Fund.

3. The maximum civil penalty that may be imposed pursuant to subsection 2 is $20,000. The Commissioner may reduce the amount of the civil penalty if the insurer demonstrates to the satisfaction of the Commissioner that the payment of the civil penalty would impose a financial hardship on the insurer.

4. Any officer, director or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statement, false report or false filing with the intent to deceive the Commissioner in the performance of his duties pursuant to NRS 692C.260 to 692C.350, inclusive, is guilty of a category D felony and shall be punished as

provided in NRS 193.130. The officer, director or employee is personally liable for any fine imposed against him pursuant to that section.

Sec. 75. NRS 692C.363 is hereby amended to read as follows:

692C.363 1. A domestic insurer shall not enter into any of the following transactions with an affiliate unless the insurer has notified the Commissioner in writing of its intention to enter into the transaction at least 60 days previously, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within that period:

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

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

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

computed as of December 31 next preceding the transaction.

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

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

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

computed as of December 31 next preceding the transaction.

(c) An agreement for reinsurance or a modification thereto in which the premium for reinsurance or a change in the insurer's liabilities equals at least 5 percent of the insurer's surplus as regards policyholders as of December 31 next preceding the transaction, including an agreement which requires as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of those assets will be transferred to an affiliate of the insurer.

(d) An agreement for management, contract for service, guarantee or arrangement to share costs.

(e) A ***guaranty made by a domestic insurer, except that a guaranty that is quantifiable as to amount is not subject to the provisions of this subsection unless the guaranty exceeds the lesser of one-half of 1 percent of the admitted assets of the***

domestic insurer or 10 percent of its surplus as regards policyholders as of December 31 next preceding the guaranty.

(f) Except as otherwise provided in subsection 3, a direct or indirect acquisition of or investment in a person who controls the domestic insurer or an affiliate of the domestic insurer in an amount that, when added to its present holdings, exceeds 2.5 percent of the domestic insurer's surplus to policyholders.

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

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

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

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

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

Sec. 76. (Deleted by amendment.)

Sec. 77. NRS 692C.390 is hereby amended to read as follows:

692C.390 ~~[No]~~

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

~~[1.]~~ ***(a)*** Thirty days after the Commissioner has received notice of the declaration thereof and has not within ~~[such]~~ ***that*** period disapproved ~~[such]~~ ***the*** payment; or

~~[2.]~~ ***(b)*** The Commissioner ~~[shall have approved such]~~ ***approves the*** payment within ~~[such]~~ ***the*** 30-day period.

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

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

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

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

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

(1) The amount, date and form of payment of each regular dividend or distribution paid by the insurer, other than any distribution of a security of the insurer, within the 12 consecutive months immediately preceding the date established for the payment of the proposed dividend or distribution;

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

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

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

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

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

(f) A brief statement setting forth:

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

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

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

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

Sec. 78. NRS 692C.420 is hereby amended to read as follows:

692C.420 ***1.*** All information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to NRS 692C.410, and all information reported pursuant to NRS 692C.260 to 692C.350, inclusive, ~~[shall]~~ ***must*** be given confidential treatment and ~~[shall not be]~~ ***is not*** subject to subpoena and ~~[shall]~~ ***must*** not be

made public by the Commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby ~~[,]~~ notice and ***an*** opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he may publish all or any part thereof in ~~[such]~~ ***any*** manner as he may deem appropriate.

2. The Commissioner or any person who receives any documents, materials or other information while acting under the authority of the Commissioner must not be permitted or required to testify in a private civil action concerning any information, document or copy thereof specified in subsection 1.

3. The Commissioner may share or receive any information, document or copy thereof specified in subsection 1 in accordance with section 1 of this act. The sharing or receipt of the information, document or copy pursuant to this subsection does not waive any applicable privilege or claim of confidentiality in the information, document or copy.

Sec. 79. NRS 694C.050 is hereby amended to read as follows:

694C.050 "Association captive insurer" means a captive insurer that only insures risks of the member organizations of an association and the affiliated companies of those members, including groups formed pursuant to the Product Liability Risk Retention Act of 1981, as amended, 15 U.S.C. §§ 3901 et seq. ***, if:***

1. The association or the member organizations of the association:

(a) Own, control or hold with the power to vote all the outstanding voting securities of the association captive insurer, if the association captive insurer is incorporated as a stock insurer; or

(b) Have complete voting control over the captive insurer, if the captive insurer is formed as a mutual insurer; and

2. The member organizations of the association collectively constitute all the subscribers of the captive insurer, if the captive insurer is formed as a reciprocal insurer.

Sec. 80. NRS 694C.450 is hereby amended to read as follows:

694C.450 1. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at the rate of:

(a) Two-fifths of 1 percent on the first $20,000,000 of its net direct premiums;

(b) One-fifth of 1 percent on the next $20,000,000 of its net direct premiums; and

(c) Seventy-five thousandths of 1 percent on each additional dollar of its net direct premiums.

2. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at a rate of:

(a) Two hundred twenty-five thousandths of 1 percent on the first $20,000,000 of revenue from assumed reinsurance premiums;

(b) One hundred fifty thousandths of 1 percent on the next $20,000,000 of revenue from assumed reinsurance premiums; and

(c) Twenty-five thousandths of 1 percent on each additional dollar of revenue from assumed reinsurance premiums.

The tax on reinsurance premiums pursuant to this subsection must not be levied on premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection 1. A captive insurer is not required to pay any reinsurance premium tax pursuant to this subsection on revenue related to the receipt of assets by the captive insurer in exchange for the assumption of loss reserves and other liabilities of another insurer that is under common ownership and control with the captive insurer, if the transaction is part of a plan to discontinue the operation of the other insurer and the intent of the parties to the transaction is to renew or maintain such business with the captive insurer.

3. If the sum of the taxes to be paid by a captive insurer calculated pursuant to subsections 1 and 2 is less than $5,000 in any given year, the captive insurer shall pay a tax of $5,000 for that year.

4. Two or more captive insurers under common ownership and control must be taxed as if they were a single captive insurer.

5. Notwithstanding any specific statute to the contrary and except as otherwise provided in this subsection, the tax provided for by this section constitutes all the taxes collectible pursuant to the laws of this state from a captive insurer, and no occupation tax or other taxes may be levied or collected from a captive insurer by this state or by any county, city or municipality within this state, except for ad valorem taxes on real or personal property located in this state used in the production of income by the captive insurer.

6. Ten percent of the revenues collected from the tax imposed pursuant to this section must be deposited with the State Treasurer for credit to the Account for the Regulation and Supervision of Captive Insurers created pursuant to NRS 694C.460. The remaining 90 percent of the revenues collected must be deposited with the State Treasurer for credit to the State General Fund.

7. ***A captive insurer that is issued a license pursuant to this chapter after July 1, 2003, is entitled to receive a nonrefundable credit of $5,000 applied against the aggregate taxes owed by the***

captive insurer for the first year in which the captive insurer incurs any liability for the payment of taxes pursuant to this section. A captive insurer is entitled to a nonrefundable credit pursuant to this section not more than once after the captive insurer is initially licensed pursuant to this chapter.

8. As used in this section, unless the context otherwise requires:

(a) "Common ownership and control" means:

(1) In the case of a stock insurer, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same member or members.

(2) In the case of a mutual insurer, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(b) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

Sec. 80.5. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS ~~[680B.025]~~ ***680B.020*** to 680B.060, inclusive, and chapter 695G of NRS apply to a health maintenance organization.

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

Sec. 81. NRS 696B.415 is hereby amended to read as follows:

696B.415 1. Upon the issuance of an order of liquidation with a finding of insolvency against a domestic insurer, the Commissioner shall apply to the district court for authority to disburse money to the Nevada Insurance Guaranty Association or the Nevada Life and Health Insurance Guaranty Association out of the marshaled assets of the insurer, as money becomes available, in amounts equal to disbursements made or to be made by the Association for claims-handling expense and covered-claims obligations upon the presentation of evidence that disbursements have been made by the Association. The Commissioner shall apply to the district court for authority to make similar disbursements to insurance guaranty associations in other jurisdictions if one of the Nevada Associations is entitled to like payment pursuant to the laws

relating to insolvent insurers in the jurisdiction in which the organization is domiciled.

2. The Commissioner, in determining the amounts available for disbursement to the Nevada Insurance Guaranty Association, the Nevada Life and Health Insurance Guaranty Association ~~[,]~~ and similar organizations in other jurisdictions, shall reserve sufficient assets for the payment of the expenses of administration.

3. The Commissioner shall establish procedures for the ratable allocation of disbursements to the Nevada Insurance Guaranty Association, the Nevada Life and Health Insurance Guaranty Association ~~[,]~~ and similar organizations in other jurisdictions, and shall secure from each organization to which money is paid as a condition to advances in reimbursement of covered-claims obligations an agreement to return to the Commissioner, on demand, amounts previously advanced which are required to pay claims of secured creditors and claims falling within the priorities established in paragraph (a) or (b) of subsection 1 of NRS 696B.420.

4. The Commissioner, as receiver for an insolvent insurer, may file a claim on behalf of all insureds for any unearned premiums. The Nevada Insurance Guaranty Association, the Nevada Life and Health Insurance Guaranty Association and similar organizations in other jurisdictions shall accept the claim in lieu of requiring each insured to file a claim for the unearned premium.

Sec. 82. NRS 696B.420 is hereby amended to read as follows:

696B.420 1. The order of distribution of claims from the estate of the insurer on liquidation of the insurer must be as set forth in this section. Each claim in each class must be paid in full or adequate money retained for the payment before the members of the next class receive any payment. No subclasses may be established within any class. Except as otherwise provided in subsection 2, the order of distribution and of priority must be as follows:

(a) Administration costs and expenses, including, but not limited to, the following:

(1) The actual and necessary costs of preserving or recovering the assets of the insurer;

(2) Compensation for any services rendered in the liquidation;

(3) Any necessary filing fees;

(4) The fees and mileage payable to witnesses; and

(5) Reasonable attorney's fees.

(b) ~~[Loss claims, including any]~~ ***All*** claims under policies ***,*** ~~[for losses incurred, including third-party claims,]~~ any claims against ~~[the insurer]~~ ***an insured*** for liability for bodily injury or for injury to or destruction of tangible property which are ~~[not]~~ ***covered claims***

under policies, ***including any such claims of the Federal Government or any state or local government,*** and any claims of the Nevada Insurance Guaranty Association, the Nevada Life and Health Insurance Guaranty Association ~~[,]~~ and other similar statutory organizations in other jurisdictions. Any claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, must be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or because of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to his employee may be treated as a gratuity.

(c) Unearned premiums and small loss claims, including claims under nonassessable policies for unearned premiums or other premium refunds.

(d) ~~[Claims]~~ ***Except as otherwise provided in paragraph (b), claims*** of the Federal Government.

(e) ~~[Claims]~~ ***Except as otherwise provided in paragraph (b), claims*** of any state or local government, including, but not limited to, a claim of a state or local government for a penalty or forfeiture.

(f) Wage debts due employees for services performed, not to exceed ~~[$1,000 to]~~ ***an amount equal to 2 months of monetary compensation for*** each employee ~~[, that have been earned]~~ ***for services performed within 6 months before the filing of the petition for liquidation or, if rehabilitation preceded liquidation,*** within 1 year before the filing of the petition for ~~[liquidation.]~~ ***rehabilitation.*** Officers of the insurer are not entitled to the benefit of this priority. The priority set forth in this paragraph must be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(g) Residual classification, including any other claims not falling within other classes pursuant to the provisions of this section. Claims for a penalty or forfeiture must be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of the claims must be postponed to the class of claims specified in paragraph (j).

(h) Judgment claims based solely on judgments. If a claimant files a claim and bases the claim on the judgment and on the underlying facts, the claim must be considered by the liquidator, who shall give the judgment such weight as he deems appropriate. The claim as allowed must receive the priority it would receive in

the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment must be treated as if it were a claim based solely on a judgment.

(i) Interest on claims already paid, which must be calculated at the legal rate compounded annually on any claims in the classes specified in paragraphs (a) to (h), inclusive, from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court, may:

(1) Make reasonable classifications of claims for purposes of computing interest;

(2) Make approximate computations; and

(3) Ignore certain classifications and periods as de minimis.

(j) Miscellaneous subordinated claims, with interest as provided in paragraph (i):

(1) Claims subordinated by NRS 696B.430;

(2) Claims filed late;

(3) Portions of claims subordinated pursuant to the provisions of paragraph (g);

(4) Claims or portions of claims the payment of which is provided by other benefits or advantages recovered or recoverable by the claimant; and

(5) Claims not otherwise provided for in this section.

(k) Preferred ownership claims, including surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate must be added to each claim, as provided in paragraphs (i) and (j).

(l) Proprietary claims of shareholders or other owners.

2. If there are no existing or potential claims of the government against the estate, claims for wages have priority over any claims set forth in paragraphs (c) to (k), inclusive, of subsection 1. The provisions of this subsection must not be construed to require the accumulation of interest for claims as described in paragraph (i) of subsection 1.

Sec. 82.5. NRS 697.270 is hereby amended to read as follows:

697.270 A bail agent shall not ~~[become a surety]~~ ***act as an attorney-in-fact for an insurer*** on an undertaking unless he has registered in the office of the sheriff and with the clerk of the district court in which the agent resides, and he may register in the same manner in any other county. Any bail agent shall file a certified copy of his appointment by power of attorney from each insurer which he represents as agent with each of such officers. The bail agent shall register and file a certified copy of renewed power of attorney annually on July 1. The clerk of the district court and the

sheriff shall not permit the registration of a bail agent unless the agent is licensed by the Commissioner.

Sec. 83. NRS 697.290 is hereby amended to read as follows:

697.290 Every bail agent must maintain in his office such records of bail bonds, and such additional information as the Commissioner may reasonably require, executed or countersigned by him to enable the public to obtain all necessary information concerning the bail bonds for at least ~~[1 year]~~ ***3 years*** after the liability of the surety has been terminated. The records must be open to examination by the Commissioner or his representatives at all times, and the Commissioner at any time may require the licensee to furnish to him, in such manner or form as he requires, any information kept or required to be kept in the records.

Sec. 83.5. NRS 697.300 is hereby amended to read as follows:

697.300 1. A bail agent shall not, in any bail transaction or in connection therewith, directly or indirectly, charge or collect money or other valuable consideration from any person except for the following purposes:

(a) To pay the premium at the rates established by the insurer, in accordance with chapter 686B of NRS, or to pay the charges for the bail bond filed in connection with the transaction at the rates filed in accordance with the provisions of this Code. The rates must be ~~[not less than 10 percent or more than]~~ 15 percent of the amount of the bond or $50, whichever is greater.

(b) To provide collateral.

(c) To reimburse himself for actual expenses incurred in connection with the transaction. Such expenses are limited to:

(1) Guard fees.

(2) Notary public fees, recording fees, expenses incurred for necessary long distance telephone calls and charges for telegrams.

(3) Travel expenses incurred more than 25 miles from the agent's principal place of business. Such expenses:

(I) May be billed at the rate provided for state officers and employees generally; and

(II) May not be charged in areas where bail agents advertise a local telephone number.

(4) Expenses incurred to verify underwriting information.

(5) Any other actual expenditure necessary to the transaction which is not usually and customarily incurred in connection with bail transactions.

(d) To reimburse himself, or have a right of action against the principal or any indemnitor, for actual expenses incurred in good faith, by reason of breach by the defendant of any of the terms of the written agreement under which and pursuant to which the undertaking of bail or bail bond was written. If there is no written

agreement, or an incomplete writing, the surety may, at law, enforce its equitable rights against the principal and his indemnitors, in exoneration. Such reimbursement or right of action must not exceed the principal sum of the bond or undertaking, plus any reasonable expenses that may be verified by receipt in a total amount of not more than the principal sum of the bond or undertaking, incurred in good faith by the surety, its agents, licensees and employees by reason of the principal's breach.

2. This section does not prevent the full and unlimited right of a bail agent to execute undertaking of bail on behalf of a nonresident agent of the surety he represents. The licensed resident bail agent is entitled to a minimum countersignature fee of $5, with a maximum countersignature fee of $100, plus expenses incurred in accordance with paragraphs (c) and (d) of subsection 1. Such countersignature fees may be charged in addition to the premium of the undertaking.

Sec. 84. NRS 697.320 is hereby amended to read as follows:

697.320 1. A bail agent may accept collateral security in connection with a bail transaction if the collateral security is reasonable in relation to the face amount of the bond. ***The bail agent shall not transfer the collateral to any person other than a bail agent licensed pursuant to this chapter or a surety insurer holding a valid certificate of authority issued by the Commissioner. The collateral must not be transported or otherwise removed from this state. Any person who receives the collateral:***

(a) Shall be deemed to hold the collateral in a fiduciary capacity to the same extent as a bail agent; and

(b) Shall retain, return and otherwise possess the collateral in accordance with the provisions of this chapter.

2. The collateral security must be received by the bail agent in his fiduciary capacity, and before any forfeiture of bail must be kept separate and apart from any other funds or assets of the licensee. Any collateral received must be returned to the person who deposited it with the bail agent or any assignee other than the bail agent as soon as the obligation, the satisfaction of which was secured by the collateral, is discharged and all fees owed to the bail agent have been paid. ***The bail agent or any surety insurer having custody of the collateral shall, immediately after the bail agent or surety insurer receives a request for return of the collateral from the person who deposited the collateral, determine whether the bail agent or surety insurer has received notice that the obligation is discharged.*** If the collateral is deposited to secure the obligation of a bond, it must be returned ~~[within 30 days]~~ ***immediately*** after ***receipt of the request for return of the collateral and notice of*** the entry of any order by an authorized official by virtue of which liability under the bond is terminated or upon payment of all fees

owed to the bail agent, whichever is later. A certified copy of the minute order from the court wherein the bail or undertaking was ordered exonerated shall be deemed prima facie evidence of exoneration or termination of liability.

3. If a bail agent ***receives as collateral in a bail transaction, whether on his or another person's behalf, any document conveying title to real property, the bail agent shall not accept the document unless it indicates on its face that it is executed as part of a security transaction. If the document is recorded, the bail agent or any surety insurer having possession of the document shall, immediately after the bail agent or surety insurer receives a request for return of the collateral from the person who executed the document:***

(a) Determine whether the bail agent or surety insurer has received notice that the obligation for which the document was accepted is discharged; and

(b) If the obligation has been discharged, reconvey the real property by delivering a deed or other document of conveyance to the person or to his heirs, legal representative or successor in interest. The deed or other document of conveyance must be prepared in such a manner that it may be recorded.

4. If the amount of any collateral received in a bail transaction exceeds the amount of any bail forfeited by the defendant for whom the collateral was accepted, the bail agent or any surety insurer having custody of the collateral shall, immediately after the bail is forfeited, return to the person who deposited the collateral the amount by which the collateral exceeds the amount of the bail forfeited. Any collateral returned to a person pursuant to this subsection is subject to a claim for fees, if any, owed to the bail agent returning the collateral.

5. If a bail agent accepts collateral, he shall give a written receipt for the collateral. The receipt must include in detail a full account of the collateral received.

Sec. 85. NRS 697.360 is hereby amended to read as follows:

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

1. Chapter 679A of NRS.
2. Chapter 679B of NRS.
3. NRS ***683A.261.***
4. ***NRS*** 683A.301.
~~[4.]~~ ***5.*** NRS 683A.311.
~~[5.]~~ ***6.*** NRS 683A.341.
~~[6.]~~ ***7.*** NRS 683A.361.

~~[7.]~~ ***8.*** NRS 683A.400.
~~[8.]~~ ***9.*** NRS 683A.451.
~~[9.]~~ ***10.*** NRS 683A.461.
~~[10.]~~ ***11.*** NRS 683A.480.
~~[11.]~~ ***12.*** NRS ***683A.500.***
13. NRS 683A.520.
~~[12.]~~ ***14.*** NRS 686A.010 to 686A.310, inclusive.

Sec. 85.5. NRS 178.512 is hereby amended to read as follows:

178.512 The court shall not set aside a forfeiture unless:

1. The surety submits an application to set it aside on the ground that the defendant:

(a) Has appeared before the court since the date of the forfeiture and has presented ~~[a]~~ ***:***

(1) A satisfactory excuse for his absence; ***and***

(2) Satisfactory evidence that the surety did not in any way cause or aid the absence of the defendant;

(b) Was dead before the date of the forfeiture but the surety did not know and could not reasonably have known of his death before that date;

(c) Was unable to appear before the court before the date of the forfeiture because of his illness or his insanity, but the surety did not know and could not reasonably have known of his illness or insanity before that date;

(d) Was unable to appear before the court before the date of the forfeiture because he was being detained by civil or military authorities, but the surety did not know and could not reasonably have known of his detention before that date; or

(e) Was unable to appear before the court before the date of the forfeiture because he was deported, but the surety did not know and could not reasonably have known of his deportation before that date,

and the court, upon hearing the matter, determines that one or more of the grounds described in this subsection exist and that the surety did not in any way cause or aid the absence of the defendant; and

2. The court determines that justice does not require the enforcement of the forfeiture.

Sec. 86. NRS 616B.318 is hereby amended to read as follows:

616B.318 1. The Commissioner shall impose an administrative fine, not to exceed $1,000 for each violation, and:

(a) Shall withdraw the certification of a self-insured employer if:

(1) The deposit required pursuant to NRS 616B.300 is not sufficient and the employer fails to increase the deposit after he has been ordered to do so by the Commissioner;

(2) The self-insured employer fails to provide evidence of excess insurance pursuant to NRS 616B.300 within 45 days after he has been so ordered; or

(3) ~~[The]~~ ***Except as otherwise provided in subsection 4, the*** employer becomes insolvent, institutes any voluntary proceeding under the Bankruptcy Act or is named in any involuntary proceeding thereunder.

(b) May withdraw the certification of a self-insured employer if:

(1) The employer intentionally fails to comply with regulations of the Commissioner regarding reports or other requirements necessary to carry out the purposes of chapters 616A to 616D, inclusive, and chapter 617 of NRS;

(2) The employer violates the provisions of subsection 2 of NRS 616B.500 or any regulation adopted by the Commissioner or the Administrator concerning the administration of the employer's plan of self-insurance; or

(3) The employer makes a general or special assignment for the benefit of creditors or fails to pay compensation after an order for payment of any claim becomes final.

2. Any employer whose certification as a self-insured employer is withdrawn must, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

3. The Commissioner may, upon the written request of an employer whose certification as a self-insured employer is withdrawn pursuant to subparagraph (3) of paragraph (a) of subsection 1, reinstate the employer's certificate for a reasonable period to allow the employer sufficient time to provide industrial insurance for his employees.

4. The Commissioner may authorize an employer to retain his certification as a self-insured employer during the pendency of a proceeding specified in subparagraph (3) of paragraph (a) of subsection 1 if the employer establishes to the satisfaction of the Commissioner that the employer is able to pay all claims for compensation during the pendency of the proceeding.

Sec. 87. NRS 616B.336 is hereby amended to read as follows:

616B.336 1. Each self-insured employer shall furnish audited financial statements, certified by an auditor licensed to do business in this state, to the Commissioner ~~[of Insurance annually.]~~ ***annually within 120 days after the expiration of the self-insured employer's fiscal year.***

2. The Commissioner ~~[of Insurance]~~ may examine the records and interview the employees of each self-insured employer as often as he deems advisable to determine the adequacy of the deposit which the employer has made with the Commissioner, the sufficiency of reserves and the reporting, handling and processing of

injuries or claims. The Commissioner shall examine the records for that purpose at least once every 3 years. The self-insured employer shall reimburse the Commissioner for the cost of the examination.

Sec. 88. NRS 616B.359 is hereby amended to read as follows:

616B.359 1. The Commissioner shall grant or deny an application for certification as an association of self-insured public or private employers within 60 days after receiving the application. If the application is materially incomplete or does not comply with the applicable provisions of the law, the Commissioner shall notify the applicant of the additional information or changes required. Under such circumstances, if the Commissioner is unable to act upon the application within this 60-day period, he may extend the period for granting or denying the application, but for not longer than an additional 90 days.

2. Upon determining that an association is qualified as an association of self-insured public or private employers, the Commissioner shall issue a certificate to that effect to the association and the Administrator. No certificate may be issued to an association that, within the 2 years immediately preceding its application, has had its certification as an association of self-insured public or private employers involuntarily withdrawn by the Commissioner.

3. A certificate issued pursuant to this section must include, without limitation:

(a) The name of the association;

(b) The name of each employer who the Commissioner determines is a member of the association at the time of the issuance of the certificate;

(c) An identification number assigned to the association by the Commissioner; and

(d) The date on which the certificate was issued.

4. A certificate issued pursuant to this section remains in effect until withdrawn by the Commissioner or cancelled at the request of the association. Coverage for an association granted a certificate becomes effective on the date of certification or the date specified in the certificate.

5. The Commissioner shall not grant a request to cancel a certificate unless the association has insured or reinsured all incurred obligations with an insurer authorized to do business in this state pursuant to an agreement filed with and approved by the Commissioner. The agreement must include coverage for actual claims and claims ~~[filed with the association]~~ ***incurred*** but not reported, and the expenses associated with those claims.

Sec. 89. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least $500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least $15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has a combined tangible net worth of all members in the association of at least $5,000,000;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that

period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has a combined tangible net worth of all members in the association of at least $5,000,000; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The ~~[association's administrator shall, within 10 days after receipt of the notice, notify the Commissioner of the employer's]~~ ***notice of*** intent to withdraw ~~[from the association.]~~ ***must include a statement indicating that the member has:***

(a) Been certified as a self-insured employer pursuant to NRS 616B.312;

(b) Become a member of another association of self-insured public or private employers; or

(c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the

Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for 30 days after ***a*** notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

(1) Been certified as a self-insured employer pursuant to NRS 616B.312;

(2) Become a member of another association of self-insured public or private employers; or

(3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 90. NRS 616B.404 is hereby amended to read as follows:

616B.404 1. An association of self-insured public or private employers shall file with the Commissioner an audited statement of financial condition prepared by an independent certified public accountant. The statement must be filed on or before ~~[April]~~ ***May*** 1 of each year or within ~~[90]~~ ***120*** days after the conclusion of the association's fiscal year ~~[,]~~ and ***must*** contain information for the previous fiscal year.

2. The statement required by subsection 1 must be in a form prescribed by the Commissioner and include, without limitation:

(a) A statement of the reserves for:

(1) Actual claims and expenses;

(2) Claims ~~[filed with the association]~~ ***incurred*** but not reported, and the expenses associated with those claims;

(3) Assessments that are due, but not paid; and

(4) Unpaid debts, which must be shown as liabilities.

(b) An actuarial opinion regarding reserves that is prepared by a member of the American Academy of Actuaries or another specialist in loss reserves identified in the annual statement adopted by the National Association of Insurance Commissioners. The actuarial opinion must include a statement of:

(1) Actual claims and the expenses associated with those claims; and

(2) Claims ~~[filed with the association]~~ ***incurred*** but not reported, and the expenses associated with those claims.

3. The Commissioner may adopt a uniform financial reporting system for associations of self-insured public and private employers to ensure the accurate and complete reporting of financial information.

4. The Commissioner may require the filing of such other reports as he deems necessary to carry out the provisions of this section, including, without limitation:

(a) Audits of the payrolls of the members of an association of self-insured public or private employers;

(b) Reports of losses; and

(c) Quarterly financial statements.

Sec. 91. NRS 616B.413 is hereby amended to read as follows:

616B.413 1. If the assets of an association of self-insured public or private employers exceed the amount necessary for the association to:

(a) Pay its obligations and administrative expenses;

(b) Carry reasonable reserves; and

(c) Provide for contingencies,

the board of trustees of the association may, after obtaining the approval of the Commissioner, declare and distribute dividends to the members of the association.

2. Any dividend declared pursuant to subsection 1 must be distributed not less than 12 months after the end of the ~~[fiscal]~~ ***fund*** year.

3. A dividend may be paid only to those members who are members of the association for the entire ~~[fiscal]~~ ***fund*** year. The payment of a dividend must not be conditioned upon the member continuing his membership in the association after the ~~[fiscal]~~ ***fund*** year.

4. An association shall give to each prospective member of the association a written description of its plan for distributing dividends when he applies for membership in the association.

Sec. 92. (Deleted by amendment.)

Sec. 93. NRS 616B.419 is hereby amended to read as follows:

616B.419 Each association of self-insured public or private employers shall maintain:

1. Actuarially appropriate loss reserves. Such reserves must include reserves for:

(a) Actual claims and the expenses associated with those claims; and

(b) Claims ~~[filed with the association]~~ ***incurred*** but not reported, and the expenses associated with those claims.

2. Reserves for uncollected debts based on the experience of the association or other associations.

Sec. 94. NRS 616B.422 is hereby amended to read as follows:

616B.422 1. If the assets of an association of self-insured public or private employers are insufficient to make certain the prompt payment of all compensation under chapters 616A to 617, inclusive, of NRS and to maintain the reserves required by NRS 616B.419, the association shall immediately notify the Commissioner of the deficiency and:

(a) Transfer any surplus acquired from a previous ~~[fiscal]~~ ***fund*** year to the current ~~[fiscal]~~ ***fund*** year to make up the deficiency;

(b) Transfer money from its administrative account to its claims account;

(c) Collect an additional assessment from its members in an amount required to make up the deficiency; or

(d) Take any other action to make up the deficiency which is approved by the Commissioner.

2. If the association wishes to transfer any surplus from one ~~[fiscal]~~ ***fund*** year to another, the association must first notify the Commissioner of the transfer.

3. The Commissioner shall order the association to make up any deficiency pursuant to subsection 1 if the association fails to do so within 30 days after notifying the Commissioner of the deficiency. The association shall be deemed insolvent if it fails to:

(a) Collect an additional assessment from its members within 30 days after being ordered to do so by the Commissioner; or

(b) Make up the deficiency in any other manner within 60 days after being ordered to do so by the Commissioner.

Sec. 95. (Deleted by amendment.)