

SUMMARY—Revises provisions relating to captive insurers. (BDR 57-884)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to insurance; authorizing a captive insurer to directly provide workers' compensation insurance; authorizing the Commissioner of Insurance to authorize or require certain captive insurers to join or contribute financially to an assigned risk pool or insurance insolvency guaranty fund; revising provisions setting forth certain prerequisites before a private carrier may provide industrial insurance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of captive insurers by the Commissioner of Insurance. (Chapter 694C of NRS) Existing law sets forth the types of insurance that a captive insurer is authorized to or prohibited from transacting. (NRS 694C.300) **Section 1** of this bill authorizes a captive insurer to directly provide workers' compensation insurance.

Existing law prohibits a captive insurer from: (1) joining or contributing financially to an assigned risk pool or insurance insolvency guaranty fund in this State; or (2) receiving any benefit from such a pool or fund for claims arising out of the operations of the captive insurer. (NRS 694C.380) **Section 2** of this bill authorizes the Commissioner to authorize or require a captive



insurer that directly provides workers' compensation insurance to join or contribute financially to an assigned risk pool or insurance insolvency guaranty fund in this State. Under **section 2**, such a captive insurer may receive such benefits from the pool or fund as the Commissioner may authorize.

Existing law sets forth various requirements and restrictions upon insurers, including, without limitation, private carriers, concerning the provision of industrial insurance. (Chapters 616A-617 of NRS) Existing law requires a private carrier, before providing industrial insurance, to be authorized by the Commissioner as an authorized insurer and maintain certain securities applicable to authorized insurers. (NRS 616B.463) **Section 4** of this bill revises those requirements to allow a private carrier that is a captive insurer that maintains certain securities required for a captive insurer to provide industrial insurance. **Section 3** of this bill revises the definition of "private carrier" to reflect the authorization of a captive insurer to provide industrial insurance.

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

Section 1. NRS 694C.300 is hereby amended to read as follows:

694C.300 1. Except as otherwise provided in this section, a captive insurer licensed pursuant to this chapter may transact any form of insurance described in NRS 681A.020 to 681A.080, inclusive.



2. A captive insurer licensed pursuant to this chapter:

(a) Shall not directly provide personal motor vehicle or homeowners' insurance coverage, or any component thereof.

(b) Shall not accept or cede reinsurance, except as otherwise provided in NRS 694C.350.

(c) *May directly provide workers' compensation insurance.*

(d) May provide excess workers' compensation insurance to its parent and affiliated companies, unless otherwise prohibited by the laws of the state in which the insurance is transacted.

~~(d)~~ (e) May reinsure workers' compensation insurance provided pursuant to a program of self-funded insurance of its parent and affiliated companies if:

(1) The parent or affiliated company which is providing the self-funded insurance is certified as a self-insured employer by the Commissioner, if the insurance is being transacted in this State; or

(2) The program of self-funded insurance is otherwise qualified pursuant to, or in compliance with, the laws of the state in which the insurance is transacted.

3. A pure captive insurer shall not insure any risks other than those of its parent and affiliated companies or controlled unaffiliated businesses.

4. An association captive insurer shall not insure any risks other than those of the member organizations of its association and the affiliated companies of the member organizations.

5. A state-chartered risk retention group shall not insure any risks other than those of the members of its association.



6. An agency captive insurer shall not insure any risks other than those of the policies that are placed by or through the insurance agency or brokerage that owns the captive insurer.

7. A rental captive insurer shall not insure any risks other than those of the policyholders or associations that have entered into agreements with the rental captive insurer for the insurance of those risks. Such agreements must be in a form which has been approved by the Commissioner.

8. A sponsored captive insurer shall not insure any risks other than those of its participants.

9. As used in this section, “excess workers’ compensation insurance” means insurance in excess of the specified per-incident or aggregate limit, if any, established by:

(a) The Commissioner, if the insurance is being transacted in this State; or

(b) The chief regulatory officer for insurance in the state in which the insurance is being transacted.

Sec. 2. NRS 694C.380 is hereby amended to read as follows:

694C.380 ~~[A]~~

1. Except as otherwise provided in subsection 2, a captive insurer shall not join or contribute financially to an assigned risk pool or insurance insolvency guaranty fund in this state. A captive insurer or its insured, its parent or an affiliated company, or any member organization of its association shall not receive any benefit from such a pool or fund for claims arising out of the operations of the captive insurer.

2. The Commissioner may authorize or require a captive insurer that directly provides workers’ compensation insurance to join or contribute financially to an assigned risk pool or insurance insolvency guaranty fund in this State. A captive insurer that joins or contributes



financially to an assigned risk pool or insurance insolvency guaranty fund in this State may receive any benefit from such a pool or fund for claims arising out of the operations of the captive insurer relating to the provision of workers' compensation insurance as the Commissioner may authorize.

Sec. 3. NRS 616A.290 is hereby amended to read as follows:

616A.290 "Private carrier" means any insurer , *including, without limitation, a captive insurer*, or the legal representative of an insurer authorized to provide industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS. The term does not include a self-insured employer or an association of self-insured public or private employers.

Sec. 4. NRS 616B.463 is hereby amended to read as follows:

616B.463 1. Before a private carrier may provide industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS, the private carrier must be authorized by the Commissioner pursuant to ~~chapter~~:

(a) *Chapter* 680A of NRS and maintain such security of the kind described in NRS 680A.120 and 680A.140 as may be required ~~H~~; *or*

(b) *Chapter 694C of NRS and maintain such security of the kind described in NRS 694C.250 as may be required.*

2. A private carrier shall not provide industrial insurance pursuant to chapters 616A to 617, inclusive, of NRS as an unauthorized insurer pursuant to subsection 9 of NRS 680A.070.

3. A private carrier that is authorized by the Commissioner to provide industrial insurance pursuant to *paragraph (a) of* subsection 1:



- (a) Constitutes an authorized insurer, as that term is defined in NRS 679A.030; and
- (b) Is subject to the provisions of title 57 of NRS that govern authorized insurers.

