

Assembly Bill No. 35–Committee
on Commerce and Labor

CHAPTER.....

AN ACT relating to insurance; revising provisions governing examinations of insurers; requiring the annual submission of a corporate governance annual disclosure by certain insurers and insurance groups; making confidential certain information contained in and relating to a corporate governance annual disclosure; authorizing the sharing of items relating to a corporate governance annual disclosure in certain circumstances; authorizing the Commissioner of Insurance to retain third-party consultants and enter into certain agreements; providing for the group-wide supervision of internationally active insurance groups; revising provisions governing captive insurers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to regulate insurance in this State. (NRS 679B.120) **Sections 1 and 2** of this bill revise provisions governing examinations of insurers. **Section 3** of this bill makes a conforming change related to **section 1**.

Existing law authorizes a domestic insurer to organize or acquire one or more subsidiaries and requires certain insurers contained within such an insurance holding company system to register with the Commissioner. (NRS 692C.130, 692C.260) Existing law also requires an insurer or insurance group to regularly conduct an Own Risk and Solvency Assessment and submit a summary report to the Commissioner. (NRS 692C.3512, 692C.3514)

Sections 5-12 of this bill adopt certain provisions of the National Association of Insurance Commissioners’ Corporate Governance Annual Disclosure Model Act. **Section 7** requires certain insurers or insurance groups to annually submit to the Commissioner of Insurance a corporate governance annual disclosure and specifies the contents of the corporate governance annual disclosure. **Section 9** authorizes the Commissioner to adopt regulations setting forth instructions for the preparation of a corporate governance annual disclosure. **Section 10** makes a corporate governance annual disclosure and certain other documents, materials and information confidential and authorizes the Commissioner to share such items in certain circumstances. **Section 11** authorizes the Commissioner to retain third-party consultants and enter into certain agreements to assist in the performance of his or her regulatory duties.

Sections 13-16 of this bill adopt certain provisions of the National Association of Insurance Commissioners’ Insurance Holding Company System Regulatory Act. **Section 16** authorizes the Commissioner to act as the group-wide supervisor for an internationally active insurance group in certain circumstances. **Section 16** authorizes an insurance holding company system which does not qualify as an internationally active insurance group to request that the Commissioner determine or acknowledge a group-wide supervisor for the insurance holding company system. **Section 16** provides for the Commissioner to determine whether the Commissioner or another person is the appropriate group-wide supervisor for an



internationally active insurance group. **Section 16** authorizes the Commissioner to cooperate with other regulatory officials and enter into agreements with or obtain documentation from certain persons or entities. Finally, **section 16** requires an insurer subject to the section to pay the reasonable expenses of the Commissioner in administering the section.

Existing law provides for the creation of captive insurers and their regulation by the Commissioner. (NRS 694C.180, 694C.195, 694C.200) **Sections 21-27** of this bill add to and revise the provisions governing captive insurers, including, without limitation, state-chartered risk retention groups. **Sections 22 and 25** provide for specified existing law to apply to state-chartered risk retention groups. **Section 27** revises provisions governing reports and statements which must be filed by captive insurers and state-chartered risk retention groups. **Sections 21, 23 and 24** make conforming changes related to **sections 22 and 25**.

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

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

Section 1. NRS 679B.230 is hereby amended to read as follows:

679B.230 1. For the purpose of determining its financial condition, fulfillment of its contractual obligations and compliance with law, the Commissioner shall, as often as he or she deems advisable, examine the affairs, transactions, accounts, records and assets of each authorized insurer, and of any person as to any matter relevant to the financial affairs of the insurer or to the examination. Except as otherwise expressly provided in this title, the Commissioner shall so examine each authorized insurer not less frequently than every 5 years. *In scheduling and determining the nature, scope and frequency of the examinations, the Commissioner shall consider:*

(a) The results of any analysis of any applicable financial statement;

(b) Any change in management or ownership of the insurer;

(c) Any applicable actuarial opinion or summary;

(d) Any applicable report of an independent certified public accountant; and

(e) Any other applicable criteria set forth in the most recent edition of the Financial Condition Examiners Handbook, published by the NAIC, and the most recent edition of the Market Regulation Handbook, published by the NAIC, which are in effect when the Commissioner exercises his or her discretion pursuant to this section.



2. In examining an insurer pursuant to this section, the Commissioner may examine or investigate any person, or the business of any person, if the examination or investigation is, in the sole discretion of the Commissioner, necessary or material to the examination of the insurer.

3. Examination of an alien insurer must be limited to its insurance transactions, assets, trust deposits and affairs in the United States, except as otherwise required by the Commissioner.

~~4.~~ 4. The Commissioner shall in like manner examine each insurer applying for an initial certificate of authority to transact insurance in this state.

~~5.~~ 5. In lieu of an examination under this chapter, the Commissioner may accept a report of the examination of a foreign or alien insurer prepared by the Division for a foreign insurer's state of domicile or an alien insurer's state of entry into the United States.

~~6.~~ 6. As far as practical the examination of a foreign or alien insurer must be made in cooperation with the insurance supervisory officers of other states in which the insurer transacts business.

Sec. 2. NRS 679B.270 is hereby amended to read as follows:

679B.270 1. No later than 60 days after the completion of an examination, the examiner designated by the Commissioner shall ~~make a true~~ **file a verified** report ~~thereof~~ **of examination, in writing**, which must ~~comprise~~ **be comprised** only of facts appearing upon the books, records or other documents of the ~~person~~ **insurer or its agents or other persons** examined ~~concerning its affairs~~, or as ascertained from the ~~sworn~~ testimony of the officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as ~~may~~ **the examiner finds** reasonably ~~be~~ warranted from the facts. The report of examination must be verified by the oath of the examiner making the report.

2. Such a report of examination of an insurer so verified is prima facie evidence in any action or proceeding for the receivership, conservation or liquidation of the insurer brought in the name of the state against the insurer, its officers or agents upon the facts stated therein.

Sec. 3. NRS 681B.400 is hereby amended to read as follows:

681B.400 1. The following types of information shall qualify as confidential information:

(a) A memorandum in support of an opinion submitted pursuant to NRS 681B.200 to 681B.260, inclusive, or 681B.350 and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created,



produced or obtained by or disclosed to the Commissioner or any other person in connection with such memorandum;

(b) All documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in the course of an examination authorized by subsection ~~12~~ 4 of NRS 679B.230 or subsection 7 of NRS 681B.300, provided that if an examination report or other material prepared in connection with an examination authorized by NRS 679B.230 to 679B.300, inclusive, is not held as private and confidential information in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, an adopted examination report created in accordance with the provisions of subsection ~~12~~ 4 of NRS 679B.230 or subsection 7 of NRS 681B.300 shall not be deemed confidential information;

(c) Any reports, documents, materials and other information developed by an applicable company in support of, or in connection with, an annual certification by the applicable company in accordance with the provisions of paragraph (b) of subsection 1 of NRS 681B.360 evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such reports, documents, materials and other information;

(d) Any principle-based valuation report developed in accordance with paragraph (c) of subsection 1 of NRS 681B.360, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such report; and

(e) Any experience data and experience materials, and any other documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such data and materials.

2. As used in this section:

(a) "Experience data" means all documents, materials, data and other information submitted by an applicable company to the Commissioner, a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to NRS 681B.500 and 681B.510.



(b) "Experience materials" means all documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created or produced in connection with experience data including, without limitation, any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner, a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to NRS 681B.500 and 681B.510.

Sec. 4. Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 16, inclusive, of this act.

Sec. 5. 1. *The requirements of sections 5 to 12, inclusive, of this act apply to all insurers domiciled in this State, including, without limitation:*

(a) Insurers, as identified in chapter 680A of NRS;

(b) Hospital, medical or dental service corporations, as identified in chapter 695B of NRS;

(c) Health maintenance organizations, as identified in chapter 695C of NRS;

(d) Plans for dental care, as identified in chapter 695D of NRS;

(e) Prepaid limited health service organizations, as identified in chapter 695F of NRS; and

(f) Risk retention groups and state-chartered risk retention groups, as identified in 15 U.S.C. § 3902, 42 U.S.C. § 9673 and chapters 694C and 695E of NRS.

2. Except as otherwise provided in subsection 3, nothing in sections 5 to 12, inclusive, of this act shall be construed to limit the Commissioner's authority, or the rights or obligations of third parties, under NRS 679B.230 to 679B.300, inclusive.

3. Nothing in sections 5 to 12, inclusive, of this act shall be construed to prescribe or impose corporate governance standards and internal procedures beyond those which are required by the appropriate provisions of title 7 of NRS.

Sec. 6. *As used in sections 5 to 12, inclusive, of this act, unless the context otherwise requires, "corporate governance annual disclosure" means a confidential report filed by an insurer or insurance group made in accordance with the requirements of sections 5 to 12, inclusive, of this act.*

Sec. 7. 1. *Each insurer, or the insurance group of which the insurer is a member, shall, not later than June 1 of each calendar year, submit to the Commissioner a corporate*



governance annual disclosure which contains the information prescribed by the Commissioner by regulation pursuant to subsection 2 of section 9 of this act. If an insurer is a member of an insurance group, the insurer shall submit the report required by this section to the insurance commissioner of the lead state for the insurance group in accordance with the laws of the lead state, as determined by the procedures contained in the most recent Financial Analysis Handbook published by the National Association of Insurance Commissioners.

2. The corporate governance annual disclosure must include the signature of the chief executive officer or corporate secretary of the insurer or insurance group attesting that, to the best of that person's belief and knowledge, the insurer or insurance group has implemented the corporate governance practices described in the corporate governance annual disclosure and that a copy of the corporate governance annual disclosure has been provided to the board of directors, or the appropriate committee thereof, of the insurer or insurance group.

3. An insurer that is not required to submit a corporate governance annual disclosure to the Commissioner pursuant to subsection 1 shall do so upon the Commissioner's request.

4. For purposes of completing the corporate governance annual disclosure, the insurer or insurance group may provide information regarding the corporate governance at the level of the legal entity which exercises ultimate control over the insurer or insurance group, of an intermediate holding company or of the insurer or insurance group, depending upon the manner in which the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group shall, to the extent practicable, provide such information at the level at which:

(a) The insurer or insurance group determines the amount of risk it is willing to bear;

(b) The earnings, capital, liquidity, operations and reputation of the insurer or insurance group are overseen collectively and the supervision of those factors are coordinated and exercised; or

(c) Legal liability for a failure of general corporate governance duties would be placed.

↳ If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate in the corporate governance annual disclosure which of the three criteria was used to determine the level of reporting and explain any changes in the



level of reporting used for subsequent corporate governance annual disclosures.

5. *The review of the corporate governance annual disclosure and any additional requests for information must be performed by the lead state as determined by the procedures contained in the most recent Financial Analysis Handbook published by the National Association of Insurance Commissioners.*

6. *An insurer or insurance group which provides information substantially similar to the information required by sections 5 to 12, inclusive, of this act in other documents provided to the Commissioner, including, without limitation, proxy statements filed in conjunction with any forms filed pursuant to NRS 692C.270 or any regulations adopted pursuant thereto, or other state or federal filings provided to the Division, may cross-reference in the corporate governance annual disclosure the document in which the information is included rather than duplicating such information in the corporate governance annual disclosure.*

Sec. 8. *The Commissioner may, upon notice and opportunity for all interested persons to be heard, issue such rules, regulations and orders as are necessary to carry out the provisions of sections 5 to 12, inclusive, of this act.*

Sec. 9. 1. *Except as otherwise provided in subsection 2, an insurer or insurance group may exercise discretion over the responses to inquiries in the corporate governance annual disclosure if the corporate governance annual disclosure contains the material information necessary to allow the Commissioner to gain an understanding of the corporate governance structure, policies and practices of the insurer or insurance group. The Commissioner may request additional information that he or she determines is material and necessary to gain a clear understanding of the corporate governance policies or the reporting, information system or controls implementing the corporate governance policies of the insurer or insurance group.*

2. *Each insurer or insurance group shall prepare its corporate governance annual disclosure in a manner that is consistent with the instructions adopted by the Commissioner by regulation for the corporate governance annual disclosure. The insurer or insurance group shall maintain documentation and supporting information and make such material available upon examination or request by the Commissioner.*

Sec. 10. 1. *Except as otherwise provided in sections 5 to 12, inclusive, of this act, and NRS 239.0115, any documents, materials*



and other information, including, without limitation, a corporate governance annual disclosure, in the possession or control of the Division which are obtained by, created by or disclosed to the Commissioner or any other person in accordance with the provisions of sections 5 to 12, inclusive, of this act are proprietary and constitute trade secrets. All such documents, materials and other information are:

- (a) Confidential and privileged from disclosure;*
- (b) Not subject to subpoena; and*
- (c) Not subject to discovery or admissible in evidence in any private civil action.*

2. The Commissioner may use the documents, materials or other information described in subsection 1 in the furtherance of any regulatory or legal action brought as a part of the official duties of the Commissioner. The Commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer. Nothing in sections 5 to 12, inclusive, of this act shall be construed to require the written consent of the insurer before the Commissioner may share or receive confidential documents, materials or other information relating to a corporate governance annual disclosure pursuant to subsection 4 to assist in the performance of the regulatory duties of the Commissioner.

3. Neither the Commissioner nor any person who has received documents, materials or other information relating to a corporate governance annual disclosure through examination or otherwise, while acting under the authority of the Commissioner, or with whom such documents, materials or other information are shared pursuant to sections 5 to 12, inclusive, of this act, may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information described in subsection 1.

4. To assist in the performance of his or her regulatory duties, the Commissioner may:

- (a) Upon request, share documents, materials or other information relating to a corporate governance annual disclosure, including, without limitation, the confidential documents, materials or information described in subsection 1 and any other proprietary or trade secret documents and materials, with another state, federal or international financial regulatory agency, including, without limitation, the members of any supervisory college, as defined in NRS 692C.359, the National Association of*



Insurance Commissioners and a third-party consultant retained pursuant to section 11 of this act, if the recipient:

(1) Agrees in writing to maintain the confidentiality and privileged status of the documents, materials or other information relating to a corporate governance annual disclosure; and

(2) Has verified in writing the legal authority to maintain confidentiality; and

(b) Receive documents, materials and other information relating to a corporate governance annual disclosure, including, without limitation, documents, materials or information which would otherwise be confidential and privileged and any other proprietary or trade secret documents and materials, from a regulatory official of another state, federal or international financial regulatory agency, including, without limitation, the members of any supervisory college, as defined in NRS 692C.359, and the National Association of Insurance Commissioners and shall maintain as confidential or privileged any document, material or information received if the Commissioner is given notice or understands that such an item is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

5. The sharing of information and documents by the Commissioner pursuant to sections 5 to 12, inclusive, of this act does not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of sections 5 to 12, inclusive, of this act.

6. The disclosure of a document, material or information relating to a corporate governance annual disclosure to the Commissioner pursuant to sections 5 to 12, inclusive, of this act and the sharing of such an item as authorized by this section does not waive any applicable privilege or claim of confidentiality in such an item.

Sec. 11. *To assist the performance of the Commissioner's regulatory duties, the Commissioner:*

1. May retain, at the expense of the insurer or insurance group, third-party consultants, including, without limitation, attorneys, actuaries, accountants and other experts who are not part of the staff of the Commissioner, as may be reasonably necessary to assist the Commissioner in reviewing a corporate governance annual disclosure and related information or the compliance of an insurer or insurance group with sections 5 to 12, inclusive, of this act, if:



(a) Any third-party consultant so retained is under the direction and control of the Commissioner and acts in a purely advisory capacity;

(b) The third-party consultant is subject to the same confidentiality standards and requirements as the Commissioner; and

(c) The third-party consultant verifies to the Commissioner before being retained, and provides notice to the insurer or insurance group, as applicable, that he or she does not have a conflict of interest and has internal procedures in place to monitor the existence of a conflict of interest and to comply with the confidentiality standards and requirements of sections 5 to 12, inclusive, of this act.

2. Shall enter into a written agreement with the National Association of Insurance Commissioners and with any third-party consultant retained by the Commissioner which governs the sharing and use of information provided pursuant to sections 5 to 12, inclusive, of this act. Such a written agreement must:

(a) Contain specific procedures and protocols for maintaining the confidentiality and security of information relating to a corporate governance annual disclosure which is shared with the National Association of Insurance Commissioners or third-party consultant, including, without limitation, procedures and protocols for sharing by the National Association of Insurance Commissioners only with other state regulators from states in which an insurance group has domiciled insurers;

(b) Provide that the recipient of documents, materials or other information relating to a corporate governance annual disclosure agrees in writing to maintain the confidentiality and privileged status of such items and has verified in writing the legal authority to maintain confidentiality;

(c) Specify that ownership of any information relating to a corporate governance annual disclosure shared with the National Association of Insurance Commissioners or third-party consultant remains with the Commissioner and the use of the information by the National Association of Insurance Commissioners or third-party consultant is subject to the discretion of the Commissioner;

(d) Prohibit the National Association of Insurance Commissioners or third-party consultant from storing the shared information in a permanent database after the underlying analysis is completed;

(e) Require the National Association of Insurance Commissioners or third-party consultant to provide prompt notice



to the Commissioner and to the insurer or insurance group, as applicable, regarding any subpoena, request for disclosure or request for production of the information relating to the corporate governance annual disclosure of the insurer or insurance group, as applicable; and

(f) Require the National Association of Insurance Commissioners or third-party consultant to consent to intervention by an insurer or insurance group in any judicial or administrative action in which the National Association of Insurance Commissioners or third-party consultant may be required to disclose confidential information about the insurer or insurance group which is shared with the National Association of Insurance Commissioners or third-party consultant.

Sec. 12. *1. If an insurer or insurance group fails, without just cause, to timely file a corporate governance annual disclosure as required in sections 5 to 12, inclusive, of this act, the insurer or insurance group shall, after receiving notice and a hearing, pay a civil penalty of \$1,500 for each day the insurer or insurance group fails to file the corporate governance annual disclosure. 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 into the State General Fund.*

2. The maximum civil penalty that may be imposed pursuant to subsection 1 is \$100,000. The Commissioner may reduce the amount of the civil penalty if the insurer or insurance group demonstrates to the satisfaction of the Commissioner that the payment of the civil penalty would constitute a financial hardship on the insurer or insurance group.

Sec. 13. *As used in sections 13 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 14 and 15 of this act have the meanings ascribed to them in those sections.*

Sec. 14. *“Group-wide supervisor” means a regulatory official who is authorized to engage in conducting and coordinating supervision activities across an insurance group and who is determined or acknowledged by the Commissioner pursuant to section 16 of this act to have sufficient significant contacts with the internationally active insurance group.*

Sec. 15. *“Internationally active insurance group” means an insurance holding company system which:*

- 1. Includes an insurer registered under NRS 692C.260; and*
- 2. Meets the following criteria:*
 - (a) Writes premiums in at least three countries;*



(b) Writes 10 percent or more of the insurance holding company system's total gross written premiums outside of the United States; and

(c) Based on a 3-year rolling average, has total assets of \$50 billion or more or total gross written premiums of \$10 billion or more.

Sec. 16. 1. *The Commissioner may act as the group-wide supervisor for an internationally active insurance group in accordance with the provisions of this section. The Commissioner may acknowledge another regulatory official as the group-wide supervisor of an internationally active insurance group if the internationally active insurance group:*

(a) Does not have substantial insurance operations in the United States;

(b) Has substantial insurance operations in the United States, but not in this State; or

(c) Has substantial insurance operations in the United States and this State, but the Commissioner has determined pursuant to the factors set forth in subsections 3 and 8 that the other regulatory official is the appropriate group-wide supervisor.

2. *An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the Commissioner make a determination or acknowledgment of a group-wide supervisor pursuant to this section.*

3. *In cooperation with other state, federal and international regulatory agencies, the Commissioner shall identify a single group-wide supervisor for each internationally active insurance group. The Commissioner may determine that the Commissioner is the appropriate group-wide supervisor for an internationally active insurance group which conducts substantial insurance operations that are concentrated in this State. The Commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for an internationally active insurance group. The Commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:*

(a) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets or liabilities;

(b) The place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group;



(c) The location of the executive offices or largest operational offices of the internationally active insurance group;

(d) Whether another regulatory official is acting or is seeking to act as the group-wide supervisor under a regulatory system that the Commissioner determines to be:

(1) Substantially similar to the system of regulation provided under the laws of this State; or

(2) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis and cooperation with other regulatory officials; and

(e) Whether another regulatory official acting or seeking to act as the group-wide supervisor provides the Commissioner with reasonably reciprocal recognition and cooperation.

↳ However, a person identified under this section as the group-wide supervisor may determine that it is appropriate to acknowledge another person to serve as the group-wide supervisor. The acknowledgment of the group-wide supervisor must be made after consideration of the factors listed in paragraphs (a) to (e), inclusive, and must be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group and in consultation with the internationally active insurance group.

4. Notwithstanding any other provision of law and except as otherwise provided in this subsection, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge that regulatory official as the group-wide supervisor. However, if a material change in the internationally active insurance group results in:

(a) The internationally active insurance group's insurers domiciled in this State holding the largest share of the group's premiums, assets or liabilities; or

(b) This State being the place of domicile of the top-tiered insurer or insurers in the insurance holding company system of the internationally active insurance group,

↳ the Commissioner shall make a determination or acknowledgment as to the appropriate group-wide supervisor for such an internationally active insurance group pursuant to subsection 3.

5. Pursuant to NRS 692C.410, the Commissioner may collect from any insurer registered pursuant to NRS 692C.260 all information necessary to determine whether the Commissioner



may act as the group-wide supervisor of an internationally active insurance group or if the Commissioner may acknowledge another regulatory official to act as the group-wide supervisor. Before issuing a determination that the Commissioner act as the group-wide supervisor of an internationally active insurance group, the Commissioner shall notify the insurer registered pursuant to NRS 692C.410 and the ultimate controlling person within the internationally active insurance group. The Commissioner shall allow the internationally active insurance group not less than 30 days to provide the Commissioner with additional information pertinent to the pending determination.

6. If the Commissioner is the group-wide supervisor for an internationally active insurance group, the Commissioner may:

(a) Assess the enterprise risks within the internationally active insurance group to ensure that:

(1) The material financial condition and liquidity risks to the members of the internationally active insurance group that are engaged in the business of insurance are identified by management; and

(2) Reasonable and effective mitigation measures are in place;

(b) Request, from any member of the internationally active insurance group, any information necessary and appropriate to assess enterprise risk, including, without limitation, information about the members of the internationally active insurance group relating to:

(1) Governance, risk assessment and management;

(2) Capital adequacy; and

(3) Material intercompany transactions;

(c) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(d) Communicate with other state, federal and international regulatory agencies for members within the internationally active insurance group and share relevant information subject to the confidentiality provisions of NRS 692C.420, including, without limitation, through supervisory colleges as defined in NRS 692C.359;



(e) Enter into agreements with or obtain documentation from any insurer registered under NRS 692C.410, any member of the internationally active insurance group and any other state, federal and international regulatory agencies for members of the internationally active insurance group which provide the basis for or otherwise clarify the role of the Commissioner as group-wide supervisor, including, without limitation, provisions for resolving disputes with other regulatory officials; and

(f) Engage in such other group-wide supervision activities consistent with the provisions of this subsection as considered necessary by the Commissioner.

7. Any agreement entered into or document obtained pursuant to paragraph (e) of subsection 6 must not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in this State is doing business in this State or is otherwise subject to jurisdiction in this State.

8. If the Commissioner acknowledges that another regulatory official from a jurisdiction that is not accredited by the National Association of Insurance Commissioners is a group-wide supervisor, the Commissioner may reasonably cooperate, through supervisory colleges as defined in NRS 692C.359 or otherwise, with activities undertaken by the group-wide supervisor if:

(a) The Commissioner's cooperation complies with the laws of this State; and

(b) The regulatory official acknowledged as the group-wide supervisor also recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable.

↳ If such recognition and cooperation is not reasonably reciprocal, the Commissioner may refuse recognition and cooperation.

9. The Commissioner may enter into agreements with or obtain documentation from any insurer registered under NRS 692C.410, any affiliate of such an insurer and other state, federal and international regulatory agencies for members of an internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

10. The Commissioner may adopt regulations necessary for the administration of this section.

11. A registered insurer subject to this section shall be liable for and pay the reasonable expenses of the Commissioner for the



administration of this section, including the engagement of attorneys, actuaries and any other professionals and all reasonable travel expenses.

Sec. 17. NRS 692C.057 is hereby amended to read as follows:
692C.057 “Insurance group” means, for the purpose of conducting an ORSA **H** *or submitting a corporate governance annual disclosure*, those insurers and affiliates included within an insurance holding company system.

Sec. 18. NRS 692C.060 is hereby amended to read as follows:
692C.060 “Insurance holding company system” means a combination of two or more affiliated persons, one or more of which is an insurer. *The term does not include a domestic insurer or domestic holding company system authorized and doing business solely in this State which is not affiliated with a foreign or alien insurer.*

Sec. 19. NRS 692C.420 is hereby amended to read as follows:
692C.420 1. Except as otherwise provided in NRS 239.0115, 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 *or provided to the Commissioner pursuant to section 16 of this act*, subsections 12 and 13 of NRS 692C.190 and NRS 692C.260 to 692C.350, inclusive, is confidential, is not subject to subpoena, is not subject to discovery, is not admissible in evidence in any private civil action and 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 or she may publish all or any part thereof in any manner as he or she 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 NRS 679B.122. 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.

4. The Commissioner shall enter into a written agreement with the NAIC governing the sharing and use of information specified in subsection 1 that must:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries, including procedures and protocols for sharing by the NAIC with other state, federal and international regulators;

(b) Specify that ownership of the information shared with the NAIC and its affiliates and subsidiaries remains with the Commissioner and the NAIC's use of the information is subject to the discretion of the Commissioner;

(c) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC is subject to a request or subpoena to the NAIC for disclosure or production; and

(d) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates or subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries.

5. The sharing of information by the Commissioner does not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of this section.

6. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner in accordance with this section or as a result of sharing as authorized in this section.

7. Documents, materials and other information in the possession or control of the NAIC in accordance with this section are:

(a) Confidential by law and privileged;

(b) Not subject to the provisions of chapter 239 of NRS;

(c) Not subject to subpoena; and

(d) Not subject to discovery or admissible in evidence in any private civil action.



Sec. 20. Chapter 694C of NRS is hereby amended by adding thereto the provisions set forth as sections 21 and 22 of this act.

Sec. 21. *“Risk retention group” has the meaning ascribed to it in NRS 695E.110.*

Sec. 22. *A state-chartered risk retention group must comply with all of the laws, regulations and requirements applicable to liability insurers in this State, unless otherwise approved by the Commissioner.*

Sec. 23. NRS 694C.010 is hereby amended to read as follows:

694C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 694C.020 to 694C.150, inclusive, *and section 21 of this act* have the meanings ascribed to them in those sections.

Sec. 24. NRS 694C.149 is hereby amended to read as follows:

694C.149 “State-chartered risk retention group” means any risk retention group ~~[, as defined in NRS 695E.110,]~~ that is formed in accordance with the laws of this State as an association captive insurer.

Sec. 25. NRS 694C.160 is hereby amended to read as follows:

694C.160 1. The terms and conditions set forth in chapter 696B of NRS pertaining to insurance reorganization, receiverships and injunctions apply to captive insurers incorporated pursuant to this chapter.

2. An agency captive insurer, a rental captive insurer and an association captive insurer are subject to those provisions of chapter 686A of NRS which are applicable to insurers.

3. A state-chartered risk retention group is subject to the following:

(a) The provisions of NRS 681A.250 to 681A.580, inclusive, regarding intermediaries;

(b) The provisions of NRS 681B.550 regarding risk-based capital;

(c) The provisions of chapter 683A of NRS regarding managing general agents; and

(d) The provisions of NRS 693A.110 and any regulations adopted pursuant thereto regarding management and agency contracts of insurers.

Sec. 26. NRS 694C.380 is hereby amended to read as follows:

694C.380 A captive insurer shall not join or contribute financially to ~~[any risk-sharing plan,]~~ *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.

Sec. 27. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer shall file its report in the form required by NRS 680A.270. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. *Each captive insurer other than a state-chartered risk retention group shall submit to the Commissioner, on or before June 30 of each year, an annual audit as of December 31 of the preceding calendar year that is certified by a certified public accountant who is not an employee of the insurer. An annual audit submitted pursuant to this subsection must comply with the requirements set forth in regulations adopted by the Commissioner which govern such an annual audit.*

3. *Each state-chartered risk retention group shall file a financial statement pursuant to NRS 680A.265.*

4. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted, the annual report is due not later than 60 days after the end of each such fiscal year.

~~3-~~ 5. A pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

~~4-~~ 6. Any captive insurer failing, without just cause beyond the reasonable control of the captive insurer, to file its annual ~~statement~~ *report of financial condition* as required by subsection 1, *its annual audit as required by subsection 2 or its financial statement as required by subsection 3* shall pay a penalty of \$100 for each day the captive insurer fails to file the report ~~H~~ *of financial condition, the annual audit or the financial statement*, but not to



exceed an aggregate amount of \$3,000, to be recovered in the name of the State of Nevada by the Attorney General.

~~§~~ 7. Any director, officer, agent or employee of a captive insurer who subscribes to, makes or concurs in making or publishing, any annual or other statement required by law, knowing the same to contain any material statement which is false, is guilty of a gross misdemeanor.

Sec. 28. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,



432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, **and section 10 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing



copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 29. This act becomes effective upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act and:

1. This section and sections 1, 2, 3 and 20 to 27, inclusive, of this act become effective on July 1, 2017; and

2. Sections 4 to 19, inclusive, and 28 of this act become effective on January 1, 2018,

↳ for all other purposes.



