

SENATE BILL NO. 209—COMMITTEE ON  
COMMERCE, LABOR AND ENERGY

FEBRUARY 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to insurance.  
(BDR 57-485)

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

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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; authorizing the Commissioner of Insurance to accept an independent audit in lieu of an examination of a nonprofit organization of surplus lines brokers; limiting when a surplus lines broker may charge a fee; authorizing the Commissioner to adopt regulations for the charging and collection of certain fees for the purchase of individual or group life or health insurance or an individual or group annuity; authorizing an employee or authorized representative of a vendor to receive certain compensation relating to offering portable electronics insurance; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law requires the Commissioner of Insurance to make an examination
- 2 of the affairs, transactions, accounts, records and assets of a nonprofit organization
- 3 of surplus lines brokers. (NRS 685A.075) **Section 7** of this bill authorizes the
- 4 Commissioner to accept the report of an independent audit in lieu of an
- 5 examination if the Commissioner deems an independent audit to be in the best
- 6 interest of the residents of this State.
- 7 Existing law authorizes a surplus lines broker to charge a fee for procuring
- 8 surplus lines coverage. (NRS 685A.155) **Section 8** of this bill limits existing law by
- 9 only authorizing a broker who places any insurance coverage with an authorized
- 10 insurer to charge a fee for procuring surplus lines coverage.
- 11 Existing law authorizes the Commissioner to adopt regulations to allow for the
- 12 charging and collection of a fee by an insurance broker, consultant or financial
- 13 planner for consultation or related advice on the purchase of life or health insurance
- 14 or an annuity. (NRS 686A.230) **Section 11** of this bill clarifies existing law by



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15 authorizing the Commissioner to adopt regulations to allow for the charging and  
16 collection of a fee by an insurance broker, consultant or financial planner for  
17 consultation or related advice on the purchase of individual or group life or health  
18 insurance or an individual or group annuity.

19 **Section 12** of this bill authorizes an employee or authorized representative of a  
20 vendor to receive from the vendor certain incidental compensation relating to  
21 offering coverage and enrolling a customer under a policy of portable electronics  
22 insurance. **Section 6** of this bill makes conforming changes.

23 Existing law authorizes the Commissioner, with the approval of the State Board  
24 of Examiners, to enter into a multi-state agreement to preserve the ability of this  
25 State to collect premium tax on multi-state risks. (NRS 685A.185) **Section 13** of  
26 this bill repeals this provision. **Sections 9 and 10** of this bill make conforming  
27 changes.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** (Deleted by amendment.)

6 **Sec. 6.** NRS 683A.325 is hereby amended to read as follows:

7 683A.325 1. Except as otherwise provided in NRS  
8 683A.3687 **H or 69ID.220**, a producer of insurance who is  
9 appointed as an agent may pay a commission or compensation for or  
10 on account of the selling, soliciting, procuring or negotiating of  
11 insurance in this State only to a licensed and appointed producer of  
12 insurance of the insurer with whom insurance was placed or to a  
13 licensed producer acting as a broker.

14 2. A licensee shall not accept any commission or compensation  
15 to which the licensee is not entitled pursuant to the provisions of this  
16 title.

17 **Sec. 7.** NRS 685A.075 is hereby amended to read as follows:

18 685A.075 1. A nonprofit organization of surplus lines  
19 brokers may be formed to:

20 (a) Facilitate and encourage compliance by its members with the  
21 laws of this State and the rules and regulations of the Commissioner  
22 concerning surplus lines insurance;

23 (b) Provide a means for the review of all surplus lines coverage  
24 written in this State;

25 (c) Communicate with organizations of admitted insurers with  
26 respect to the proper use of the surplus lines market;

27 (d) Receive and disseminate to brokers information relative to  
28 surplus lines coverages; and

29 (e) Charge members a filing fee, approved by the  
30 Commissioner, for the review of surplus lines coverages.



1 2. Every such organization shall exercise its powers through a  
2 board of directors and shall file with the Commissioner:

3 (a) A copy of its constitution, articles of agreement or  
4 association or certificate of incorporation;

5 (b) A copy of its bylaws, rules and regulations governing its  
6 activities;

7 (c) A copy of its plan of operations established and approved by  
8 the Commissioner;

9 (d) A current list of its members;

10 (e) The name and address of a resident of this State upon whom  
11 notices or orders of the Commissioner or processes issued at the  
12 direction of the Commissioner may be served; and

13 (f) An agreement that the Commissioner may examine the  
14 organization in accordance with the provisions of this section.

15 3. The Commissioner shall make an examination of the affairs,  
16 transactions, accounts, records and assets of such an organization  
17 and any of its members as often as the Commissioner deems  
18 necessary for the protection of the interests of the people of this  
19 State, but no less frequently than once every 3 years. The officers,  
20 managers, agents and employees of such an organization may be  
21 examined at any time, under oath, and shall provide to the  
22 Commissioner all books, records, accounts, documents or  
23 agreements governing its method of operation. The Commissioner  
24 shall furnish two copies of the examination report to the  
25 organization examined and shall notify the organization that it may,  
26 within 20 days thereof, request a hearing on the report or on any  
27 facts or recommendations set forth therein. If the Commissioner  
28 finds such an organization or any member thereof to be in violation  
29 of this chapter, the Commissioner may, in addition to any  
30 administrative fine or penalty imposed pursuant to this Code, issue  
31 an order requiring the discontinuance of such violations. *In lieu of*  
32 *an examination conducted pursuant to this subsection, the*  
33 *Commissioner may accept the report of an independent audit of*  
34 *such an organization if the Commissioner deems that an*  
35 *independent audit is in the best interest of the residents of this*  
36 *State.*

37 4. The board of directors of such an organization must consist  
38 of not fewer than five persons. The members of the board must be  
39 appointed by the Commissioner and serve at the pleasure of the  
40 Commissioner.

41 5. A broker must be a member of such an organization as a  
42 condition of continued licensure under this chapter.

43 **Sec. 8.** NRS 685A.155 is hereby amended to read as follows:

44 685A.155 A broker *who places any insurance coverage with*  
45 *an authorized insurer pursuant to subsection 3 of NRS 685A.060*



1 may charge a fee for procuring surplus lines coverage. Except as  
2 otherwise provided by agreement between the insurer and broker,  
3 the fee must not exceed 20 percent of the premium charged, after  
4 deduction of any other commissions, fees and charges payable to the  
5 broker.

6 **Sec. 9.** NRS 685A.175 is hereby amended to read as follows:

7 685A.175 1. A broker who has written coverage for which  
8 this State is the insured's home state shall pay, by the date described  
9 in subsection 2, the tax for each calendar quarter as directed by the  
10 Commissioner and shall file as directed by the Commissioner a copy  
11 of a quarterly report which includes an accounting of:

12 (a) The aggregate gross premiums for the quarter;

13 (b) The aggregate of the return premiums received; *and*

14 (c) The amount of tax remitted to the Commissioner. ~~}; and~~

15 ~~—(d) The distribution of the exposures of insureds by state in~~  
16 ~~accordance with the requirements of any multi-state agreement~~  
17 ~~entered into by the Commissioner pursuant to NRS 685A.185.}~~

18 ➤ The report must be on a form approved by the Commissioner.

19 2. The tax filings and payments required by subsection 1 must  
20 be submitted by:

21 (a) February 15 for the calendar quarter ending the preceding  
22 December 31.

23 (b) May 15 for the calendar quarter ending the preceding  
24 March 31.

25 (c) August 15 for the calendar quarter ending the preceding  
26 June 30.

27 (d) November 15 for the calendar quarter ending the preceding  
28 September 30.

29 **Sec. 10.** NRS 685A.180 is hereby amended to read as follows:

30 685A.180 1. ~~{Except as otherwise provided in subsection 6,~~  
31 ~~on} On~~ or before the date described in subsection 2 of  
32 NRS 685A.175 for each quarter, each broker shall pay as directed  
33 by the Commissioner a tax on surplus lines coverages for which this  
34 State is the insured's home state written by the broker in  
35 unauthorized insurers during the preceding calendar quarter at the  
36 same rate of tax as imposed by law on the premiums of similar  
37 coverages written by authorized insurers, in addition to any fees  
38 imposed pursuant to NRS 685A.075.

39 2. ~~{Except as otherwise provided in subsection 6, on} On~~ or  
40 before the date described in subsection 2 of NRS 685A.175 for each  
41 quarter, each insured for which this State is the home state shall pay  
42 as directed by the Commissioner a tax on independently procured  
43 insurance written for the insured by an unauthorized insurer during  
44 the preceding calendar quarter at the same rate of tax as imposed by  
45 law on the premiums of similar coverages written by authorized



1 insurers, in addition to any fees imposed pursuant to  
2 NRS 685A.075.

3 3. For the purposes of this section, the “premium” on surplus  
4 lines coverages includes:

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

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

8 (c) Any policy fee;

9 (d) Any membership fee;

10 (e) Any inspection fee; and

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

13 ↪ Premium does not include any additional amount charged for  
14 state or federal tax, or for executing or completing affidavits or  
15 reports of coverage.

16 4. All taxes collected as directed by the Commissioner  
17 pursuant to this section ~~{and not intended for disbursement to other~~  
18 ~~states by a clearinghouse established through any multi state~~  
19 ~~agreement entered into by the Commissioner pursuant to NRS~~  
20 ~~685A.185}~~ must be promptly deposited with the State Treasurer ~~{}~~  
21 to the credit of the State General Fund.

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

26 ~~{6. If the Commissioner has entered into a multi state~~  
27 ~~agreement pursuant to NRS 685A.185, the Commissioner may~~  
28 ~~require that each broker who has written surplus line coverages for~~  
29 ~~multi state risks for which this State is the insured’s home state and~~  
30 ~~each insured for which this State is the home state who has obtained~~  
31 ~~independently procured insurance for multi state risks pay a~~  
32 ~~premium tax:~~

33 ~~—(a) For the portion of the premium allocated to Nevada, at the~~  
34 ~~tax rate applicable to nonadmitted insurance pursuant to this~~  
35 ~~chapter;~~

36 ~~—(b) For the portion of the premium allocated to any other state~~  
37 ~~that also participates in the multi state agreement, at the tax rate~~  
38 ~~applicable to nonadmitted insurance as established by that state; and~~

39 ~~—(c) For the portion of the premium allocated to any other state~~  
40 ~~that does not participate in the multi state agreement, at the tax rate~~  
41 ~~applicable to nonadmitted insurance pursuant to this chapter. The~~  
42 ~~tax for this portion of the premium must be deposited with the State~~  
43 ~~Treasurer, to the credit of the State General Fund, after it is~~  
44 ~~processed by the clearinghouse established through the multi state~~  
45 ~~agreement.}~~



1       **Sec. 11.** NRS 686A.230 is hereby amended to read as follows:

2       686A.230 1. A person shall not willfully collect any sum as a  
3 premium or charge for insurance which is not then provided or is  
4 not in due course to be provided, subject to acceptance of the risk by  
5 the insurer, by an insurance policy issued by an insurer as  
6 authorized by this Code.

7       2. Except as otherwise provided in subsection 3, a person shall  
8 not willfully collect as a premium or charge for insurance any sum  
9 in excess of the premium or charge applicable to the insurance and  
10 as specified in the policy, in accordance with the applicable  
11 classifications and rates as filed with and approved by the  
12 Commissioner. In cases where classifications, premiums or rates are  
13 not required by this Code to be so filed and approved, the premiums  
14 and charges must not be in excess of those specified in the policy  
15 and as fixed by the insurer. This subsection does not prohibit:

16       (a) The charging and collection by surplus lines brokers licensed  
17 under chapter 685A of NRS of the amount permitted by chapter  
18 685A of NRS and regulations adopted by the Commissioner.

19       (b) The charging and collection by a life insurer of amounts  
20 actually to be expended for the medical examination of any  
21 applicant for life insurance or for reinstatement of a life insurance  
22 policy.

23       3. The Commissioner may adopt regulations to allow the  
24 charging and collection of a fee by an insurance broker, consultant  
25 or financial planner:

26       (a) In lieu of any other charge or commission for solicitation,  
27 negotiation or procurement of a policy of insurance which covers  
28 commercial or business risks;

29       (b) For consultation or any related advice on the insuring of  
30 commercial or business risks which does not result in the  
31 procurement of a policy of insurance; and

32       (c) For consultation or related advice on the purchase of  
33 *individual or group* life or health insurance or an *individual or*  
34 *group* annuity, whether or not it results in the purchase of a policy  
35 of insurance or annuity. In such a case, the fee must be set forth in a  
36 written contract signed by the client before the consultation begins.

37       4. An agent or broker who provides consultation or related  
38 advice pursuant to this section shall do so pursuant to a written  
39 contract specifying the compensation the agent or broker will  
40 receive. The compensation may be in addition to or in lieu of a  
41 commission and is not a premium as defined in NRS 679A.115.

42       **Sec. 12.** NRS 691D.220 is hereby amended to read as follows:

43       691D.220 1. Notwithstanding any other provision of law, an  
44 employee or authorized representative of a vendor that holds a  
45 license as a producer of insurance in portable electronics insurance



1 issued by the Commissioner pursuant to NRS 683A.261 or  
2 683A.271 may, without a license issued by the Commissioner, sell  
3 or offer coverage under a policy of portable electronics insurance at  
4 any location at which the vendor does business if:

5 (a) The employee or authorized representative of the vendor  
6 sells or offers coverage under a policy of portable electronics  
7 insurance only on behalf of, and under the supervision of, the  
8 vendor; and

9 (b) Before the employee or authorized representative of the  
10 vendor sells or offers coverage under a policy of portable electronics  
11 insurance, he or she completes a program of training provided by  
12 the vendor pursuant to NRS 691D.300.

13 2. An employee or authorized representative of a vendor who  
14 sells or offers coverage under a policy of portable electronics  
15 insurance pursuant to this section shall not advertise, represent or  
16 otherwise hold himself or herself out as a licensed producer of  
17 insurance unless the person is licensed as a producer of insurance.

18 *3. An employee or authorized representative of a vendor who*  
19 *offers to a customer coverage under a policy of portable*  
20 *electronics insurance pursuant to this section and enrolls the*  
21 *customer under the policy may receive from the vendor*  
22 *compensation that is:*

23 (a) *Incidental to the overall compensation received by the*  
24 *employee or authorized representative of the vendor; and*

25 (b) *Relating to the offering of the coverage and the enrolling*  
26 *of the customer under the policy of portable electronics insurance.*

27 **Sec. 13.** NRS 685A.185 is hereby repealed.

28 **Sec. 14.** This act becomes effective on July 1, 2017.

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**TEXT OF REPEALED SECTION**

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**685A.185 Multi-state agreement to collect premium tax on multi-state risks.**

1. The Commissioner may, with the approval of the State Board of Examiners, on behalf of the State enter into a multi-state agreement to preserve the ability of this State to collect premium tax on multi-state risks.

2. If, within 18 months after the Commissioner enters into a multi-state agreement pursuant to subsection 1, the Commissioner conducts a hearing pursuant to the provisions of chapter 233B of NRS concerning participation in the multi-state agreement, the Commissioner shall submit to the State Board of Examiners and to



the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the findings of the Commissioner pursuant to the hearing.

3. The State Board of Examiners shall review and may accept the findings of the Commissioner. If the Commissioner finds and the State Board of Examiners accepts that because of the effect of the multi-state agreement on the gross receipt of premiums collected in this State:

(a) It is in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's continued participation in the multi-state agreement.

(b) It is not in the best interest of the State to continue to participate in the multi-state agreement, the State Board of Examiners may approve the State's withdrawal from the multi-state agreement.

