Senate Bill No. 357–Senator Roberson,
Smith and Atkinson

Joint Sponsors: Assemblymen Neal,
Stewart and Hambrick

CHAPTER.....

AN ACT relating to economic development; enacting the Nevada New Markets Jobs Act which provides for tax credits for certain business entities; authorizing the Director of the Department of Business and Industry to adopt regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-27 of this bill enact the Nevada New Markets Jobs Act. Specifically, **section 14** of this bill, in conjunction with **section 27.1** of this bill, allows certain business entities to receive a credit against the premium tax imposed on insurance companies in exchange for investing in a qualified community development entity.

Section 16 sets forth the application procedures, which include the payment of certain fees, which must be followed by a qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits. **Section 16** also sets forth certain requirements that the Department of Business and Industry must follow when determining whether to approve or disapprove such an application.

Section 17 sets forth certain conditions under which the tax credits allowed pursuant to the provisions of this bill must be recaptured. **Section 18** provides that the recapture provisions of **section 17** are subject to a 6-month cure period. **Section 18** also prohibits any recapture until the qualified community development entity has been given notice of noncompliance and afforded 6 months after the date of notice to cure the noncompliance.

Section 19 sets forth: (1) the amount of the performance fee that a qualified community development entity must include with an application made to the Department pursuant to **section 16**; and (2) the procedure for obtaining a refund of such a fee.

Section 20 requires the Department to issue letter rulings regarding the tax credit program authorized by this bill and sets forth the procedures for issuing those letter rulings.

Section 22 sets forth the requirements for decertifying a qualified equity investment.

Section 24 authorizes the Director of the Department to adopt regulations to carry out the provisions of this bill.

Sections 25-27 set forth certain further requirements for a long-term debt security, a qualified active low-income community business and a qualified community development entity.

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. Title 18 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. ***The provisions of this chapter may be cited as the Nevada New Markets Jobs Act.***

Sec. 2.5. ***The Legislature hereby finds and declares that:***

1. The purpose of this chapter is to provide community development and economic stimulation, particularly to distressed areas of this State;

2. All qualified community development entities, including, without limitation, minority-owned community development entities and those that have not entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury, need to be involved in community development efforts; and

3. To maximize the benefit of this chapter, qualified community development entities that have entered into such allocation agreements are encouraged to work with all groups that are involved in community development in distressed areas, including, without limitation, minority-owned qualified community development entities, community development entities that have not entered into such allocation agreements and other Nevada-based entities that engage in community development.

Sec. 3. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 13, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Applicable percentage" means 0 percent for the first two credit allowance dates, 12 percent for the next three credit allowance dates and 11 percent for the next two credit allowance dates.***

Sec. 5. ***"Credit allowance date" means, with respect to any qualified equity investment:***

1. The date on which the investment is initially made; and

2. Each of the six anniversary dates immediately following the date on which the investment is initially made.

Sec. 5.3. *"Department" means the Department of Business and Industry.*

Sec. 5.7. *"Director" means the Director of the Department.*

Sec. 6. *"Liability for insurance premium tax" means any liability incurred by any entity under NRS 680A.330 or 680B.025 to 680B.039, inclusive, or, if the tax liability under NRS 680A.330 or 680B.025 to 680B.039, inclusive, is eliminated or reduced, any tax liability to the Department of Taxation that is imposed on an insurance company or other person who had that tax liability under the laws of this State before the elimination or reduction of that tax liability.*

Sec. 7. *"Long-term debt security" means any debt instrument which qualifies as such pursuant to section 25 of this act.*

Sec. 8. (Deleted by amendment.)

Sec. 9. *"Purchase price" means the amount paid to the issuer of a qualified equity investment for the qualified equity investment.*

Sec. 10. *"Qualified active low-income community business" has the meaning ascribed to it in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and 26 C.F.R. § 1.45D-1, but is limited to those businesses specified in section 26 of this act.*

Sec. 11. *"Qualified community development entity" has the meaning ascribed to it in section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, but is limited to such an entity specified in section 27 of this act.*

Sec. 12. *1. "Qualified equity investment" means any equity investment in, or long-term debt security issued by, a qualified community development entity that:*

(a) Except as otherwise provided in this section, is acquired after the effective date of this act solely in exchange for cash at the original issuance of the equity investment;

(b) Has at least 85 percent of the cash purchase price of the equity investment used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this State by the first anniversary of the initial credit allowance date; and

(c) Is designated by the issuer as a qualified equity investment under this section and is certified by the Department as complying with the limitations contained in subsection 5 of section 16 of this act.

2. The term includes an investment that does not meet the requirements of subsection 1 if the investment was a qualified equity investment in the possession or control of a prior holder.

Sec. 13. *"Qualified low-income community investment" means any capital or equity investment in, or loan to, any qualified active low-income community business.*

Sec. 14. *An entity that makes a qualified equity investment earns a vested right to credit against the entity's liability for insurance premium tax on a premium tax report filed pursuant to NRS 680B.030 that may be used as follows:*

1. On each credit allowance date of the qualified equity investment, the entity, or the subsequent holder of the qualified equity investment, is entitled to use a portion of the credit during the taxable year that includes the credit allowance date.

2. The credit amount is equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the issuer of the qualified equity investment.

3. Except as otherwise provided in subsection 4, the amount of the credit claimed by an entity must not exceed the amount of the entity's liability for insurance premium tax for the tax year for which the credit is claimed.

4. If the insurance premium tax is eliminated or reduced below the level that was in effect on the first credit allowance date, the entity is entitled to a credit against any other taxes paid to the Department of Taxation in an amount equal to the difference between the amount the entity would have been able to claim against its insurance premium tax liability had the tax not been eliminated or reduced and the amount the entity was actually able to claim, if any.

➥ *Any amount of tax credit that the entity is prohibited from claiming in a taxable year as a result of subsection 3 or 4 may be carried forward for use in any subsequent taxable year.*

Sec. 15. *No tax credit claimed under this chapter may be refunded or sold on the open market. Tax credits earned by a partnership, limited-liability company, S corporation or other similar pass-through entity may be allocated to the partners, members or shareholders of such an entity for their direct use in accordance with the provisions of any agreement among such partners, members or shareholders. Such an allocation is not considered a sale for the purpose of this chapter.*

Sec. 15.5. *1. An insurer or an affiliate of an insurer may not:*

(a) Manage a qualified community development entity; or

(b) Control the direction of equity investments for a qualified community development entity.

2. The provisions of subsection 1 apply to any entity described in subsection 1 regardless of whether the entity does business in this State.

3. This section does not preclude an entity described in subsection 1 from exercising legal rights or remedies, including the interim management of a qualified community development entity, with respect to a qualified community development entity that is in default of any statutory or contractual obligations to the entity described in subsection 1.

4. This chapter does not limit the amount of nonvoting equity interests in a qualified community development entity that an entity described in subsection 1 may own.

5. For the purposes of this section:

(a) "Affiliate of an insurer" has the meaning ascribed to the term "affiliate" in NRS 692C.030.

(b) "Insurer" has the meaning ascribed to it in NRS 679A.100.

Sec. 16. *1. A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this chapter must apply to the Department for that designation. An application submitted by a qualified community development entity must include the following:*

(a) Evidence of the applicant's certification as a qualified community development entity.

(b) A copy of an allocation agreement executed by the applicant, or its controlling entity, and the Community Development Financial Institutions Fund of the United States Department of the Treasury which includes the State of Nevada in the service area set forth in the allocation agreement.

(c) A certificate executed by an executive officer of the applicant:

(1) Attesting that the allocation agreement remains in effect and has not been revoked or cancelled by the Community Development Financial Institutions Fund; and

(2) Setting forth the cumulative amount of allocations awarded to the applicant by the Community Development Financial Institutions Fund.

(d) A description of the proposed amount, structure and purchaser of the qualified equity investment.

(e) If known at the time of application, identifying information for any entity that will use the tax credits earned as a result of the issuance of the qualified equity investment.

(f) Examples of the types of qualified active low-income businesses in which the applicant, its controlling entity or the affiliates of its controlling entity have invested under the federal New Markets Tax Credit Program. An applicant is not required to identify the qualified active low-income community businesses in which it will invest when submitting an application.

(g) A nonrefundable application fee of $5,000. This fee must be paid to the Department and is required for each application submitted.

(h) The refundable performance fee required by subsection 1 of section 19 of this act.

2. Within 30 days after receipt of a completed application containing the information set forth in subsection 1, including the payment of the application fee and the refundable performance fee, the Department shall grant or deny the application in full or in part. If the Department denies any part of the application, it shall inform the qualified community development entity of the grounds for the denial. If the qualified community development entity provides any additional information required by the Department or otherwise completes its application within 15 days after the date of the notice of denial, the application must be considered complete as of the original date of submission. If the qualified community development entity fails to provide the information or complete its application within the 15-day period, the application remains denied and must be resubmitted in full with a new date of submission.

3. If the application is complete, the Department shall certify the proposed equity investment or long-term debt security as a qualified equity investment that is eligible for tax credits under this chapter, subject to the limitations contained in subsection 5. The Department shall provide written notice of the certification to the qualified community development entity. The notice must include the names of those entities who will earn the credits and their respective credit amounts. If the names of the entities that are eligible to use the credits change as the result of a transfer of a qualified equity investment or an allocation pursuant to section 15 of this act, the qualified community development entity shall notify the Department of the change.

4. The Department shall certify qualified equity investments in the order applications are received by the Department. Applications received on the same day shall be deemed to have been received simultaneously. For applications that are complete and received on the same day, the Department shall certify,

consistent with remaining qualified equity investment capacity, the qualified equity investments in proportionate percentages based upon the ratio that the amount of qualified equity investment requested in an application bears to the total amount of qualified equity investments requested in all applications received on the same day.

5. The Department:

(a) Shall certify $200,000,000 in qualified equity investments;

(b) Shall not certify any single qualified equity investment of less than $5,000,000; and

(c) Shall not certify more than a total of $50,000,000 in qualified equity investments to any single applicant, including all affiliates and partners of the applicant which are qualified community development entities.

➥ If a pending request cannot be fully certified because of these limits, the Department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial certification.

6. An approved applicant may transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any affiliate or partner of the controlling entity which is also a qualified community development entity, if the applicant provided the information required in the application with respect to the transferee and the applicant notifies the Department of the transfer within 30 days after the transfer.

7. Within 30 days after the applicant receives notice of certification, the qualified community development entity or any transferee pursuant to subsection 6 shall issue the qualified entity investment and receive cash in the amount certified by the Department. The qualified community development entity or transferee under subsection 6 must provide the Department with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity or any transferee under subsection 6 does not receive the cash investment and issue the qualified equity investment within 30 days after receipt of the notice of certification, the certification lapses and the entity may not issue the qualified equity investment without reapplying to the Department for certification. Lapsed certifications revert back to the Department and must be reissued, first, pro rata to other applicants whose qualified equity investment allocations were reduced pursuant to subsection 4 and, thereafter, in accordance with requirements for submitting the application.

Sec. 16.5. *1. A qualified community development entity which issues qualified equity investments under this chapter shall make qualified low-income community investments in businesses located in severely distressed census tracts, on a combined basis with all of its affiliated qualified community development entities that have issued qualified equity investments under this chapter, in an amount equal to at least 30 percent of the purchase price of all qualified equity investments issued by such entities.*

2. The Director may reduce the requirement in subsection 1 to 20 percent if the qualified community development entity uses its commercially reasonable best efforts to satisfy the requirements of subsection 1 and fails to do so within 9 months after its initial credit allowance date.

3. As used in this section, "severely distressed census tract" means a census tract that, in the immediately preceding census, had:

(a) More than 30 percent of households with a household income below the federally designated level signifying poverty;

(b) A median household income of less than 60 percent of the median household income in this State; or

(c) A rate of unemployment that was equal to or greater than 150 percent of the national average.

Sec. 17. *Except as otherwise provided in section 18 of this act, the Department shall recapture, from the entity that claimed the credit on a return, the tax credit allowed under this chapter if:*

1. Any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a credit under this chapter is recaptured under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D. In such a case, the Department's recapture must be proportionate to the federal recapture with respect to the qualified equity investment.

2. The issuer redeems or makes principal repayment with respect to a qualified equity investment before the seventh anniversary of the issuance of the qualified equity investment. In such a case, the Department's recapture must be proportionate to the amount of the redemption or repayment with respect to the qualified equity investment.

3. The issuer fails to invest an amount equal to 85 percent of the purchase price of the qualified equity investment in qualified low-income community investments in this State within 12 months after the issuance of the qualified equity investment and maintain at least an 85-percent level of investment in qualified low-income community investments in the State until the last credit allowance

date for the qualified equity investment. For the purposes of this chapter, an investment shall be deemed held by an issuer even if the investment has been sold or repaid if the issuer reinvests an amount equal to the capital returned to or recovered by the issuer from the original investment, exclusive of any profits realized, in another qualified low-income community investment within 12 months after the receipt of such capital. An issuer is not required to reinvest capital returned from qualified low-income community investments after the earlier of:

(a) The sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment; or

(b) The date by which a qualified community development entity has made qualified low-income community investments with the proceeds of the qualified equity investment on a cumulative basis equal to at least 150 percent of those proceeds, in which case the qualified low-income community investment must be considered held by the issuer through the seventh anniversary of the qualified equity investment's issuance.

4. At any time before the final credit allowance date of a qualified equity investment, the issuer uses the cash proceeds of the qualified equity investment to make qualified low-income community investments in any one qualified active low-income community business, including affiliated qualified active low-income community businesses, exclusive of reinvestments of capital returned or repaid with respect to earlier investments in the qualified active low-income community business and its affiliates, in excess of 25 percent of those cash proceeds.

Sec. 18. *Enforcement of each of the recapture provisions set forth in section 17 of this act is subject to a 6-month cure period. No recapture may occur until the qualified community development entity has been given notice of noncompliance and afforded 6 months after the date of the notice to cure the noncompliance.*

Sec. 19. *1. A qualified community development entity that seeks to have an equity investment or long-term debt security designated as a qualified equity investment and eligible for tax credits under this chapter must pay a fee in the amount of 0.5 percent of the amount of the equity investment or long-term debt security requested to be designated as a qualified equity investment to the Department. The fee must be deposited in the New Markets Performance Guarantee Account, which is hereby*

created in the State General Fund. The entity forfeits the fee in its entirety if:

(a) The qualified community development entity and its affiliates and partners which are also qualified community development entities fail to issue the total amount of qualified equity investments certified by the Department and receive cash in the total amount certified pursuant to subsection 3 of section 16 of this act; or

(b) The qualified community development entity or any affiliate or partner which is also a qualified community development entity that issues a qualified equity investment certified under this chapter fails to meet the investment requirement specified in subsection 3 of section 17 of this act by the second credit allowance date of the qualified equity investment. Forfeiture of the fee under this paragraph is subject to the 6-month cure period established pursuant to section 18 of this act.

2. The fee required pursuant to subsection 1 must be paid to the Department and held in the New Markets Performance Guarantee Account until such time as compliance with the provisions of subsection 1 has been established. The qualified community development entity may request a refund of the fee from the Department no sooner than 30 days after having met all the requirements of subsection 1. The Department shall refund the fee within 30 days after such a request or being given notice of noncompliance.

Sec. 20. *1. The Department shall issue letter rulings regarding the tax credit program authorized under this chapter, subject to the terms and conditions set forth in this section.*

2. The Department shall respond to a request for a letter ruling within 60 days after receipt of the request. The applicant may provide a draft letter ruling for the Department's consideration. The applicant may withdraw the request for a letter ruling, in writing, before the issuance of the letter ruling. The Department may refuse to issue a letter ruling for good cause, but must list the specific reasons for refusing to issue the letter ruling. Good cause includes, but is not limited to:

(a) The applicant requests the Department to determine whether a statute is constitutional or a regulation is lawful;

(b) The request involves a hypothetical situation or alternative plans;

(c) The facts or issues presented in the request are unclear, overbroad, insufficient or otherwise inappropriate as a basis upon which to issue a letter ruling; and

(d) The issue is currently being considered in a rulemaking procedure, contested case, or other agency or judicial proceeding that may definitively resolve the issue.

3. Letter rulings bind the Department and the Department's agents and their successors until such time as the entity or its shareholders, members or partners, as applicable, claim all the covered tax credits on a tax return or report, subject to the terms and conditions set forth in any regulations adopted by the Director pursuant to section 24 of this act. A letter ruling applies only to the applicant.

4. In rendering letter rulings and making other determinations under this chapter, to the extent applicable, the Department of Business and Industry and the Department of Taxation shall look for guidance to section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, and the rules and regulations issued thereunder.

5. For the purposes of this section, "letter ruling" means a written interpretation of law to a specific set of facts provided by the applicant requesting the ruling.

Sec. 21. *1. An entity claiming a credit under this chapter is not required to pay any additional retaliatory tax levied pursuant to NRS 680A.330 as a result of claiming that credit.*

2. In addition to the exclusion in subsection 1, an entity claiming a credit under this chapter is not required to pay any other additional tax as a result of claiming that credit.

Sec. 22. *1. Once certified under subsection 3 of section 16 of this act, a qualified equity investment may not be decertified unless all the requirements of subsection 2 have been met. Until all qualified equity investments issued by a qualified community development entity are decertified under this section, the qualified community development entity is not entitled to distribute to its equity holders or make cash payments on long-term debt securities that have been designated as qualified equity investments in an amount that exceeds the sum of:*

(a) The cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, earned by the qualified community development entity since issuance of the qualified equity investment, before giving effect to any interest expense from the

long-term debt securities designated as qualified equity investments; and

(b) Fifty percent of the purchase price of the qualified equity investments issued by the qualified community development entity.

2. To be decertified, a qualified equity investment must:

(a) Be beyond its seventh credit allowance date;

(b) Have been in compliance with section 17 of this act through its seventh credit allowance date, including coming into compliance during any cure period allowed pursuant to section 18 of this act; and

(c) Have had its proceeds invested in qualified active low-income community investments such that the total qualified active low-income community investments made, cumulatively including reinvestments, exceeds 150 percent of its qualified equity investment.

3. A qualified community development entity that seeks to have a qualified equity investment decertified pursuant to this section must send notice to the Department of its request for decertification together with evidence supporting the request. The provisions of paragraph (b) of subsection 2 shall be deemed to be met if no recapture action has been commenced by the Department as of the seventh credit allowance date. The Department shall respond to such a request within 30 days after receiving the request. Such a request must not be unreasonably denied. If the request is denied for any reason, the burden of proof is on the Department in any subsequent administrative or legal proceeding.

Sec. 23. *A qualified community development entity is not entitled to pay to any affiliate of the qualified community development entity any fees in connection with any activity under this chapter before decertification pursuant to section 22 of this act of all qualified equity investments issued by the qualified community development entity. This section does not prohibit a qualified community development entity from allocating or distributing income earned by it to such affiliates or paying reasonable interest on amounts loaned to the qualified community development entity by those affiliates.*

Sec. 23.5. *1. The Director shall conduct an annual review of each qualified community development entity that has been granted an application for a qualified equity investment pursuant to section 16 of this act to ensure that:*

(a) The qualified community development entity remains in compliance with the provisions of this chapter and any regulations adopted pursuant thereto; and

(b) Any qualified equity investment certified pursuant to section 16 of this act meets the eligibility criteria prescribed in this chapter and any regulations adopted pursuant thereto.

2. On June 30 of each even-numbered year, the Director shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The report must include, for each qualified equity investment certified pursuant to section 16 of this act:

(a) Information on the impact of the qualified equity investment on the economy of this State, including, without limitation, the number of jobs created by the qualified equity investment; and

(b) Proof that the qualified community development entity responsible for the qualified equity investment is in compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

Sec. 24. *The Director may adopt regulations to carry out the provisions of this chapter.*

Sec. 25. *To qualify as long-term debt security, a debt instrument must be issued by a qualified community development entity, at par value or a premium, with an original maturity date of at least 7 years after the date of its issuance, with no acceleration of repayment, amortization or prepayment features before its original maturity date. The qualified community development entity that issues the debt instrument must not make interest payments in the form of cash on the debt instrument during the period beginning on the date of issuance and ending on the final credit allowance date in an amount that exceeds the cumulative operating income, as defined by regulations adopted under section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, of the qualified community development entity for that period before giving effect to the interest expense of the long-term debt security. This section does not limit the holder's ability to accelerate payments on the debt instrument in situations in which the issuer has defaulted on covenants designed to ensure compliance with this chapter or section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D.*

Sec. 26. *1. For the purpose of section 10 of this act, a qualified active low-income community business is limited to those businesses meeting the Small Business Administration size*

eligibility standards established in 13 C.F.R. §§ 121.101 to 201, inclusive, at the time the qualified low-income community investment is made. A business must be considered a qualified active low-income community business for the duration of the qualified community development entity's investment in, or loan to, the business if the entity reasonably expects, at the time it makes the investment or loan, that the business will continue to satisfy the requirements for being a qualified active low-income community business, other than the Small Business Administration size standards, throughout the entire period of the investment or loan.

2. Except as otherwise provided in this subsection, the businesses limited by this section do not include any business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate. This exclusion does not apply to a business that is controlled by, or under common control with, another business if the second business:

(a) Does not derive or project to derive 15 percent or more of its annual revenue from the rental or sale of real estate; and

(b) Is the primary tenant of the real estate leased from the first business.

3. The following businesses are not qualified active low-income community businesses:

(a) A business that has received an abatement from taxation pursuant to NRS 274.310, 274.320, 274.330 or 360.750.

(b) An entity that has liability for insurance premium tax on a premium tax report filed pursuant to NRS 680B.030.

(c) A business engaged in banking or lending.

(d) A massage parlor.

(e) A bath house.

(f) A tanning salon.

(g) A country club.

(h) A business operating under a nonrestricted license for gaming issued pursuant to NRS 463.170.

(i) A liquor store.

(j) A golf course.

Sec. 27. *For the purpose of section 11 of this act, a qualified community development entity is limited to an entity that has entered into, for the current year or any prior year, an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D, which includes the State*

of Nevada within the service area set forth in the allocation agreement. Such an entity also includes any:

1. Affiliated qualified community development entities of any such qualified community development entity; and

2. Partners of any such qualified community development entity which are also qualified community development entities, regardless of whether any such partner has entered into an allocation agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code of 1986, 26 U.S.C. § 45D.

Sec. 27.1. Chapter 680B of NRS is hereby amended by adding thereto a new section to read as follows:

Each insurer that makes a qualified equity investment, as defined in section 12 of this act, or is allocated a credit pursuant to section 15 of this act is entitled to a credit against the premium tax in the manner provided in section 14 of this act.

Sec. 27.2. NRS 680B.025 is hereby amended to read as follows:

680B.025 For the purposes of NRS 680B.025 to 680B.039, inclusive ~~[:]~~ ***, and section 27.1 of this act:***

1. "Total income derived from direct premiums written":

(a) Does not include premiums written or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a pension, annuity or profit-sharing plan qualified or exempt pursuant to sections 401, 403, 404, 408, 457 or 501 of the United States Internal Revenue Code as renumbered from time to time.

(b) Does not include payments received by an insurer from the Secretary of Health and Human Services pursuant to a contract entered into pursuant to section 1876 of the Social Security Act, 42 U.S.C. § 1395mm.

(c) As to title insurance, consists of the total amount charged by the company for the sale of policies of title insurance.

2. Money accepted by a life insurer pursuant to an agreement which provides for an accumulation of money to purchase annuities at future dates may be considered as "total income derived from direct premiums written" either upon receipt or upon the actual application of the money to the purchase of annuities, but any interest credited to money accumulated while under the latter alternative must also be included in "total income derived from direct premiums written," and any money taxed upon receipt, including any interest later credited thereto, is not subject to taxation

upon the purchase of annuities. Each life insurer shall signify on its return covering premiums for the calendar year 1971 or for the first calendar year it transacts business in this State, whichever is later, its election between those two alternatives. Thereafter an insurer shall not change his or her election without the consent of the Commissioner. Any such money taxed as "total income derived from direct premiums written" is, in the event of withdrawal of the money before its actual application to the purchase of annuities, eligible to be included as "return premiums" pursuant to the provisions of NRS 680B.030.

Sec. 27.3. NRS 680B.039 is hereby amended to read as follows:

680B.039 Any insurer that fails to file the report or pay the tax as required by NRS 680B.025 to 680B.039, inclusive, ***and section 27.1 of this act,*** within the time for filing and payment as provided in those sections shall in addition to any other applicable penalty pay a penalty of not more than 10 percent of the amount of the tax which is owed, as determined by the Department of Taxation, in addition to the tax, plus interest at the rate of 1.5 percent per month, or fraction of a month, from the date on which the tax should have been paid until the date of payment.

Sec. 27.4. NRS 680B.0395 is hereby amended to read as follows:

680B.0395 An insurer who holds a certificate of authority as a reinsurer is exempt from the requirements of NRS 680B.025 to 680B.039, inclusive ~~[.]~~ ***, and section 27.1 of this act.***

Sec. 27.5. NRS 680B.050 is hereby amended to read as follows:

680B.050 1. Except as otherwise provided in this section, a domestic or foreign insurer which owns and substantially occupies and uses any building in this state as its home office or as a regional home office is entitled to the following credits against the tax otherwise imposed by NRS 680B.027:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive ~~[;]~~ ***, and section 27.1 of this act;*** and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

➥ These credits must not reduce the amount of tax payable to less than 20 percent of the tax otherwise payable by the insurer under NRS 680B.027.

2. As used in this section, a "regional home office" means an office of the insurer performing for an area covering two or more states, with a minimum of 25 employees on its office staff, the supervision, underwriting, issuing and servicing of the insurance business of the insurer.

3. The insurer shall, on or before March 15 of each year, furnish proof to the satisfaction of the Executive Director of the Department of Taxation, on forms furnished by or acceptable to the Executive Director, as to its entitlement to the tax reduction provided for in this section. A determination of the Executive Director of the Department of Taxation pursuant to this section is not binding upon the Commissioner for the purposes of NRS 682A.240.

4. An insurer is not entitled to the credits provided in this section unless:

(a) The insurer owned the property upon which the reduction is based for the entire year for which the reduction is claimed; and

(b) The insurer occupied at least 70 percent of the usable space in the building to transact insurance or the insurer is a general or limited partner and occupies 100 percent of its ownership interest in the building.

5. If two or more insurers under common ownership or management and control jointly own in equal interest, and jointly occupy and use such a home office or regional home office in this state for the conduct and administration of their respective insurance businesses as provided in this section, each of the insurers is entitled to the credits provided for by this section if otherwise qualified therefor under this section.

Sec. 27.6. 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 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 that year. In determining the adequacy of collateral security, not more than one-third of the total value of 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 that period and if, during the last year of that period, the net earnings have been not less than 1 1/2 times its fixed charges for 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 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.

(3) A qualified community development entity as defined in section 11 of this act, and to the extent in compliance with the investment limitations established pursuant to section 16 of this act.

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, relating to diversification, more than an amount equal to 10 percent of the insurer's admitted assets in any issue.

Sec. 27.7. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, ***and section 27.1 of this act,*** and chapters 686A and 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. 27.8. NRS 695F.090 is hereby amended to read as follows:

695F.090 Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

1. NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
2. NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.
3. The requirements of NRS 679B.152.
4. The fees imposed pursuant to NRS 449.465.
5. NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.
6. The assessment imposed pursuant to NRS 679B.700.
7. Chapter 683A of NRS.
8. To the extent applicable, the provisions of NRS 689B.340 to 689B.590, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.
9. NRS 689A.035, 689A.410, 689A.413 and 689A.415.
10. NRS 680B.025 to 680B.039, inclusive, ***and section 27.1 of this act*** concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "prepaid limited health service organization."
11. Chapter 692C of NRS, concerning holding companies.
12. NRS 689A.637, concerning health centers.

Sec. 28. Notwithstanding the provisions of section 16 of this act, the Department of Business and Industry shall begin accepting applications for certification of qualified equity investments not later than October 1, 2013.

Sec. 29. This act applies only to a return or premium tax report filed under title 57 originally due on or after the effective date of this act.

Sec. 30. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On October 1, 2013, for all other purposes.