

Liability concern gets law delayed.

Insurance effects worry businesses.

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A new law that was scheduled to take effect in October could increase the cost of insurance and limit the number of plans available, the business community warned regulators at a workshop on Thursday.

The new law is Assembly Bill 398, which will require any insurer to “not issue or renew” a liability insurance policy that reduces the amount of coverage in the policy to cover legal defense costs or limit the availability of insurance for legal defense costs.

There has been so much widespread concern in the insurance and business community over this law, that the Nevada Insurance Commissioner Scott Kipper sent a memo in July to the governor’s office asking for an emergency regulation to mitigate the impact of this law taking effect; the emergency regulation took effect in July and delays the enactment of the law until late November. The law had been set to go into effect on Oct. 1.

Liability insurance is used by a wide range of businesses, including resorts, engineering firms and physicians, since it can cover companies and individuals who are liable for accidents or injuries on their watch.

Members of the business and insurance community gathered at an online workshop held by the Nevada Division of Insurance held on Thursday morning to share their concerns on the implementation of this law. Most speakers said it would significantly increase insurance costs while also driving out many insurance providers from the Nevada market which would decrease the amount of insurance options available for businesses.

“Our members and fellow trade association partners are experiencing significant rate increases or cancellation of plans,” said Paul Moradkhan, the senior vice president of government affairs for the Vegas Chamber.

The Nevada Resorts Association also spoke out against AB 398 being enacted and that some of its members have already said the law could be terrible for the industry, said Virginia Valentine the president of the association. She said premiums across many insurance policies could increase if AB 398 isn’t changed before it’s implemented.

“I will tell you that we’re talking about tens of millions of dollars,” Valentine said at the workshop. “Probably right now we’re looking at just the tip of the iceberg, but a ripple effect across all of the businesses that we do business with.”

The law as it was written was described as the “broadest” of its type in the nation, according to Mark Sektnan who spoke at the workshop on behalf of the American Property Casualty Insurance Association.

“Many states have addressed the issue of defense with a number of policies,” Sektnan said. “This could have a devastating impact on the admitted market for many lines of insurance.”

Kipper in his memo stated it could effect policies such as medical malpractice, professional liability, cyber liability, employment practices liability, pollution and environment impairment and construction defects, although more policies than those could also be impacted.

All the comments in the workshop were negative of the original language for AB 398, but the Henderson Chamber of Commerce wrote a letter of support for AB 398 in April stating the law would act as a “safeguard” for businesses that are involved in legal action over liability insurance.

However, the Henderson Chamber of Commerce stated it now “shares the concerns” of other businesses around the implementation of AB 398 and that it could create “significantly more harm than benefit,” according to Emily Osterberg, the director of government affairs for the chamber.

“The bill stated that the benefits of insurance policies could not be limited,” Osterberg said in an emailed statement. “Unfortunately, the unintended effect of the bill has rippled into the cost and availability of insurance — something that was not apparent in the legislative process. We will continue to work with our advocacy partners to help remedy this issue.”

The Division of Insurance is set to have a hearing on the implementation of AB 398 on Sept. 12. (2023)

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