

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 18, 25, 28, 29, 32, 37, 40)

(Reprinted with amendments adopted on April 20, 2015)

FIRST REPRINT

A.B. 325

ASSEMBLY BILL NO. 325—ASSEMBLYMEN SPRINKLE,
KIRKPATRICK, SEAMAN; AND O’NEILL

MARCH 16, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions governing persons engaged in the business of a private professional guardian. (BDR 54-976)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: Yes.

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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 private professional guardians; requiring licensing for persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; amending provisions related to the appointment of a guardian under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

Sections 15-17 of this bill make it unlawful for a person to act as a private professional guardian without being licensed. **Sections 18-26** of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. **Section 28** of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. **Section 29** of this bill establishes the process for the renewal of a license. **Section 30** of this bill establishes the process for surrender of a license.

Section 31 of this bill requires a licensee to keep a principal office in this State. **Section 32** of this bill establishes procedures for the Commissioner to approve an



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16 out-of-state office of a private professional guardian company. **Section 33** of this
17 bill requires a licensee to maintain certain types and levels of bonds and insurance.

18 **Section 35** of this bill establishes the rights and authority of a licensee. **Section**
19 **36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill
20 establish requirements for accounting, reporting and auditing of a private
21 professional guardian company and authorize the Commissioner or a designee to
22 inspect certain records of a private professional guardian company.

23 **Sections 42-46** of this bill establish procedures for the Commissioner to take
24 administrative action against licensees. **Sections 47 and 48** of this bill establish
25 procedures for handling a complaint against a private professional guardian
26 company. **Sections 49 and 50** of this bill provide administrative and criminal
27 penalties for violating certain provisions of this bill.

28 Existing law requires that, subject to certain exceptions, a person must be a
29 resident of this State to be appointed as a guardian. (NRS 159.059) Existing law
30 also requires a court to appoint as guardian for an incompetent the qualified person
31 who is most suitable and is willing to serve as a guardian. (NRS 159.061) **Sections**
32 **50.5 and 51.5** of this bill require a court to appoint as guardian for an incompetent
33 a person who, regardless of whether the person is a resident of this State, has been
34 requested to be appointed as guardian in a written instrument executed by the
35 incompetent while he or she was competent, if that person is willing to serve and is
36 otherwise determined to be qualified and suitable.

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

1 **Section 1.** Title 54 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 50, inclusive, of this act.

4 **Sec. 2.** *The Legislature finds and declares that:*

5 *1. There exists in this State a need, in order to provide for the*
6 *protection of the public interest, to regulate persons engaged in*
7 *the business of private professional guardians.*

8 *2. Persons engaging in the business of private professional*
9 *guardians must be licensed and regulated in such a manner as to*
10 *promote advantages and convenience for the public while*
11 *protecting the public interest.*

12 *3. It is the purpose of this chapter to bring under public*
13 *supervision persons who are engaged in or who desire to engage*
14 *in the business of a private professional guardian and to ensure*
15 *that there is established in this State an adequate, efficient and*
16 *competitive private professional guardian service available to the*
17 *courts and the public at large.*

18 **Sec. 3.** *As used in this chapter, unless the context otherwise*
19 *requires, the words and terms defined in sections 4 to 11,*
20 *inclusive, of this act, have the meanings ascribed to them in those*
21 *sections.*

22 **Sec. 4.** *“Business of a private professional guardian” means*
23 *the holding out by a person, through advertising, solicitation or*



1 *other means, that the person is available to act for compensation*
2 *as a private professional guardian.*

3 **Sec. 5.** *“Commissioner” means the Commissioner of*
4 *Financial Institutions.*

5 **Sec. 6.** *“Director” means the Director of the Department of*
6 *Business and Industry.*

7 **Sec. 7.** *“Division” means the Division of Financial*
8 *Institutions of the Department of Business and Industry.*

9 **Sec. 8.** *“Fiduciary” means a person who has the power and*
10 *authority to act for a beneficiary under circumstances requiring*
11 *trust, good faith and honesty.*

12 **Sec. 9.** *“Private professional guardian” has the meaning*
13 *ascribed to it in NRS 159.024.*

14 **Sec. 10.** *“Private professional guardian company” means a*
15 *natural person or business entity, including, without limitation, a*
16 *sole proprietorship, partnership, limited liability company or*
17 *corporation, that is licensed pursuant to the provisions of this*
18 *chapter to engage in the business of a private professional*
19 *guardian, whether appointed by a court or hired by a private party.*

20 **Sec. 11.** *“Ward” has the meaning ascribed to it in*
21 *NRS 159.027.*

22 **Sec. 12.** *This chapter does not apply to a person who:*

23 *1. Is a public guardian or administrator appointed by the*
24 *court;*

25 *2. Is appointed as a fiduciary pursuant to NRS 662.245;*

26 *3. Is acting in the performance of his or her duties as an*
27 *attorney at law;*

28 *4. Acts as a trustee under a deed of trust;*

29 *5. Acts as a fiduciary under a court trust; or*

30 *6. Acts as a fiduciary as an individual or a family member.*

31 **Sec. 13.** *The Commissioner shall administer and enforce the*
32 *provisions of this chapter subject to the administrative supervision*
33 *of the Director.*

34 **Sec. 14.** *The Commissioner may adopt regulations to carry*
35 *out the provisions of this chapter.*

36 **Sec. 15.** *It is unlawful for any person to engage in the*
37 *business of a private professional guardian without having a*
38 *license issued by the Commissioner pursuant to this chapter.*

39 **Sec. 16.** *A person who does not have a license issued*
40 *pursuant to this chapter shall not:*

41 *1. Use the term “private professional guardian” or*
42 *“guardianship services” as a part of his or her business name.*

43 *2. Advertise or use any sign which includes the term “private*
44 *professional guardian.”*



1 **Sec. 17. 1. The Commissioner shall conduct an**
2 *investigation if he or she receives a verified complaint that an*
3 *unlicensed person is engaging in an activity for which a license is*
4 *required pursuant to this chapter.*

5 **2. If the Commissioner determines that an unlicensed person**
6 *is engaged in an activity for which a license is required pursuant*
7 *to this chapter, the Commissioner shall issue and serve on the*
8 *person an order to cease and desist from engaging in the activity*
9 *until such time as the person obtains a license issued by the*
10 *Commissioner.*

11 **3. If a person upon whom an order to cease and desist is**
12 *served pursuant to subsection 2 does not comply with the order*
13 *within 30 days after the service of the order, the Commissioner*
14 *shall, after providing to the person notice and an opportunity for a*
15 *hearing:*

16 **(a) Impose upon the person an administrative fine of \$10,000;**
17 *or*

18 **(b) Enter into a written agreement with the person pursuant to**
19 *which the person agrees to cease and desist from engaging in any*
20 *activity in this State for which a license is required relating to the*
21 *business of a private professional guardian and impose upon the*
22 *person an administrative fine of not less than \$5,000 and not more*
23 *than \$10,000.*

24 **4. The Commissioner shall bring suit in the name and on**
25 *behalf of the State of Nevada against a person upon whom an*
26 *administrative fine is imposed pursuant to subsection 3 to recover*
27 *the amount of the administrative fine if:*

28 **(a) No petition for judicial review is filed pursuant to NRS**
29 *233B.130 and the fine remains unpaid for at least 90 days after*
30 *notice of the imposition of the fine; or*

31 **(b) A petition for judicial review is filed pursuant to NRS**
32 *233B.130 and the fine remains unpaid for at least 90 days after*
33 *the exhaustion of any right of appeal in the courts of this State*
34 *resulting in a final determination that upholds the imposition of*
35 *the fine.*

36 **5. A person's liability for an administrative fine is in addition**
37 *to any other penalty provided for in this chapter.*

38 **Sec. 18. 1. A person wishing to engage in the business of a**
39 *private professional guardian in this State must file with the*
40 *Commissioner an application on a form prescribed by the*
41 *Commissioner, which must contain or be accompanied by such*
42 *information as is required.*

43 **2. A nonrefundable fee of not more than \$750 must**
44 *accompany the application. The applicant must also pay such*



1 reasonable additional expenses incurred in the process of
2 investigation as the Commissioner deems necessary.

3 3. The application must contain:

4 (a) The name of the applicant and the name under which the
5 applicant does business or expects to do business, if different.

6 (b) The complete business and residence addresses of the
7 applicant.

8 (c) The character of the business sought to be carried on.

9 (d) The address of any location where business will be
10 transacted.

11 (e) In the case of a firm or partnership, the full name and
12 residence address of each member or partner and the manager.

13 (f) In the case of a corporation or voluntary association, the
14 name and residence address of each director and officer and the
15 manager.

16 (g) A statement, under penalty of perjury that the applicant
17 has complied with the provisions of NRS 159.059 and 159.0595.

18 (h) Any other information reasonably related to the applicant's
19 qualifications for the license which the Commissioner determines
20 to be necessary.

21 4. Each application for a license must have attached to it a
22 financial statement showing the assets, liabilities and net worth of
23 the applicant.

24 5. In addition to any other requirements, each applicant or
25 member, partner, director, officer, manager or case manager of an
26 applicant shall submit to the Commissioner a complete set of
27 fingerprints and written permission authorizing the Division to
28 forward the fingerprints to the Central Repository for Nevada
29 Records of Criminal History for submission to the Federal Bureau
30 of Investigation for its report.

31 6. If the applicant is a corporation or limited-liability
32 company, the articles of incorporation or articles of organization
33 must contain:

34 (a) The name adopted by the private professional guardian
35 company, which must distinguish it from any other private
36 professional guardian company formed or incorporated in this
37 State or engaged in the business of a private professional guardian
38 in this State; and

39 (b) The purpose for which it is formed.

40 7. The Commissioner shall deem an application to be
41 withdrawn if the Commissioner has not received all information
42 and fees required to complete the application within 6 months
43 after the date the application is submitted to the Commissioner. If
44 an application is deemed to be withdrawn pursuant to this
45 subsection or if an applicant otherwise withdraws an application,



1 *the Commissioner may not issue a license to the applicant unless*
2 *the applicant submits a new application and pays the required*
3 *fees.*

4 *8. The Commissioner shall adopt regulations establishing the*
5 *amount of the fees required pursuant to this section, subject to the*
6 *following limitations:*

7 *(a) An initial fee of not more than \$1,500 for a license to*
8 *transact the business of a private professional guardian; and*

9 *(b) A fee of not more than \$300 for each branch office that is*
10 *authorized by the Commissioner.*

11 *9. All money received by the Commissioner pursuant to this*
12 *section must be placed in the Investigative Account for Financial*
13 *Institutions created by NRS 232.545.*

14 **Sec. 19. 1. In addition to any other requirements set forth**
15 **in this chapter:**

16 *(a) An applicant for the issuance of a license to engage in the*
17 *business of a private professional guardian shall include the social*
18 *security number of the applicant or applicants in the application*
19 *submitted to the Commissioner.*

20 *(b) An applicant for the issuance or renewal of a license to*
21 *engage in the business of a private professional guardian shall*
22 *submit to the Commissioner the statement prescribed by the*
23 *Division of Welfare and Supportive Services of the Department of*
24 *Health and Human Services pursuant to NRS 425.520. The*
25 *statement must be completed and signed by the applicant.*

26 **2. The Commissioner shall include the statement required**
27 **pursuant to subsection 1 in:**

28 *(a) The application or any other forms that must be submitted*
29 *for the issuance or renewal of the license; or*

30 *(b) A separate form prescribed by the Commissioner.*

31 **3. A license may not be issued or renewed by the**
32 **Commissioner if the applicant:**

33 *(a) Fails to submit the statement required pursuant to*
34 *subsection 1; or*

35 *(b) Indicates on the statement submitted pursuant to*
36 *subsection 1 that the applicant is subject to a court order for the*
37 *support of a child and is not in compliance with the order or a*
38 *plan approved by the district attorney or other public agency*
39 *enforcing the order for the repayment of the amount owed*
40 *pursuant to the order.*

41 **4. If an applicant indicates on the statement submitted**
42 **pursuant to subsection 1 that the applicant is subject to a court**
43 **order for the support of a child and is not in compliance with the**
44 **order or a plan approved by the district attorney or other public**
45 **agency enforcing the order for the repayment of the amount owed**



1 *pursuant to the order, the Commissioner shall advise the applicant*
2 *to contact the district attorney or other public agency enforcing*
3 *the order to determine the actions that the applicant may take to*
4 *satisfy the arrearage.*

5 **Sec. 20.** 1. *In addition to any other requirements set forth*
6 *in this chapter, an applicant for the issuance or renewal of a*
7 *license to engage in the business of a private professional*
8 *guardian shall submit to the Commissioner the statement*
9 *prescribed by the Division of Welfare and Supportive Services of*
10 *the Department of Health and Human Services pursuant to*
11 *NRS 425.520. The statement must be completed and signed by the*
12 *applicant.*

13 2. *The Commissioner shall include the statement required*
14 *pursuant to subsection 1 in:*

15 (a) *The application or any other forms that must be submitted*
16 *for the issuance or renewal of the license; or*

17 (b) *A separate form prescribed by the Commissioner.*

18 3. *A license may not be issued or renewed by the*
19 *Commissioner if the applicant:*

20 (a) *Fails to submit the statement required pursuant to*
21 *subsection 1; or*

22 (b) *Indicates on the statement submitted pursuant to*
23 *subsection 1 that the applicant is subject to a court order for the*
24 *support of a child and is not in compliance with the order or a*
25 *plan approved by the district attorney or other public agency*
26 *enforcing the order for the repayment of the amount owed*
27 *pursuant to the order.*

28 4. *If an applicant indicates on the statement submitted*
29 *pursuant to subsection 1 that the applicant is subject to a court*
30 *order for the support of a child and is not in compliance with the*
31 *order or a plan approved by the district attorney or other public*
32 *agency enforcing the order for the repayment of the amount owed*
33 *pursuant to the order, the Commissioner shall advise the applicant*
34 *to contact the district attorney or other public agency enforcing*
35 *the order to determine the actions that the applicant may take to*
36 *satisfy the arrearage.*

37 **Sec. 21.** 1. *If the Commissioner receives a copy of a court*
38 *order issued pursuant to NRS 425.540 that provides for the*
39 *suspension of all professional, occupational and recreational*
40 *licenses, certificates and permits issued to a person who is the*
41 *holder of a license to engage in the business of a private*
42 *professional guardian, the Commissioner shall deem the license*
43 *issued to that person to be suspended at the end of the 30th day*
44 *after the date on which the court order was issued unless the*
45 *Commissioner receives a letter issued to the holder of the license*



1 *by the district attorney or other public agency pursuant to NRS*
2 *425.550 stating that the holder of the license has complied with the*
3 *subpoena or warrant or has satisfied the arrearage pursuant to*
4 *NRS 425.560.*

5 *2. The Commissioner shall reinstate a license that has been*
6 *suspended by a district court pursuant to NRS 425.540 if the*
7 *Commissioner receives a letter issued by the district attorney or*
8 *other public agency pursuant to NRS 425.550 to the person whose*
9 *license was suspended stating that the person whose license was*
10 *suspended has complied with the subpoena or warrant or has*
11 *satisfied the arrearage pursuant to NRS 425.560.*

12 **Sec. 22.** *1. Within 90 days after the application for a*
13 *license is filed, the Commissioner shall investigate the facts of the*
14 *application and the other requirements of this chapter to*
15 *determine:*

16 *(a) That each person who will serve as a sole proprietor,*
17 *partner of a partnership, member of a limited-liability company or*
18 *director or officer of a corporation, and any person acting in a*
19 *managerial or case manager capacity, as applicable:*

20 *(1) Has a good reputation for honesty, trustworthiness and*
21 *integrity and displays competence to engage in the business of a*
22 *private professional guardian in a manner which safeguards the*
23 *interests of the general public. The applicant must submit*
24 *satisfactory proof of those qualifications, including, without*
25 *limitation, evidence that the applicant has passed an examination*
26 *for private professional guardians specified by the Commissioner.*

27 *(2) Has not been convicted of, or entered a plea of guilty or*
28 *nolo contendere to, a felony or any crime involving fraud,*
29 *misrepresentation, material omission, misappropriation,*
30 *conversion or moral turpitude.*

31 *(3) Has not made a false statement of material fact on the*
32 *application.*

33 *(4) Has not been a sole proprietor or an officer or member*
34 *of the board of directors for an entity whose license issued*
35 *pursuant to the provisions of this chapter was suspended or*
36 *revoked within the 10 years immediately preceding the date of the*
37 *application if, in the reasonable judgment of the Commissioner,*
38 *there is evidence that the sole proprietor, officer or member*
39 *materially contributed to the actions resulting in the suspension or*
40 *revocation of the license.*

41 *(5) Has not been a sole proprietor or an officer or member*
42 *of the board of directors for an entity whose license as a private*
43 *professional guardian company which was issued by any other*
44 *state, district or territory of the United States or any foreign*
45 *country suspended or revoked within the 10 years immediately*



1 preceding the date of the application if, in the reasonable
2 judgment of the Commissioner, there is evidence that the sole
3 proprietor, officer or member materially contributed to the actions
4 resulting in the suspension or revocation of the license.

5 (6) Has not violated any of the provisions of this chapter or
6 any regulations adopted pursuant thereto.

7 (b) That the financial status of each sole proprietor, partner,
8 member or director and officer of the corporation and person
9 acting in a managerial or case manager capacity indicates fiscal
10 responsibility consistent with his or her position.

11 (c) That the name of the proposed business complies with all
12 applicable statutes.

13 (d) That, except as otherwise provided in section 33 of this act,
14 the initial surety bond is not less than the amount required by
15 NRS 159.065.

16 2. In rendering a decision on an application for a license, the
17 Commissioner shall consider, without limitation:

18 (a) The proposed markets to be served and, if they extend
19 outside this State, any exceptional risk, examination or
20 supervision concerns associated with those markets;

21 (b) Whether the proposed organizational and equity structure
22 and the amount of initial equity or fidelity and surety bonds of the
23 applicant appear adequate in relation to the proposed business
24 and markets, including, without limitation, the average level of
25 assets under guardianship projected for each of the first 3 years of
26 operation; and

27 (c) Whether the applicant has planned suitable annual audits
28 conducted by qualified outside auditors of its books and records
29 and its fiduciary activities under applicable accounting rules and
30 standards as well as suitable internal audits.

31 **Sec. 23.** 1. After conducting an investigation pursuant to
32 section 22 of this act, if the Commissioner finds grounds for the
33 denial of the application, the Commissioner shall provide to the
34 applicant written notice of such grounds by personal service or
35 certified mail.

36 2. The applicant may cure any defect or deficiency in the
37 application and, not more than 30 days after receipt of the notice
38 pursuant to subsection 1, resubmit the application for approval.

39 3. If an application is not approved, the Commissioner shall
40 provide to the applicant written notice of the denial by personal
41 service or certified mail. The applicant may request a hearing
42 before the Commissioner, but if no such application is made
43 within 30 days after the entry of an order refusing a license to any
44 person, the Commissioner shall enter a final order.



1 4. *The decision of the Commissioner is final for the purposes*
2 *of judicial review.*

3 **Sec. 24.** *The Commissioner shall approve the application for*
4 *a license, keeping on file his or her findings of fact pertaining*
5 *thereto, if the Commissioner finds that the applicant has met all*
6 *the requirements of this chapter pertaining to the applicant's*
7 *qualifications and application.*

8 **Sec. 25.** *1. If the Commissioner approves an application*
9 *pursuant to section 24 of this act and the applicant pays the*
10 *required fees, the Commissioner shall issue to the applicant a*
11 *license to engage in the business of a private professional*
12 *guardian.*

13 2. *A license issued pursuant to subsection 1 must contain:*

14 (a) *The name of the licensee.*

15 (b) *The locations by street and number where the licensee is*
16 *authorized to engage in business.*

17 (c) *The number and the date of issuance of the license.*

18 (d) *That the license is issued pursuant to this chapter and that*
19 *the licensee is authorized to engage in the business of a private*
20 *professional guardian under this chapter.*

21 (e) *The expiration date of July 1 of the next year.*

22 **Sec. 26.** *1. The Commissioner shall maintain in the Office*
23 *of the Commissioner, in a suitable record provided for that*
24 *purpose, each application for a license and all bonds required to*
25 *be filed pursuant to this chapter. The record must state the date of*
26 *issuance or denial of the license and the date and nature of any*
27 *action taken relating to an application.*

28 2. *Each license issued by the Commissioner must be*
29 *sufficiently identified in the record.*

30 3. *Each renewal of a license must be recorded in the same*
31 *manner as the original license, and the number of the preceding*
32 *license issued must be recorded.*

33 **Sec. 27.** *Each license issued pursuant to this chapter must be*
34 *conspicuously displayed in the place of business designated in the*
35 *license.*

36 **Sec. 28.** *1. A license issued pursuant to this chapter is not*
37 *transferable or assignable, but upon the approval of the*
38 *Commissioner and any applicable court of jurisdiction, a licensee*
39 *may merge or consolidate with, or transfer its assets and control*
40 *to, another person who holds a license pursuant to this chapter. In*
41 *determining whether to grant the approval, the Commissioner may*
42 *consider the factors set forth in section 22 of this act.*

43 2. *If a change in the control of a private professional*
44 *guardian company occurs, the chief executive officer or managing*
45 *member of the company shall report the change in control and the*



1 *name of the person obtaining control to the Commissioner within*
2 *5 business days after obtaining knowledge of the change.*

3 *3. A private professional guardian company shall, within 5*
4 *business days after a change in the chief executive officer,*
5 *managing member or a majority of the directors or managing*
6 *directors of the company occurs, report the change to the*
7 *Commissioner. The company shall include in its report to the*
8 *Commissioner a statement of the past and current business and*
9 *professional affiliations of each new chief executive officer,*
10 *managing member, director or managing director. A new chief*
11 *executive officer, managing member, director or managing*
12 *director shall furnish to the Commissioner a complete financial*
13 *statement on a form prescribed by the Commissioner.*

14 *4. A person who intends to acquire control of a private*
15 *professional guardian company shall submit an application to the*
16 *Commissioner. The application must be submitted on a form*
17 *prescribed by the Commissioner. The Commissioner shall conduct*
18 *an investigation pursuant to section 22 of this act to determine*
19 *whether the person has a good reputation for honesty,*
20 *trustworthiness and integrity and is competent to control the*
21 *private professional guardian company in a manner which*
22 *protects the interests of the general public.*

23 *5. The private professional guardian company of which the*
24 *applicant intends to acquire control shall pay the nonrefundable*
25 *cost of the investigation as required by the Commissioner. If the*
26 *Commissioner denies the application, the Commissioner may*
27 *prohibit or limit the applicant's participation in the business.*

28 *6. As used in this section, "control" means the possession,*
29 *directly or indirectly, of the authority to direct or cause the*
30 *direction of the management and policy of a private professional*
31 *guardian company, or a change in the ownership of at least 25*
32 *percent of the outstanding voting stock of, or participating*
33 *members' interest in, the company.*

34 **Sec. 29.** *1. A private professional guardian company*
35 *wishing to renew a license to engage in the business of a private*
36 *professional guardian shall file in the Office of the Commissioner,*
37 *on or before the June 1 of the year after the year of the original*
38 *issuance of the license, an application, which must contain,*
39 *without limitation, the number of the license being renewed. The*
40 *application for renewal must be accompanied by a renewal fee of*
41 *not more than \$1,500 and all information required to complete the*
42 *application.*

43 *2. The Commissioner shall issue a renewal license to the*
44 *applicant, which must be dated July 1 next ensuing the date of the*
45 *application, in form and text similar to the original except that, in*



1 *addition, the renewal must include the date and number of the*
2 *earliest license issued.*

3 *3. All requirements of this chapter with respect to original*
4 *licenses and bonds apply to all renewal licenses and bonds, except*
5 *as otherwise provided in this section.*

6 *4. The Commissioner shall refuse to renew a license if at the*
7 *time of application a proceeding to revoke or suspend the license*
8 *is pending.*

9 *5. The Commissioner shall adopt regulations establishing the*
10 *amount of the fee required pursuant to this section. All money*
11 *collected under the provisions of this section must be deposited in*
12 *the State Treasury pursuant to the provisions of NRS 658.091.*

13 **Sec. 30.** *If any private professional guardian company*
14 *wishes to discontinue its business, the company shall furnish to*
15 *the Commissioner satisfactory evidence of the release and*
16 *discharge from all obligations which the company has assumed or*
17 *which have been imposed by law. Thereafter, the Commissioner*
18 *shall enter an order cancelling the license of the private*
19 *professional guardian company.*

20 **Sec. 31.** *1. A private professional guardian company*
21 *licensed pursuant to this chapter shall maintain its principal office*
22 *in this State.*

23 *2. To qualify as the principal office for the purposes of*
24 *subsection 1, an office of the private professional guardian*
25 *company must:*

26 *(a) Have a verifiable physical location in this State at which*
27 *the private professional guardian company conducts such*
28 *business operations in this State as are necessary to administer*
29 *private professional guardianships in this State;*

30 *(b) Have available at the office a private professional guardian*
31 *who is licensed pursuant to this chapter, a permanent resident of*
32 *this State and at least 21 years of age;*

33 *(c) Have any license issued pursuant to this chapter*
34 *conspicuously displayed;*

35 *(d) Have available at the office originals or true copies of all*
36 *material business records and accounts of the private professional*
37 *guardian company, which must be readily available to access and*
38 *readily available for examination by the Division;*

39 *(e) Have available to the public written procedures for making*
40 *claims against the surety bond required to be maintained pursuant*
41 *to section 33 of this act;*

42 *(f) Have available all services to residents of this State which*
43 *are consistent with the business plan of the private professional*
44 *guardian company included with the application for a license; and*



1 (g) Comply with any other requirements specified by the
2 Commissioner.

3 **Sec. 32. 1.** *It is unlawful for any person licensed pursuant*
4 *to this chapter to engage in the business of a private professional*
5 *guardian at any office outside this State without the prior approval*
6 *of the Commissioner.*

7 2. *Before the Commissioner will approve a branch to be*
8 *located outside this State, the private professional guardian must:*

9 (a) *Obtain from that state any required license as a private*
10 *professional guardian; or*

11 (b) *Provide proof satisfactory to the Commissioner that the*
12 *private professional guardian company has met all the*
13 *requirements to engage in the business of a private professional*
14 *guardian in that state pursuant to its laws, including, without*
15 *limitation, written documentation from the appropriate court or*
16 *state agency that the private professional guardian company is*
17 *authorized to do business in that state.*

18 3. *For each branch location of a private professional*
19 *guardian company organized under the laws of this State, and*
20 *every branch location in this State of a foreign private*
21 *professional guardian company authorized to do business in this*
22 *State, a request for approval and licensing must be filed with the*
23 *Commissioner on forms prescribed by the Commissioner. A*
24 *nonrefundable fee of not more than \$500, as provided by the*
25 *Commissioner, must accompany each request. In addition, a fee of*
26 *not more than \$200, to be prorated on the basis of the licensing*
27 *year as provided by the Commissioner, must be paid at the time of*
28 *making the request. Money collected pursuant to this section must*
29 *be deposited in the Investigative Account for Financial*
30 *Institutions created by NRS 232.545.*

31 4. *A foreign corporation or limited-liability company wishing*
32 *to engage in the business of a private professional guardian in this*
33 *State must use a name that distinguishes it from any other private*
34 *professional guardian in this State.*

35 **Sec. 33. 1.** *The Commissioner may require a private*
36 *professional guardian company to maintain equity, fidelity and*
37 *surety bonds in amounts that are more than the minimum*
38 *required initially or at any subsequent time based on the*
39 *Commissioner's assessment of the risks associated with the*
40 *business plan of the private professional guardian or other*
41 *information contained in the application, the Commissioner's*
42 *investigation of the application or any examination of or filing by*
43 *the private professional guardian company thereafter, including,*
44 *without limitation, any examination before the opening of the*



1 *business. In making such a determination, the Commissioner may*
2 *consider, without limitation:*

3 *(a) The nature and type of business to be conducted by the*
4 *private professional guardian company;*

5 *(b) The nature and liquidity of assets proposed to be held in*
6 *the account of the private professional guardian company;*

7 *(c) The amount of fiduciary assets projected to be under the*
8 *management or administration of the private professional*
9 *guardian company;*

10 *(d) The type of fiduciary assets proposed to be held and any*
11 *proposed depository of such assets;*

12 *(e) The complexity of the fiduciary duties and degree of*
13 *discretion proposed to be undertaken by the private professional*
14 *guardian company;*

15 *(f) The competence and experience of the proposed*
16 *management of the private professional guardian company;*

17 *(g) The extent and adequacy of proposed internal controls;*

18 *(h) The proposed presence of annual audits by an independent*
19 *certified public accountant, and the scope and frequency of such*
20 *audits, whether they result in an opinion of the accountant and*
21 *any qualifications to the opinion;*

22 *(i) The reasonableness of business plans for retaining or*
23 *acquiring additional equity capital;*

24 *(j) The adequacy of fidelity and surety bonds and any*
25 *additional insurance proposed to be obtained by the private*
26 *professional guardian company for the purpose of protecting its*
27 *fiduciary assets;*

28 *(k) The success of the private professional guardian company*
29 *in achieving the financial projections submitted with its*
30 *application for a license; and*

31 *(l) The fulfillment by the private professional guardian*
32 *company of its representations and its descriptions of its business*
33 *structures and methods and management set forth in its*
34 *application for a license.*

35 *2. The director or manager of a private professional guardian*
36 *company shall require fidelity bonds in the amount of at least*
37 *\$25,000 on the sole proprietor or each active officer, manager,*
38 *member acting in a managerial or case manager capacity and*
39 *employee, regardless of whether the person receives a salary or*
40 *other compensation from the private professional guardian*
41 *company, to indemnify the company against loss due to any*
42 *dishonest, fraudulent or criminal act or omission by a person*
43 *upon whom a bond is required pursuant to this section who acts*
44 *alone or in combination with any other person. A bond required*



1 *pursuant to this section may be in any form and may be paid for*
2 *by the private professional guardian company.*

3 *3. A private professional guardian company shall obtain*
4 *suitable insurance against burglary, robbery, theft and other*
5 *hazards to which it may be exposed in the operation of its*
6 *business.*

7 *4. A private professional guardian company shall obtain*
8 *suitable surety bonds in accordance with NRS 159.065, as*
9 *applicable.*

10 *5. The surety bond obtained pursuant to subsection 4 must be*
11 *in a form approved by a court of competent jurisdiction and the*
12 *Division and conditioned that the applicant conduct his or her*
13 *business in accordance with the requirements of this chapter. The*
14 *bond must be made and executed by the principal and a surety*
15 *company authorized to write bonds in this State.*

16 *6. A private professional guardian company shall at least*
17 *annually prescribe the amount or penal sum of the bonds or*
18 *policies of the company and designate the sureties and*
19 *underwriters thereof, after considering all known elements and*
20 *factors constituting a risk or hazard. The action must be recorded*
21 *in the minutes kept by the private professional guardian company*
22 *and reported to the Commissioner.*

23 *7. The bond must cover all matters placed with the private*
24 *professional guardian company during the term of the license or a*
25 *renewal thereof.*

26 *8. An action may not be brought upon any bond after 2 years*
27 *from the revocation or expiration of the license.*

28 *9. After 2 years, all liability of the surety or sureties upon the*
29 *bond ceases if no action is commenced upon the bond.*

30 **Sec. 34.** *The Commissioner shall revoke the license of a*
31 *private professional guardian company:*

32 *1. If the private professional guardian company fails to open*
33 *for business within 6 months after the date the license was issued,*
34 *or within an additional 6-month extension granted by the*
35 *Commissioner upon written application and for good cause*
36 *shown; or*

37 *2. If the private professional guardian company fails for*
38 *more than 30 consecutive days to maintain regular business hours*
39 *or otherwise conduct the business of a private professional*
40 *guardian.*

41 **Sec. 35.** *Each private professional guardian company which*
42 *is licensed pursuant to this chapter may, in the conduct of its*
43 *business activities, within and outside this State, as applicable:*

44 *1. Act under the order or appointment of any court as*
45 *guardian.*



1 2. *Accept and execute any activities and duties relating to the*
2 *business of a private professional guardian as permitted by any*
3 *law.*

4 3. *Exercise the powers of a corporation, partnership or*
5 *limited-liability company organized or qualified as a foreign*
6 *corporation, partnership or limited-liability company under the*
7 *laws of this State and any incidental powers that are reasonably*
8 *necessary to enable it to exercise, in accordance with commonly*
9 *accepted customs and usages, a power conferred by this chapter.*

10 4. *Perform any act authorized by this chapter and any other*
11 *applicable laws of this State.*

12 **Sec. 36.** *1. The fiduciary relationship which exists between*
13 *a private professional guardian and the ward of the private*
14 *professional guardian may not be used for the private gain of the*
15 *guardian other than the remuneration for fees and expenses. A*
16 *private professional guardian may not incur any obligation on*
17 *behalf of the guardianship that conflicts with the discharge of the*
18 *duties of the private professional guardian.*

19 2. *Unless prior approval is obtained from a court of*
20 *competent jurisdiction, a private professional guardian shall not:*

21 (a) *Have any interest, financial or otherwise, direct or indirect,*
22 *in any business transaction or activity with the guardianship.*

23 (b) *Acquire an ownership, possessory, security or other*
24 *pecuniary interest adverse to the ward.*

25 (c) *Be knowingly designated as a beneficiary on any life*
26 *insurance policy, pension or benefit plan of the ward unless such*
27 *designation was validly made by the ward before the adjudication*
28 *of the person's incapacity.*

29 (d) *Directly or indirectly purchase, rent, lease or sell any*
30 *property or services from or to any business entity in which the*
31 *private professional guardian, or the spouse or relative of the*
32 *guardian, is an officer, partner, director, shareholder or proprietor*
33 *or in which such a person has any financial interest.*

34 3. *Any action taken by a private professional guardian which*
35 *is prohibited by this section may be voided during the term of the*
36 *guardianship or by the personal representative of the ward's*
37 *estate. The private professional guardian is subject to removal and*
38 *to imposition of personal liability through a proceeding for*
39 *discharge, in addition to any other remedies otherwise available.*

40 4. *A court shall not appoint a private professional guardian*
41 *that is not licensed pursuant to this chapter as the guardian of a*
42 *person or estate. The court must review each guardianship*
43 *involving a private professional guardian on the anniversary date*
44 *of the appointment of the private professional guardian. If a*
45 *private professional guardian does not hold a current license, the*



1 court must replace the guardian until such time as the private
2 professional guardian obtains the necessary license.

3 5. The provisions of NRS 159.076 regarding summary
4 administration do not apply to a private professional guardian.

5 6. A licensee shall file any report required by the court in a
6 timely manner.

7 **Sec. 37. 1.** Except as otherwise provided in NRS 159.076, a
8 licensee shall maintain a separate guardianship account for each
9 ward into which all money received for the benefit of the ward
10 must be deposited. Each guardianship account must be
11 maintained in an insured bank or credit union located in this
12 State, be held in a name which is sufficient to distinguish it from
13 the personal or general checking account of the licensee and be
14 designated as a guardianship account. Each guardianship account
15 must at all times account for all money received for the benefit of
16 the ward and account for all money dispersed for the benefit of the
17 ward, and no disbursement may be made from the account except
18 as authorized under chapter 159 of NRS or as authorized by court
19 order.

20 2. Each licensee shall keep a record of all money deposited in
21 each guardianship account maintained for a ward, which must
22 clearly indicate the date and from whom the money was received,
23 the date the money was deposited, the dates of withdrawals of
24 money and other pertinent information concerning the
25 transactions. Records kept pursuant to this subsection must be
26 maintained for at least 6 years after the completion of the last
27 transaction concerning the account. The records must be
28 maintained at the premises in this State at which the licensee is
29 authorized to conduct business.

30 3. The Commissioner or his or her designee may conduct an
31 examination of the guardianship accounts and records relating to
32 wards of each private professional guardian company licensed
33 pursuant to this chapter at any time to ensure compliance with the
34 provisions of this chapter.

35 4. During the first year a private professional guardian is
36 licensed in this State, the Commissioner or his or her designee
37 may conduct any examinations deemed necessary to ensure
38 compliance with the provisions of this chapter.

39 5. If there is evidence that a private professional guardian
40 company has violated a provision of this chapter, the
41 Commissioner or his or her designee may conduct additional
42 examinations to determine whether a violation has occurred.

43 6. Each licensee shall authorize the Commissioner or his or
44 her designee to examine all books, records, papers and effects of
45 the private professional guardian company.



1 7. *If the Commissioner determines that the records of a*
2 *licensee are not maintained in accordance with subsections 1 and*
3 *2, the Commissioner may require the licensee to submit, within 60*
4 *days, an audited financial statement prepared from the records of*
5 *the licensee by a certified public accountant who holds a*
6 *certificate to engage in the practice of public accounting in this*
7 *State. The Commissioner may grant a reasonable extension of*
8 *time for the submission of the financial statement if an extension*
9 *is requested before the statement is due.*

10 8. *Upon the request of the Division, a licensee must provide*
11 *to the Division copies of any documents reviewed during an*
12 *examination conducted by the Commissioner or his or her*
13 *designee pursuant to subsection 4, 5 or 6. If the copies are not*
14 *provided, the Commissioner may subpoena the documents.*

15 9. *For each examination of the books, papers, records and*
16 *effects of a private professional guardian company that is required*
17 *or authorized pursuant to this chapter, the Commissioner shall*
18 *charge and collect from the private professional guardian*
19 *company a fee for conducting the examination and preparing a*
20 *report of the examination based upon the rate established by*
21 *regulation pursuant to NRS 658.101. Failure to pay the fee within*
22 *30 days after receipt of the bill is grounds for revoking the license*
23 *of the private professional guardian company.*

24 10. *All money collected under this section must be deposited*
25 *in the State Treasury pursuant to the provisions of NRS 658.091.*

26 **Sec. 38.** *1. After an examination is conducted pursuant to*
27 *section 37 of this act, the person who conducted the examination*
28 *shall prepare a written report of the results of the examination*
29 *which must be signed by the Commissioner or his or her designee.*

30 2. *The written report must contain a true and detailed*
31 *statement of the financial condition of the private professional*
32 *guardian company and, if applicable, a full statement of any*
33 *violations of the provisions of this chapter.*

34 **Sec. 39.** *1. The Commissioner shall provide a copy of a*
35 *report prepared pursuant to section 38 of this act to the president*
36 *or secretary of the board of directors of the private professional*
37 *guardian company if the company is a corporation, or to a*
38 *manager or owner of the private professional guardian company if*
39 *the company is not a corporation, and may make a copy available*
40 *to each member of the board of directors or each manager or*
41 *owner, as applicable. If, in the judgment of the Commissioner, the*
42 *report discloses any violation of the provisions of this chapter*
43 *committed by the private professional guardian company, or if it*
44 *appears from the report that there are certain conditions existing*
45 *which should be corrected by the private professional guardian*



1 *company, the Commissioner may, in writing, call the matter to the*
2 *attention of each member of the board of directors or each*
3 *manager or owner, with instructions to correct the condition.*

4 *2. Upon the preparation of the report as provided in section*
5 *38 of this act, the Commissioner shall also serve a copy thereof to*
6 *the court having jurisdiction of each ward of the private*
7 *professional guardian company.*

8 **Sec. 40.** *1. The Commissioner may require a licensee to*
9 *submit an annual financial statement or an audited financial*
10 *statement prepared by an independent certified public accountant*
11 *licensed to do business in this State, dependent upon the size and*
12 *complexity of the private professional guardian company.*

13 *2. If applicable, on or before the fourth Monday in January*
14 *of each year, each licensee shall submit to the Commissioner the*
15 *stock ledger of stockholders of the corporation required to be*
16 *maintained pursuant to paragraph (c) of subsection 1 of NRS*
17 *78.105 or the list of each member and manager required to be*
18 *maintained pursuant to paragraph (a) of subsection 1 of NRS*
19 *86.241, verified by the president or a manager, as appropriate.*

20 *3. A list of each member and manager submitted pursuant to*
21 *subsection 2 must include the percentage of each member's*
22 *interest in the company, in addition to the requirements set forth*
23 *in NRS 86.241.*

24 *4. If a licensee fails to submit the ledger or list required*
25 *pursuant to this section within the prescribed period, the*
26 *Commissioner may impose and collect a fee of not more than \$10*
27 *for each day the report is late.*

28 *5. The Commissioner shall adopt regulations establishing the*
29 *amount of the fee that may be imposed pursuant to this section.*

30 **Sec. 41.** *Except as otherwise provided in NRS 239.0115, any*
31 *application and personal or financial records submitted to the*
32 *Division pursuant to the provisions of this chapter and any*
33 *personal or financial records or other documents obtained by the*
34 *Division pursuant to an examination conducted by the*
35 *Commissioner or his or her designee or in response to a subpoena*
36 *are confidential and may be disclosed only to:*

37 *1. The Division, any authorized employee or representative of*
38 *the Division and any state or federal agency investigating the*
39 *activities covered under the provisions of this chapter; and*

40 *2. Any person if the Commissioner, in his or her discretion,*
41 *determines that the interests of the public that would be protected*
42 *by disclosure outweigh the interest of any person in the*
43 *confidential information not being disclosed.*

44 **Sec. 42.** *1. The Commissioner may require the immediate*
45 *removal from office of any officer, director, manager or employee*



1 *of any private professional guardian company doing business*
2 *under this chapter who is found to be dishonest, incompetent or*
3 *reckless in the management of the affairs of the private*
4 *professional guardian company, or who persistently violates the*
5 *laws of this State or the lawful orders, instructions and regulations*
6 *issued by the Commissioner.*

7 *2. An officer, director, manager or employee of a private*
8 *professional guardian company who is required to be removed*
9 *from office pursuant to subsection 1 may appeal his or her*
10 *removal by filing a written request for a hearing with the*
11 *Commissioner within 10 days after the effective date of his or her*
12 *removal. The Commissioner shall conduct the hearing after*
13 *providing at least 5 days' written notice to the private professional*
14 *guardian company and the officer, director, manager or employee*
15 *who is appealing his or her removal from office. Within 5 days*
16 *after the conclusion of the hearing, the Commissioner shall enter*
17 *an order affirming or disaffirming the removal of the person from*
18 *office. An order of the Commissioner entered pursuant to this*
19 *subsection is final for the purposes of judicial review.*

20 **Sec. 43.** *1. The Commissioner may take administrative*
21 *action against a licensee, including, without limitation, revoking*
22 *or suspending the license, or initiate proceedings as provided in*
23 *section 46 of this act if the company:*

24 *(a) Has violated this chapter or any other state or federal laws*
25 *applicable to the business of a private professional guardian.*

26 *(b) Is conducting the business in an unauthorized or unsafe*
27 *manner.*

28 *(c) Is in an unsafe or unsound condition to transact business.*

29 *(d) Has an impairment of the surety bonds held by the*
30 *company.*

31 *(e) Has an impairment of the fidelity bonds held by the*
32 *company.*

33 *(f) Has become insolvent.*

34 *(g) Has neglected or refused to comply with the terms of a*
35 *lawful order of the Commissioner.*

36 *(h) Has refused, upon proper demand, to submit its records,*
37 *affairs and concerns for inspection and examination of an*
38 *appointed or authorized examiner of the Commissioner.*

39 *(i) Has refused to provide copies to the Division upon request,*
40 *and in cooperation with any investigation, inspection or*
41 *examination, of any and all documents reviewed by the Division*
42 *during any such investigation, inspection or examination.*

43 *(j) Has failed to pay any state or local taxes as required.*

44 *(k) Has materially and willfully breached its fiduciary duties to*
45 *a ward.*



1 (l) Has failed to properly disclose all fees, interest and other
2 charges to the court and the public.

3 (m) Has willfully engaged in material conflicts of interest
4 regarding a ward.

5 (n) Has made intentional material misrepresentations
6 regarding any aspect of the services performed or proposed to be
7 performed by the private professional guardian company.

8 2. The Commissioner also may initiate such proceedings to
9 take possession of the business and property of any private
10 professional guardian company if an officer, partner, member or
11 sole proprietor of the private professional guardian company
12 refuses to be examined upon oath regarding its affairs.

13 **Sec. 44.** 1. If the Commissioner has reason to believe
14 that grounds for the revocation or suspension of a license exist,
15 the Commissioner shall give at least 20 days' written notice to the
16 licensee stating the contemplated action and, in general, the
17 grounds therefor and set a date for a hearing.

18 2. At the conclusion of a hearing, the Commissioner shall:

19 (a) Enter a written order dismissing the charges, revoking the
20 license or suspending the license for a period of not more than 60
21 days, which period must include any prior temporary suspension.
22 The Commissioner shall send a copy of the order to the licensee by
23 registered or certified mail.

24 (b) Impose upon the licensee an administrative fine of not
25 more than \$10,000 for each violation by the licensee of any
26 provision of this chapter or any regulation adopted pursuant
27 thereto.

28 (c) If a fine is imposed pursuant to this section, enter such
29 order as is necessary to recover the costs of the proceeding,
30 including investigative costs and attorney's fees.

31 3. The grounds for revocation or suspension of a license are
32 that:

33 (a) The licensee has failed to pay the annual license fee;

34 (b) The licensee has violated any provision of this chapter or
35 any regulation adopted pursuant thereto or any lawful order of the
36 Commissioner;

37 (c) The licensee has failed to pay any applicable state or local
38 tax as required;

39 (d) Any fact or condition exists which would have justified the
40 Commissioner in denying the original application for a license
41 pursuant to the provisions of this chapter; or

42 (e) The licensee:

43 (1) Failed to open an office for the conduct of the business
44 authorized by his or her license within 180 days after the date the
45 license was issued; or



1 (2) *Has failed to remain open for the conduct of the*
2 *business for a period of 30 consecutive days without good cause*
3 *therefor.*

4 4. *An order suspending or revoking a license becomes*
5 *effective 5 days after being entered unless the order specifies*
6 *otherwise or a stay is granted.*

7 **Sec. 45.** *If the Commissioner finds that probable cause for*
8 *the revocation of any license exists and that the public interest*
9 *requires the immediate suspension of the license pending an*
10 *investigation, the Commissioner may, upon 5 days' written notice*
11 *offering the opportunity for a hearing, enter an order suspending*
12 *the license for a period of not more than 20 days, pending a*
13 *hearing upon the revocation of the license unless the opportunity*
14 *for a hearing is waived by the licensee.*

15 **Sec. 46.** 1. *If the Commissioner has reasonable cause to*
16 *believe that any person is violating or is threatening to or intends*
17 *to violate any provision of this chapter, the Commissioner may, in*
18 *addition to any action provided for in this chapter and chapter*
19 *233B of NRS and without prejudice thereto, enter an order*
20 *requiring the person to cease and desist or to refrain from such*
21 *violation.*

22 2. *The Commissioner may bring an action to enjoin a person*
23 *from engaging in or continuing a violation or from doing any act*
24 *or acts in furtherance thereof. In any such action, irreparable*
25 *harm and lack of an adequate remedy at law will be presumed and*
26 *an order or judgment may be entered awarding a preliminary or*
27 *final injunction as may be deemed proper. The findings of the*
28 *Commissioner shall be deemed to be prima facie evidence and*
29 *sufficient grounds, in the discretion of the court, for the issuance*
30 *ex parte of a temporary restraining order.*

31 3. *In addition to all other means provided by law for the*
32 *enforcement of a restraining order or injunction, the court in*
33 *which an action is brought may impound, and appoint a receiver*
34 *for, the property and business of the person, including books,*
35 *papers, documents and records pertaining thereto, or so much*
36 *thereof as a court may deem reasonably necessary to prevent*
37 *violations of this chapter through or by means of the use of*
38 *property and business, whether such books, papers, documents*
39 *and records are in the possession of the person, a registered agent*
40 *acting on behalf of the person or any other person. If a receiver is*
41 *appointed and qualified, the receiver has such powers and duties*
42 *relating to the custody, collection, administration, winding up and*
43 *liquidation of such property and business as may be conferred*
44 *upon the receiver by the court.*



1 4. *If a receiver is appointed pursuant to subsection 3, the*
2 *receiver shall remit to the owners, members or shareholders of the*
3 *private professional guardian company any amount of equity of*
4 *the private professional guardian company remaining after the*
5 *discharge of the liabilities and payment of the normal, prudent*
6 *and reasonable expenses of the receivership.*

7 **Sec. 47. 1.** *Upon the filing with the Commissioner of a*
8 *verified complaint against a private professional guardian*
9 *company, the Commissioner shall investigate the alleged violation*
10 *of the provisions of this chapter.*

11 2. *If the Commissioner determines that a complaint filed*
12 *pursuant to subsection 1 warrants further action, the*
13 *Commissioner shall send a copy of the complaint and notice of the*
14 *date set for an informal hearing to the subject of the complaint*
15 *and the Attorney General.*

16 3. *The Commissioner may require the private professional*
17 *guardian company that is the subject of a complaint to file a*
18 *verified answer to the complaint within 10 days after receipt of the*
19 *complaint unless, for good cause shown, the Commissioner*
20 *extends the time required for filing an answer for a period not to*
21 *exceed 60 days.*

22 4. *If at the hearing the complaint is not explained to the*
23 *satisfaction of the Commissioner, the Commissioner may take*
24 *such action against the private professional guardian company as*
25 *authorized by the provisions of this chapter.*

26 **Sec. 48. 1.** *Except as otherwise provided in this section and*
27 *NRS 239.0115, a complaint filed with the Commissioner, all*
28 *documents and other information filed with the complaint and all*
29 *documents and other information compiled as a result of an*
30 *investigation conducted to determine whether to initiate*
31 *disciplinary action are confidential.*

32 2. *The complaint or other documents filed by the*
33 *Commissioner to initiate disciplinary action and all documents*
34 *and information considered by the Commissioner when*
35 *determining whether to impose discipline are public records.*

36 **Sec. 49. 1.** *In addition to any other remedy or penalty, the*
37 *Commissioner may impose an administrative fine of not more*
38 *than \$10,000 per violation upon a person who violates any*
39 *provision of this chapter or any regulation adopted pursuant*
40 *thereto.*

41 2. *The maximum total fine that the Commissioner may*
42 *impose on any person pursuant to this section with respect to the*
43 *same or similar actions or series of actions which constitute the*
44 *violations must not exceed the greater of \$250,000 or 125 percent*
45 *of the monetary value of all losses incurred by the private*



1 *professional guardian company and its wards as the direct or*
2 *indirect result of such violations.*

3 **Sec. 50. 1.** *A licensee who knowingly or willfully neglects*
4 *to perform any act or duty required by this chapter or other*
5 *applicable law, or who knowingly or willfully fails to satisfy any*
6 *material lawful requirement made by the Commissioner is guilty*
7 *of a category D felony and shall be punished as provided in*
8 *NRS 193.130.*

9 **2.** *If no other punishment is otherwise provided by law, a*
10 *person who violates any provision of this chapter is guilty of a*
11 *gross misdemeanor.*

12 **Sec. 50.5.** NRS 159.059 is hereby amended to read as follows:

13 159.059 Except as otherwise provided in NRS 159.0595, any
14 qualified person or entity that the court finds suitable may serve as a
15 guardian. A person is not qualified to serve as a guardian who:

16 1. Is an incompetent.

17 2. Is a minor.

18 3. Has been convicted of a felony, unless the court determines
19 that such conviction should not disqualify the person from serving
20 as the guardian of the ward.

21 4. Has been suspended for misconduct or disbarred from:

22 (a) The practice of law;

23 (b) The practice of accounting; or

24 (c) Any other profession which:

25 (1) Involves or may involve the management or sale of
26 money, investments, securities or real property; and

27 (2) Requires licensure in this State or any other state,
28 ↪ during the period of the suspension or disbarment.

29 5. ~~Is~~ *Except as otherwise provided in subsection 2 of NRS*
30 *159.061, is* a nonresident of this State and:

31 (a) Has not associated as a coguardian, a resident of this State or
32 a banking corporation whose principal place of business is in this
33 State; and

34 (b) Is not a petitioner in the guardianship proceeding.

35 6. Has been judicially determined, by clear and convincing
36 evidence, to have committed abuse, neglect or exploitation of a
37 child, spouse, parent or other adult, unless the court finds that it is in
38 the best interests of the ward to appoint the person as the guardian of
39 the ward.

40 **Sec. 51.** NRS 159.0595 is hereby amended to read as follows:

41 159.0595 1. A private professional guardian, if a person,
42 must be qualified to serve as a guardian pursuant to NRS 159.059
43 and must be a ~~certified~~ guardian ~~is~~ *licensed pursuant to section*
44 *18 of this act.*



1 2. A private professional guardian, if an entity, must be
2 qualified to serve as a guardian pursuant to NRS 159.059 and must
3 have a ~~certified~~ guardian *licensed pursuant to section 18 of this*
4 *act* involved in the day-to-day operation or management of the
5 entity.

6 3. A private professional guardian ~~shall, at his or her own cost~~
7 ~~and expense:~~

8 ~~—(a) Undergo a background investigation which requires the~~
9 ~~submission of a complete set of his or her fingerprints to the Central~~
10 ~~Repository for Nevada Records of Criminal History and to the~~
11 ~~Federal Bureau of Investigation for their respective reports; and~~

12 ~~—(b) Present the results of the background investigation to the~~
13 ~~court upon request.] , regardless of whether the private~~
14 *professional guardian is a person or an entity, must be licensed*
15 *pursuant to section 18 of this act.*

16 4. As used in this section:

17 (a) “Certified guardian” means a person who is certified by the
18 Center for Guardianship Certification or any successor organization.

19 (b) “Entity” includes, without limitation, a corporation, whether
20 or not for profit, a limited-liability company and a partnership.

21 (c) “Person” means a natural person.

22 **Sec. 51.5.** NRS 159.061 is hereby amended to read as follows:

23 159.061 1. The parents of a minor, or either parent, if
24 qualified and suitable, are preferred over all others for appointment
25 as guardian for the minor. The appointment of a parent as a guardian
26 of the person must not conflict with a valid order for custody of the
27 minor. In determining whether the parents of a minor, or either
28 parent, is qualified and suitable, the court shall consider, without
29 limitation:

30 (a) Which parent has physical custody of the minor;

31 (b) The ability of the parents or parent to provide for the basic
32 needs of the child, including, without limitation, food, shelter,
33 clothing and medical care;

34 (c) Whether the parents or parent has engaged in the habitual use
35 of alcohol or any controlled substance during the previous 6 months,
36 except the use of marijuana in accordance with the provisions of
37 chapter 453A of NRS; and

38 (d) Whether the parents or parent has been convicted of a crime
39 of moral turpitude, a crime involving domestic violence or a crime
40 involving the exploitation of a child.

41 2. *The court shall appoint as guardian for an incompetent*
42 *any person, regardless of whether the person is a resident of this*
43 *State, who has been requested to be appointed as guardian in a*
44 *written instrument executed by the incompetent, while competent,*



1 *if the person is willing to serve and is otherwise qualified and*
2 *suitable.*

3 3. Subject to the preference set forth in subsection 1 ~~H~~ *and*
4 *except as otherwise provided in subsection 2*, the court shall
5 appoint as guardian for an incompetent, a person of limited capacity
6 or minor the qualified person who is most suitable and is willing to
7 serve.

8 ~~I3-I~~ 4. In determining who is most suitable, the court shall give
9 consideration, among other factors, to:

10 (a) ~~IAny request for the appointment as guardian for an~~
11 ~~incompetent contained in a written instrument executed by the~~
12 ~~incompetent while competent.~~

13 ~~(b)~~ Any nomination of a guardian for an incompetent, minor or
14 person of limited capacity contained in a will or other written
15 instrument executed by a parent or spouse of the proposed ward.

16 ~~H(e)~~ (b) Any request for the appointment as guardian for a
17 minor 14 years of age or older made by the minor.

18 ~~H(d)~~ (c) The relationship by blood, adoption or marriage of the
19 proposed guardian to the proposed ward. In considering preferences
20 of appointment, the court may consider relatives of the half blood
21 equally with those of the whole blood. The court may consider
22 relatives in the following order of preference:

23 (1) Spouse.

24 (2) Adult child.

25 (3) Parent.

26 (4) Adult sibling.

27 (5) Grandparent or adult grandchild.

28 (6) Uncle, aunt, adult niece or adult nephew.

29 ~~H(e)~~ (d) Any recommendation made by a master of the court or
30 special master pursuant to NRS 159.0615.

31 ~~H(f)~~ (e) Any request for the appointment of any other interested
32 person that the court deems appropriate.

33 ~~I4-I~~ 5. If the court finds that there is no suitable person to
34 appoint as guardian pursuant to subsection ~~I3-I~~ 4, the court may
35 appoint as guardian:

36 (a) The public guardian of the county where the ward resides, if:

37 (1) There is a public guardian in the county where the ward
38 resides; and

39 (2) The proposed ward qualifies for a public guardian
40 pursuant to chapter 253 of NRS;

41 (b) A private fiduciary who may obtain a bond in this State and
42 who is a resident of this State, if the court finds that the interests of
43 the ward will be served appropriately by the appointment of a
44 private fiduciary; or



1 (c) A private professional guardian who meets the requirements
2 of NRS 159.0595.

3 **Sec. 52.** NRS 239.010 is hereby amended to read as follows:

4 239.010 1. Except as otherwise provided in this section and
5 NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516,
6 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160,
7 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
8 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
9 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
10 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
11 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130,
12 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
13 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245,
14 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801,
15 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450,
16 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662,
17 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140,
18 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
19 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
20 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300,
21 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
22 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
23 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140,
24 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,
25 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
26 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
27 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
28 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
29 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
30 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
31 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
32 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
33 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
34 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
35 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
36 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
37 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
38 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
39 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
40 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
41 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
42 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
43 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
44 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
45 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,



* A B 3 2 5 R 1 *

1 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
2 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
3 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
4 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
5 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
6 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
7 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
8 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
9 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
10 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
11 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
12 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
13 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
14 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
15 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
16 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
17 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
18 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
19 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
20 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
21 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38
22 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of
23 chapter 391, Statutes of Nevada 2013 and *sections 40 and 47 of this*
24 *act and* unless otherwise declared by law to be confidential, all
25 public books and public records of a governmental entity must be
26 open at all times during office hours to inspection by any person,
27 and may be fully copied or an abstract or memorandum may be
28 prepared from those public books and public records. Any such
29 copies, abstracts or memoranda may be used to supply the general
30 public with copies, abstracts or memoranda of the records or may be
31 used in any other way to the advantage of the governmental entity or
32 of the general public. This section does not supersede or in any
33 manner affect the federal laws governing copyrights or enlarge,
34 diminish or affect in any other manner the rights of a person in any
35 written book or record which is copyrighted pursuant to federal law.
36 2. A governmental entity may not reject a book or record
37 which is copyrighted solely because it is copyrighted.
38 3. A governmental entity that has legal custody or control of a
39 public book or record shall not deny a request made pursuant to
40 subsection 1 to inspect or copy or receive a copy of a public book or
41 record on the basis that the requested public book or record contains
42 information that is confidential if the governmental entity can
43 redact, delete, conceal or separate the confidential information from
44 the information included in the public book or record that is not
45 otherwise confidential.



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

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

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

13 **Sec. 53.** 1. This section and sections 2 to 19, inclusive, and
14 21 to 52, inclusive, of this act become effective:

15 (a) Upon passage and approval for the purposes of adopting any
16 regulations and performing any preparatory administrative tasks
17 necessary to carry out the provisions of this act; and

18 (b) On January 1, 2016, for all other purposes.

19 2. Section 19 of this act expires by limitation on the date on
20 which the provisions of 42 U.S.C. § 666 requiring each state to
21 establish procedures under which the state has authority to withhold
22 or suspend, or to restrict the use of professional, occupational and
23 recreational licenses of persons who:

24 (a) Have failed to comply with a subpoena or warrant relating to
25 a proceeding to determine the paternity of a child or to establish or
26 enforce an obligation for the support of a child; or

27 (b) Are in arrears in the payment for the support of one or more
28 children,

29 ↪ are repealed by the Congress of the United States.

30 3. Section 20 of this act becomes effective on the date on
31 which the provisions of 42 U.S.C. § 666 requiring each state to
32 establish procedures under which the state has authority to withhold
33 or suspend, or to restrict the use of professional, occupational and
34 recreational licenses of persons who:

35 (a) Have failed to comply with a subpoena or warrant relating to
36 a proceeding to determine the paternity of a child or to establish or
37 enforce an obligation for the support of a child; or

38 (b) Are in arrears in the payment for the support of one or more
39 children,

40 ↪ are repealed by the Congress of the United States.

41 4. Sections 20 and 21 of this act expire by limitation 2 years
42 after the date on which the provisions of 42 U.S.C. § 666 requiring
43 each state to establish procedures under which the state has
44 authority to withhold or suspend, or to restrict the use of
45 professional, occupational and recreational licenses of persons who:



- 1 (a) Have failed to comply with a subpoena or warrant relating to
2 a proceeding to determine the paternity of a child or to establish or
3 enforce an obligation for the support of a child; or
4 (b) Are in arrears in the payment for the support of one or more
5 children,
6 → are repealed by the Congress of the United States.

⑩



