
ASSEMBLY BILL NO. 336—ASSEMBLYMEN PIERCE; AND HOGAN

MARCH 21, 2011

Referred to Committee on Taxation

SUMMARY—Imposes a tax on certain income of business entities engaged in business in this State. (BDR 32-623)

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 taxation; providing for the imposition, administration, collection and enforcement of a tax on certain income of business entities engaged in business in this State; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 16** of this bill imposes an excise tax on each business entity engaged in
2 business in this State at the rate of 4.5 percent of the portion of its Nevada taxable
3 income that exceeds \$500,000 each taxable year. In accordance with **section 9** of
4 this bill, the Nevada taxable income of a business entity is determined by taking the
5 amount of its federal taxable income, making various adjustments to that amount
6 under **section 20** of this bill, and then apportioning all or part of that adjusted
7 amount to this State pursuant to **section 21** of this bill based upon the portion of its
8 property, payroll and sales that are located within this State. **Sections 1-40** of this
9 bill provide for the administration, collection and enforcement of the tax by the
10 Department of Taxation in a manner similar to other state taxes. **Sections 42, 44,**
11 **46, 48, 49, 52, 53, 56-58, 60 and 63** of this bill authorize the imposition of various
12 types of disciplinary action against certain business entities who fail to pay the tax
13 by the agencies responsible for their supervision and licensing. **Sections 43, 45, 47,**
14 **50, 51, 54 and 55** of this bill authorize the Department to obtain certain records and
15 information from those agencies to assist the Department in its administration of
16 the tax.



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

1 **Section 1.** Title 32 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 34, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 10,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Business” means any activity engaged in or caused*
9 *to be engaged in with the object of gain, benefit or advantage,*
10 *either direct or indirect, to any person or governmental entity.*

11 **Sec. 4. 1.** *Except as otherwise provided in this section,*
12 *“business entity” means a corporation, partnership,*
13 *proprietorship, independent contractor, limited-liability company,*
14 *business association, joint venture, limited-liability partnership,*
15 *business trust, professional association, joint stock company,*
16 *holding company and any other person engaging in a business.*

17 2. *“Business entity” does not include:*

18 (a) *A natural person unless that person is engaging in a*
19 *business and is required to file with the Internal Revenue Service*
20 *a Schedule C (Form 1040), Profit or Loss From Business, or its*
21 *equivalent or successor form, a Schedule E (Form 1040),*
22 *Supplemental Income and Loss, or its equivalent or successor*
23 *form, or a Schedule F (Form 1040), Profit or Loss From Farming,*
24 *or its equivalent or successor form, for that business;*

25 (b) *A nonprofit religious, charitable, fraternal or other*
26 *organization that qualifies as a tax-exempt organization pursuant*
27 *to 26 U.S.C. § 501(c)(3);*

28 (c) *A governmental entity; or*

29 (d) *Any person or other entity that this State is prohibited from*
30 *taxing under the Constitution, laws or treaties of the United States*
31 *or the Nevada Constitution.*

32 **Sec. 5.** *“Commission” means the Nevada Tax Commission.*

33 **Sec. 6.** *“Engaging in a business” means commencing,*
34 *conducting or continuing a business, the exercise of corporate or*
35 *franchise powers regarding a business, and the liquidation of a*
36 *business which is or was engaging in a business when the*
37 *liquidator holds itself out to the public as conducting that*
38 *business.*

39 **Sec. 7. 1.** *“Federal taxable income” means, except as*
40 *otherwise provided in this section, the taxable income of a*
41 *business entity for a taxable year, as set forth in the federal*



1 *income tax return filed by the business entity for that year with the*
2 *Internal Revenue Service.*

3 2. *If the business entity is a natural person, “federal taxable*
4 *income” means the taxable income of the person for a taxable*
5 *year from engaging in a business for which the person is required*
6 *to file with the Internal Revenue Service a Schedule C (Form*
7 *1040), Profit or Loss From Business, or its equivalent or successor*
8 *form, a Schedule E (Form 1040), Supplemental Income and Loss,*
9 *or its equivalent or successor form, or a Schedule F (Form 1040),*
10 *Profit or Loss From Farming, or its equivalent or successor form,*
11 *as set forth in the federal income tax return filed by the person for*
12 *that year with the Internal Revenue Service.*

13 3. *The term includes any taxable income which is required to*
14 *be reported as such pursuant to federal law, regardless of whether*
15 *it is actually reported.*

16 **Sec. 8.** *“Governmental entity” means:*

17 1. *The United States and any of its unincorporated agencies*
18 *and instrumentalities.*

19 2. *Any incorporated agency or instrumentality of the United*
20 *States wholly owned by the United States or by a corporation*
21 *wholly owned by the United States.*

22 3. *The State of Nevada and any of its unincorporated*
23 *agencies and instrumentalities.*

24 4. *Any county, city, district or other political subdivision of*
25 *this State.*

26 **Sec. 9.** *“Nevada taxable income” means the federal taxable*
27 *income of a business entity, as adjusted pursuant to section 20 of*
28 *this act and apportioned to this State pursuant to section 21 of this*
29 *act.*

30 **Sec. 10.** *“Taxable year” means the taxable year used by a*
31 *business entity for the purposes of federal income taxation.*

32 **Sec. 11.** *The Department shall:*

33 1. *Administer and enforce the provisions of this chapter, and*
34 *may adopt such regulations as it deems appropriate for that*
35 *purpose.*

36 2. *Deposit all taxes, interest and penalties it receives pursuant*
37 *to this chapter in the State Treasury for credit to the State General*
38 *Fund.*

39 **Sec. 12.** 1. *Each person responsible for maintaining the*
40 *records of a business entity shall:*

41 (a) *Keep such records as may be necessary to determine the*
42 *amount of the liability of the business entity pursuant to the*
43 *provisions of this chapter;*



1 ***(b) Preserve those records for 4 years or until any litigation or***
2 ***prosecution pursuant to this chapter is finally determined,***
3 ***whichever is longer; and***

4 ***(c) Make the records available for inspection by the***
5 ***Department upon demand at reasonable times during regular***
6 ***business hours.***

7 ***2. The Department may by regulation specify the types of***
8 ***records which must be kept to determine the amount of the***
9 ***liability of a business entity pursuant to the provisions of this***
10 ***chapter.***

11 ***3. Any person who violates the provisions of subsection 1 is***
12 ***guilty of a misdemeanor.***

13 ***Sec. 13. 1. To verify the accuracy of any return filed or, if***
14 ***no return is filed by a business entity, to determine the amount***
15 ***required to be paid, the Department, or any person authorized in***
16 ***writing by the Department, may examine the books, papers and***
17 ***records of any person who may be liable for the tax imposed by***
18 ***this chapter.***

19 ***2. Any person who may be liable for the tax imposed by this***
20 ***chapter and who keeps outside of this State any books, papers and***
21 ***records relating thereto shall pay to the Department an amount***
22 ***equal to the allowance provided for state officers and employees***
23 ***generally while traveling outside of the State for each day or***
24 ***fraction thereof during which an employee of the Department is***
25 ***engaged in examining those documents, plus any other actual***
26 ***expenses incurred by the employee while he or she is absent from***
27 ***his or her regular place of employment to examine those***
28 ***documents.***

29 ***Sec. 14. The Executive Director may request from any other***
30 ***governmental agency or officer such information as the Executive***
31 ***Director deems necessary to carry out the provisions of this***
32 ***chapter. If the Executive Director obtains any confidential***
33 ***information pursuant to such a request, he or she shall maintain***
34 ***the confidentiality of that information in the same manner and to***
35 ***the same extent as provided by law for the agency or officer from***
36 ***whom the information was obtained.***

37 ***Sec. 15. 1. Except as otherwise provided in this section and***
38 ***NRS 239.0115 and 360.250, the records and files of the***
39 ***Department concerning the administration of this chapter are***
40 ***confidential and privileged. The Department, and any employee***
41 ***engaged in the administration of this chapter or charged with the***
42 ***custody of any such records or files, shall not disclose any***
43 ***information obtained from the Department's records or files or***
44 ***from any examination, investigation or hearing authorized by the***
45 ***provisions of this chapter. Neither the Department nor any***



1 *employee of the Department may be required to produce any of the*
2 *records, files and information for the inspection of any person or*
3 *for use in any action or proceeding.*

4 2. *The records and files of the Department concerning the*
5 *administration of this chapter are not confidential and privileged*
6 *in the following cases:*

7 (a) *Testimony by a member or employee of the Department*
8 *and production of records, files and information on behalf of the*
9 *Department or a business entity in any action or proceeding*
10 *pursuant to the provisions of this chapter if that testimony or the*
11 *records, files or information, or the facts shown thereby, are*
12 *directly involved in the action or proceeding.*

13 (b) *Delivery to a business entity or its authorized representative*
14 *of a copy of any return or other document filed by the business*
15 *entity pursuant to this chapter.*

16 (c) *Publication of statistics so classified as to prevent the*
17 *identification of a particular person or document.*

18 (d) *Exchanges of information with the Internal Revenue*
19 *Service in accordance with compacts made and provided for in*
20 *such cases.*

21 (e) *Disclosure in confidence to the Governor or his or her*
22 *agent in the exercise of the Governor's general supervisory*
23 *powers, or to any person authorized to audit the accounts of the*
24 *Department in pursuance of an audit, or to the Attorney General*
25 *or other legal representative of the State in connection with an*
26 *action or proceeding pursuant to this chapter, or to any agency of*
27 *this or any other state charged with the administration or*
28 *enforcement of laws relating to taxation.*

29 (f) *Exchanges of information pursuant to subsection 3.*

30 3. *The Commission may agree with any county fair and*
31 *recreation board or the governing body of any county, city or town*
32 *for the continuing exchange of information concerning business*
33 *entities.*

34 **Sec. 16.** 1. *An excise tax is hereby imposed upon each*
35 *business entity for the privilege of engaging in a business in this*
36 *State at the rate of 4.5 percent of the Nevada taxable income of the*
37 *business entity in excess of \$500,000 each taxable year. The tax*
38 *for each taxable year is due on the last day of that taxable year.*

39 2. *Except as otherwise provided in this chapter, each business*
40 *entity engaging in a business in this State during a taxable year*
41 *whose Nevada taxable income for that year exceeds \$500,000 shall*
42 *file with the Department a return on a form prescribed by the*
43 *Department, together with the remittance of any tax due pursuant*
44 *to this chapter for that taxable year, not later than 30 days after*
45 *the date the business entity is required to file its federal income tax*



1 *return for that taxable year with the Internal Revenue Service.*
2 *The return required by this subsection must be executed under*
3 *penalty of perjury and include such information as is required by*
4 *the Department.*

5 3. *A person who receives Nevada taxable income as a*
6 *shareholder of an S corporation, as the owner of a sole*
7 *proprietorship, as a beneficiary of a trust or as a member of a*
8 *partnership or limited-liability company is liable for and shall pay*
9 *the tax due on that income if that tax is not paid on behalf of that*
10 *person by the S corporation, sole proprietorship, trust, partnership*
11 *or limited-liability company.*

12 **Sec. 17.** 1. *In addition to the returns required by section 16*
13 *of this act, a business entity that is a member of an affiliated group*
14 *and is engaged in a unitary business in this State with one or more*
15 *other members of the affiliated group shall file with the*
16 *Department such reports regarding the unitary business as the*
17 *Department determines to be appropriate for the administration*
18 *and enforcement of the provisions of this chapter.*

19 2. *The Department may allow two or more business entities*
20 *that are members of an affiliated group to file a consolidated*
21 *return for the purposes of this chapter if the business entities are*
22 *allowed to file a consolidated return for the purposes of federal*
23 *income taxation.*

24 3. *As used in this section:*

25 (a) *“Affiliated group” means a group of two or more business*
26 *entities, each of which is controlled by one or more common*
27 *owners or by one or more of the members of the group.*

28 (b) *“Controlled by” means the possession, directly or*
29 *indirectly, of the power to direct or cause the direction of the*
30 *management and policies of a business entity, whether through*
31 *the ownership of voting securities, by contract or otherwise.*

32 (c) *“Unitary business” means a business characterized by*
33 *unity of ownership, functional integration, centralization of*
34 *management and economy of scale.*

35 **Sec. 18.** *Upon written application made before the date on*
36 *which a business entity is otherwise required to file a return and*
37 *pay the tax imposed by this chapter, the Department may:*

38 1. *If the business entity is granted an extension of time by the*
39 *Federal Government for the filing of its federal income tax return,*
40 *extend the time for filing the return required by this chapter until*
41 *not later than 30 days after the date the business entity is required*
42 *to file its federal income tax return pursuant to the extension of*
43 *time granted by the Federal Government. The Department may*
44 *require, as a condition to the granting of any extension pursuant*



1 *to this subsection, the payment of the tax estimated to be due*
2 *pursuant to this chapter.*

3 2. *For good cause, extend by 30 days the time within which*
4 *the business entity is required to pay the tax. If the tax is paid*
5 *during a period of extension granted pursuant to this subsection,*
6 *no penalty or late charge may be imposed for failure to pay at the*
7 *time required, but the business entity shall pay interest at the rate*
8 *of 1 percent per month from the date on which the amount would*
9 *have been due without the extension until the date of payment,*
10 *unless otherwise provided in NRS 360.232 or 360.320.*

11 **Sec. 19.** 1. *If a business entity files an amended federal*
12 *income tax return that reflects a change in income required to be*
13 *reported pursuant to this chapter, the business entity shall file an*
14 *amended return with the Department within 30 days after the*
15 *filing of the federal return.*

16 2. *If the federal taxable income of a business entity changes*
17 *as a result of an audit or other adjustment by the Internal Revenue*
18 *Service or another competent authority, the business entity shall*
19 *file an amended return with the Department within 30 days after*
20 *the audit report or other adjustment becomes final.*

21 3. *If, based upon an amended return filed pursuant to this*
22 *section, it appears that the tax imposed by this chapter has not*
23 *been fully assessed, the Department shall assess the deficiency,*
24 *with interest calculated at the rate and in the manner set forth in*
25 *NRS 360.417. Any assessment required by this subsection must be*
26 *made within 1 year after the Department receives the amended*
27 *return.*

28 **Sec. 20.** 1. *In computing the Nevada taxable income of a*
29 *business entity, its federal taxable income must be:*

30 (a) *Increased by:*

31 (1) *The amount of any deduction for the tax imposed by*
32 *section 16 of this act or the equivalent taxing statute of another*
33 *state.*

34 (2) *The amount of any net operating loss in the taxable*
35 *year that is carried back to previous taxable years pursuant to 26*
36 *U.S.C. § 172.*

37 (3) *The amount of any deduction claimed for the taxable*
38 *year pursuant to 26 U.S.C. § 172 which was previously used to*
39 *offset any increase required by this subsection.*

40 (4) *Any interest or dividends on the obligations or securities*
41 *of any state or political subdivision of a state, other than this State*
42 *or a political subdivision of this State.*

43 (b) *Reduced by:*

44 (1) *Any income that is exempt from taxation by this State*
45 *under the Constitution, laws or treaties of the United States or the*



1 *Nevada Constitution, except that the amount of any reduction*
2 *made pursuant to this subparagraph must be decreased by any*
3 *expense incurred in the production of the income to the extent that*
4 *the expense is deductible in determining federal taxable income.*

5 (2) *Any interest income received on obligations of the*
6 *United States.*

7 (3) *The amount of any refund of income tax received from*
8 *another state which has been included as income in computing*
9 *federal taxable income.*

10 (4) *If the business entity is required to pay a tax on the net*
11 *proceeds of minerals extracted pursuant to chapter 362 of NRS,*
12 *the exempt mining revenue of the business entity for the taxable*
13 *year.*

14 2. *The Department shall adopt regulations for the*
15 *administration of this section. The regulations must specify in*
16 *detail the adjustments to the federal taxable income of a business*
17 *entity required by subparagraph (4) of paragraph (b) of*
18 *subsection 1.*

19 3. *For the purposes of this section, "exempt mining revenue"*
20 *means a percentage of the federal taxable income of the business*
21 *entity equal to the percentage obtained by dividing the amount of*
22 *the gross proceeds used to determine the amount of the tax due*
23 *pursuant to chapter 362 of NRS from the business entity for the*
24 *taxable year, by the amount of the total revenue of the business*
25 *entity for the taxable year.*

26 **Sec. 21. 1.** *Except as otherwise provided in subsection 2, a*
27 *business entity that has federal taxable income from engaging in a*
28 *business:*

29 (a) *Solely within this State shall apportion its entire federal*
30 *taxable income to this State.*

31 (b) *Both within and outside of this State shall apportion its*
32 *federal taxable income to this State by multiplying the amount of*
33 *that income by a fraction, the numerator of which is the sum of*
34 *the property factor plus the payroll factor plus the sales factor, and*
35 *the denominator of which is 3.*

36 2. *If the application of the provisions of subsection 1 does not*
37 *fairly represent the extent of the business of a business entity in*
38 *this State, the business entity may petition the Department for, or*
39 *the Department may require, with regard to all or any part of the*
40 *business of that business entity:*

41 (a) *Separate accounting;*

42 (b) *The exclusion of one or more of the factors enumerated in*
43 *subsection 1;*

44 (c) *The inclusion of one or more additional factors that will*
45 *fairly represent the business of the business entity in this State; or*



1 (d) *The use of any other reasonable method to effect an*
2 *equitable apportionment of income.*

3 3. *For the purposes of this section:*

4 (a) *The “property factor” is a fraction, the numerator of which*
5 *is the average value of the real and tangible personal property*
6 *owned or rented by the business entity and used in this State*
7 *during the taxable year, and the denominator of which is the*
8 *average value of all the real and tangible personal property owned*
9 *or rented and used by the business entity during that year.*

10 (b) *The “payroll factor” is a fraction, the numerator of which*
11 *is the total amount paid in this State during the taxable year by the*
12 *business entity as compensation, and the denominator of which is*
13 *the total compensation paid everywhere by the business entity*
14 *during that year.*

15 (c) *The “sales factor” is a fraction, the numerator of which*
16 *is the total sales of the business entity occurring in this State*
17 *during the taxable year, and the denominator of which is the total*
18 *sales of the business entity everywhere during that year.*

19 **Sec. 22.** 1. *For the purposes of this chapter, the method of*
20 *accounting and the taxable year used by a business entity must be*
21 *the same as those used by the business entity for the purposes of*
22 *federal income taxation. If the business entity does not regularly*
23 *use a single method of accounting, the taxable income of the*
24 *business entity must be computed under such a method as the*
25 *Department determines will fairly reflect that income.*

26 2. *If there is any change in the method of accounting or the*
27 *taxable year used by a business entity for the purposes of federal*
28 *income taxation, the same change must be implemented for the*
29 *purposes of this chapter.*

30 **Sec. 23.** *If the Department determines that any tax, penalty*
31 *or interest has been paid more than once or has been erroneously*
32 *or illegally collected or computed, the Department shall set forth*
33 *that fact in the records of the Department and certify to the State*
34 *Board of Examiners the amount collected in excess of the amount*
35 *legally due and the person from whom it was collected or by whom*
36 *it was paid. If approved by the State Board of Examiners, the*
37 *excess amount collected or paid must, after being credited against*
38 *any amount then due from the person in accordance with NRS*
39 *360.236, be refunded to the person or his or her successors in*
40 *interest.*

41 **Sec. 24.** 1. *Except as otherwise provided in NRS 360.235*
42 *and 360.395:*

43 (a) *No refund may be allowed unless a claim for it is filed with*
44 *the Department within 3 years after the last day of the month*
45 *following the taxable year for which the overpayment was made.*



1 (b) *No credit may be allowed after the expiration of the period*
2 *specified for filing claims for refund unless a claim for credit is*
3 *filed with the Department within that period.*

4 2. *Each claim must be in writing and must state the specific*
5 *grounds upon which the claim is founded.*

6 3. *Failure to file a claim within the time prescribed in this*
7 *chapter constitutes a waiver of any demand against the State on*
8 *account of overpayment.*

9 4. *Within 30 days after rejecting any claim in whole or in*
10 *part, the Department shall serve notice of its action on the*
11 *claimant in the manner prescribed for service of notice of a*
12 *deficiency determination.*

13 **Sec. 25.** 1. *Except as otherwise provided in this section,*
14 *NRS 360.320 or any other specific statute, interest must be paid*
15 *upon any overpayment of any amount of the taxes imposed by this*
16 *chapter at the rate set forth in, and in accordance with the*
17 *provisions of, NRS 360.2937.*

18 2. *If the Department determines that any overpayment has*
19 *been made intentionally or by reason of carelessness, the*
20 *Department shall not allow any interest on the overpayment.*

21 **Sec. 26.** 1. *No injunction, writ of mandate or other legal or*
22 *equitable process may issue in any suit, action or proceeding in*
23 *any court against this State or against any officer of this State to*
24 *prevent or enjoin the collection under this chapter of the tax*
25 *imposed by this chapter or any amount of tax, penalty or interest*
26 *required to be collected.*

27 2. *No suit or proceeding may be maintained in any court for*
28 *the recovery of any amount alleged to have been erroneously or*
29 *illegally determined or collected unless a claim for refund or credit*
30 *has been filed.*

31 **Sec. 27.** 1. *Within 90 days after a final decision upon a*
32 *claim filed pursuant to this chapter is rendered by the*
33 *Commission, the claimant may bring an action against the*
34 *Department on the grounds set forth in the claim in a court of*
35 *competent jurisdiction in Carson City, the county of this State*
36 *where the claimant resides or maintains his or her principal place*
37 *of business or a county in which any relevant proceedings were*
38 *conducted by the Department, for the recovery of the whole or any*
39 *part of the amount with respect to which the claim has been*
40 *disallowed.*

41 2. *Failure to bring an action within the time specified*
42 *constitutes a waiver of any demand against the State on account of*
43 *alleged overpayments.*

44 **Sec. 28.** 1. *If the Department fails to mail notice of action*
45 *on a claim within 6 months after the claim is filed, the claimant*



1 *may consider the claim disallowed and file an appeal with the*
2 *Commission within 30 days after the last day of the 6-month*
3 *period. If the claimant is aggrieved by the decision of the*
4 *Commission rendered on appeal, the claimant may, within 90 days*
5 *after the decision is rendered, bring an action against the*
6 *Department on the grounds set forth in the claim for the recovery*
7 *of the whole or any part of the amount claimed as an*
8 *overpayment.*

9 *2. If judgment is rendered for the plaintiff, the amount of the*
10 *judgment must first be credited toward any tax due from the*
11 *plaintiff.*

12 *3. The balance of the judgment must be refunded to the*
13 *plaintiff.*

14 **Sec. 29.** *In any judgment, interest must be allowed at the rate*
15 *of 6 percent per annum upon the amount found to have been*
16 *illegally collected from the date of payment of the amount to the*
17 *date of allowance of credit on account of the judgment, or to a*
18 *date preceding the date of the refund warrant by not more than 30*
19 *days. The date must be determined by the Department.*

20 **Sec. 30.** *A judgment may not be rendered in favor of the*
21 *plaintiff in any action brought against the Department to recover*
22 *any amount paid when the action is brought by or in the name of*
23 *an assignee of the person paying the amount or by any person*
24 *other than the person who paid the amount.*

25 **Sec. 31.** *1. The Department may recover a refund or any*
26 *part thereof which is erroneously made and any credit or part*
27 *thereof which is erroneously allowed in an action brought in a*
28 *court of competent jurisdiction in Carson City or Clark County in*
29 *the name of the State of Nevada.*

30 *2. The action must be tried in Carson City or Clark County*
31 *unless the court, with the consent of the Attorney General, orders*
32 *a change of place of trial.*

33 *3. The Attorney General shall prosecute the action, and the*
34 *provisions of NRS, the Nevada Rules of Civil Procedure and the*
35 *Nevada Rules of Appellate Procedure relating to service of*
36 *summons, pleadings, proofs, trials and appeals are applicable to*
37 *the proceedings.*

38 **Sec. 32.** *1. If any amount in excess of \$25 has been*
39 *illegally determined, either by the Department or by the person*
40 *filing the return, the Department shall certify this fact to the State*
41 *Board of Examiners, and the latter shall authorize the*
42 *cancellation of the amount upon the records of the Department.*

43 *2. If an amount not exceeding \$25 has been illegally*
44 *determined, either by the Department or by the person filing the*
45 *return, the Department, without certifying this fact to the State*



1 *Board of Examiners, shall authorize the cancellation of the*
2 *amount upon the records of the Department.*

3 **Sec. 33. 1. A person shall not:**

4 (a) *Make, cause to be made or permit to be made any false or*
5 *fraudulent return or declaration or false statement in any return*
6 *or declaration with intent to defraud the State or to evade payment*
7 *of the tax or any part of the tax imposed by this chapter.*

8 (b) *Make, cause to be made or permit to be made any false*
9 *entry in books, records or accounts with intent to defraud the State*
10 *or to evade the payment of the tax or any part of the tax imposed*
11 *by this chapter.*

12 (c) *Keep, cause to be kept or permit to be kept more than one*
13 *set of books, records or accounts with intent to defraud the State*
14 *or to evade the payment of the tax or any part of the tax imposed*
15 *by this chapter.*

16 2. *Any person who violates the provisions of subsection 1 is*
17 *guilty of a gross misdemeanor.*

18 **Sec. 34. The remedies of the State provided for in this**
19 **chapter are cumulative, and no action taken by the Department or**
20 **the Attorney General constitutes an election by the State to pursue**
21 **any remedy to the exclusion of any other remedy for which**
22 **provision is made in this chapter.**

23 **Sec. 35. NRS 360.2937 is hereby amended to read as follows:**

24 360.2937 1. Except as otherwise provided in this section,
25 NRS 360.320 or any other specific statute, and notwithstanding the
26 provisions of NRS 360.2935, interest must be paid upon an
27 overpayment of any tax provided for in chapter 362, 363A, 363B,
28 369, 370, 372, 374, 377 or 377A of NRS, *or sections 2 to 34,*
29 *inclusive, of this act,* any fee provided for in NRS 444A.090 or
30 482.313, or any assessment provided for in NRS 585.497, at the rate
31 of 0.5 percent per month from the last day of the calendar month
32 following the period for which the overpayment was made.

33 2. No refund or credit may be made of any interest imposed on
34 the person making the overpayment with respect to the amount
35 being refunded or credited.

36 3. The interest must be paid:

37 (a) In the case of a refund, to the last day of the calendar month
38 following the date upon which the person making the overpayment,
39 if the person has not already filed a claim, is notified by the
40 Department that a claim may be filed or the date upon which the
41 claim is certified to the State Board of Examiners, whichever is
42 earlier.

43 (b) In the case of a credit, to the same date as that to which
44 interest is computed on the tax or the amount against which the
45 credit is applied.



1 **Sec. 36.** NRS 360.297 is hereby amended to read as follows:

2 360.297 1. A responsible person who fails to collect or pay to
3 the Department any tax or fee imposed by this chapter, chapter
4 363A, 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 34,*
5 *inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of
6 NRS, or who attempts to evade the payment of any such tax or fee,
7 is jointly and severally liable with any other person who is required
8 to pay such a tax or fee for the tax or fee owed plus interest and all
9 applicable penalties. The responsible person shall pay the tax or fee
10 upon notice from the Department that it is due.

11 2. As used in this section, "responsible person" includes:

12 (a) An officer or employee of a corporation; and

13 (b) A member or employee of a partnership or limited-liability
14 company,

15 ↳ whose job or duty it is to collect, account for or pay to the
16 Department any tax or fee imposed by this chapter, chapter 363A,
17 363B, 368A, 369, 370, 372 or 374 of NRS, *sections 2 to 34,*
18 *inclusive, of this act,* NRS 444A.090 or 482.313, or chapter 680B of
19 NRS.

20 **Sec. 37.** NRS 360.300 is hereby amended to read as follows:

21 360.300 1. If a person fails to file a return or the Department
22 is not satisfied with the return or returns of any tax, contribution or
23 premium or amount of tax, contribution or premium required to be
24 paid to the State by any person, in accordance with the applicable
25 provisions of this chapter, chapter 360B, 362, 363A, 363B, 369,
26 370, 372, 372A, 374, 377, 377A or 444A of NRS, *sections 2 to 34,*
27 *inclusive, of this act,* NRS 482.313, or chapter 585 or 680B of NRS
28 as administered or audited by the Department, it may compute and
29 determine the amount required to be paid upon the basis of:

30 (a) The facts contained in the return;

31 (b) Any information within its possession or that may come into
32 its possession; or

33 (c) Reasonable estimates of the amount.

34 2. One or more deficiency determinations may be made with
35 respect to the amount due for one or for more than one period.

36 3. In making its determination of the amount required to be
37 paid, the Department shall impose interest on the amount of tax
38 determined to be due, calculated at the rate and in the manner set
39 forth in NRS 360.417, unless a different rate of interest is
40 specifically provided by statute.

41 4. The Department shall impose a penalty of 10 percent in
42 addition to the amount of a determination that is made in the case of
43 the failure of a person to file a return with the Department.

44 5. When a business is discontinued, a determination may be
45 made at any time thereafter within the time prescribed in



1 NRS 360.355 as to liability arising out of that business, irrespective
2 of whether the determination is issued before the due date of the
3 liability.

4 **Sec. 38.** NRS 360.417 is hereby amended to read as follows:

5 360.417 Except as otherwise provided in NRS 360.232 and
6 360.320, and unless a different penalty or rate of interest is
7 specifically provided by statute, any person who fails to pay any tax
8 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,
9 377A, 444A or 585 of NRS, *or sections 2 to 34, inclusive, of this*
10 *act*, or any fee provided for in NRS 482.313, and any person or
11 governmental entity that fails to pay any fee provided for in NRS
12 360.787, to the State or a county within the time required, shall pay
13 a penalty of not more than 10 percent of the amount of the tax or fee
14 which is owed, as determined by the Department, in addition to the
15 tax or fee, plus interest at the rate of 1 percent per month, or fraction
16 of a month, from the last day of the month following the period for
17 which the amount or any portion of the amount should have been
18 reported until the date of payment. The amount of any penalty
19 imposed must be based on a graduated schedule adopted by the
20 Nevada Tax Commission which takes into consideration the length
21 of time the tax or fee remained unpaid.

22 **Sec. 39.** NRS 360.419 is hereby amended to read as follows:

23 360.419 1. If the Executive Director or a designated hearing
24 officer finds that the failure of a person to make a timely return or
25 payment of a tax imposed pursuant to NRS 361.320 or chapter
26 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B,
27 376A, 377 or 377A of NRS, *or sections 2 to 34, inclusive, of this*
28 *act* is the result of circumstances beyond his or her control and
29 occurred despite the exercise of ordinary care and without intent, the
30 Department may relieve the person of all or part of any interest or
31 penalty, or both.

32 2. A person seeking relief must file with the Department a
33 statement under oath setting forth the facts upon which the person
34 bases his or her claim.

35 3. The Department shall disclose, upon the request of any
36 person:

37 (a) The name of the person to whom relief was granted; and

38 (b) The amount of the relief.

39 4. The Executive Director or a designated hearing officer shall
40 act upon the request of a taxpayer seeking relief pursuant to NRS
41 361.4835 which is deferred by a county treasurer or county assessor.

42 **Sec. 40.** NRS 360.510 is hereby amended to read as follows:

43 360.510 1. If any person is delinquent in the payment of any
44 tax or fee administered by the Department or if a determination has



1 been made against the person which remains unpaid, the
2 Department may:

3 (a) Not later than 3 years after the payment became delinquent
4 or the determination became final; or

5 (b) Not later than 6 years after the last recording of an abstract
6 of judgment or of a certificate constituting a lien for tax owed,

7 → give a notice of the delinquency and a demand to transmit
8 personally or by registered or certified mail to any person,
9 including, without limitation, any officer or department of this State
10 or any political subdivision or agency of this State, who has in his or
11 her possession or under his or her control any credits or other
12 personal property belonging to the delinquent, or owing any debts to
13 the delinquent or person against whom a determination has been
14 made which remains unpaid, or owing any debts to the delinquent or
15 that person. In the case of any state officer, department or agency,
16 the notice must be given to the officer, department or agency before
17 the Department presents the claim of the delinquent taxpayer to the
18 State Controller.

19 2. A state officer, department or agency which receives such a
20 notice may satisfy any debt owed to it by that person before it
21 honors the notice of the Department.

22 3. After receiving the demand to transmit, the person notified
23 by the demand may not transfer or otherwise dispose of the credits,
24 other personal property, or debts in his or her possession or under
25 his or her control at the time the person received the notice until the
26 Department consents to a transfer or other disposition.

27 4. Every person notified by a demand to transmit shall, within
28 10 days after receipt of the demand to transmit, inform the
29 Department of and transmit to the Department all such credits, other
30 personal property or debts in his or her possession, under his or her
31 control or owing by that person within the time and in the manner
32 requested by the Department. Except as otherwise provided in
33 subsection 5, no further notice is required to be served to that
34 person.

35 5. If the property of the delinquent taxpayer consists of a series
36 of payments owed to him or her, the person who owes or controls
37 the payments shall transmit the payments to the Department until
38 otherwise notified by the Department. If the debt of the delinquent
39 taxpayer is not paid within 1 year after the Department issued the
40 original demand to transmit, the Department shall issue another
41 demand to transmit to the person responsible for making the
42 payments informing him or her to continue to transmit payments to
43 the Department or that his or her duty to transmit the payments to
44 the Department has ceased.



1 6. If the notice of the delinquency seeks to prevent the transfer
2 or other disposition of a deposit in a bank or credit union or other
3 credits or personal property in the possession or under the control of
4 a bank, credit union or other depository institution, the notice must
5 be delivered or mailed to any branch or office of the bank, credit
6 union or other depository institution at which the deposit is carried
7 or at which the credits or personal property is held.

8 7. If any person notified by the notice of the delinquency
9 makes any transfer or other disposition of the property or debts
10 required to be withheld or transmitted, to the extent of the value of
11 the property or the amount of the debts thus transferred or paid, that
12 person is liable to the State for any indebtedness due pursuant to this
13 chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A,
14 374, 377, 377A or 444A of NRS, *sections 2 to 34, inclusive, of this*
15 *act*, NRS 482.313, or chapter 585 or 680B of NRS from the person
16 with respect to whose obligation the notice was given if solely by
17 reason of the transfer or other disposition the State is unable to
18 recover the indebtedness of the person with respect to whose
19 obligation the notice was given.

20 **Sec. 41.** NRS 78.245 is hereby amended to read as follows:

21 78.245 ~~[No]~~

22 *1. Except as otherwise provided in subsection 2, no* stocks,
23 bonds or other securities issued by any corporation organized under
24 this chapter, nor the income or profits therefrom, nor the transfer
25 thereof by assignment, descent, testamentary disposition or
26 otherwise, shall be taxed by this State when such stocks, bonds or
27 other securities shall be owned by nonresidents of this State or by
28 foreign corporations.

29 *2. The provisions of subsection 1 do not apply to the tax*
30 *imposed pursuant to the provisions of sections 2 to 34, inclusive,*
31 *of this act.*

32 **Sec. 42.** NRS 90.420 is hereby amended to read as follows:

33 90.420 1. The Administrator by order may deny, suspend or
34 revoke any license, fine any licensed person, limit the activities
35 governed by this chapter that an applicant or licensed person may
36 perform in this State, bar an applicant or licensed person from
37 association with a licensed broker-dealer or investment adviser or
38 bar from employment with a licensed broker-dealer or investment
39 adviser a person who is a partner, officer, director, sales
40 representative, investment adviser or representative of an investment
41 adviser, or a person occupying a similar status or performing a
42 similar function for an applicant or licensed person, if the
43 Administrator finds that the order is in the public interest and that
44 the applicant or licensed person or, in the case of a broker-dealer or
45 investment adviser, any partner, officer, director, sales



1 representative, investment adviser, representative of an investment
2 adviser, or person occupying a similar status or performing similar
3 functions or any person directly or indirectly controlling the broker-
4 dealer or investment adviser, or any transfer agent or any person
5 directly or indirectly controlling the transfer agent:

6 (a) Has filed an application for licensing with the Administrator
7 which, as of its effective date, or as of any date after filing in the
8 case of an order denying effectiveness, was incomplete in a material
9 respect or contained a statement that was, in light of the
10 circumstances under which it was made, false or misleading with
11 respect to a material fact;

12 (b) Has violated or failed to comply with a provision of this
13 chapter as now or formerly in effect or a regulation or order adopted
14 or issued under this chapter;

15 (c) Is the subject of an adjudication or determination after notice
16 and opportunity for hearing, within the last 5 years by a securities
17 agency or administrator of another state or a court of competent
18 jurisdiction that the person has violated the Securities Act of 1933,
19 the Securities Exchange Act of 1934, the Investment Advisers Act
20 of 1940, the Investment Company Act of 1940, the Commodity
21 Exchange Act or the securities law of any other state, but only if the
22 acts constituting the violation of that state's law would constitute a
23 violation of this chapter had the acts taken place in this State;

24 (d) Within the last 10 years has been convicted of a felony or
25 misdemeanor which the Administrator finds:

26 (1) Involves the purchase or sale of a security, taking a false
27 oath, making a false report, bribery, perjury, burglary, robbery or
28 conspiracy to commit any of the foregoing offenses;

29 (2) Arises out of the conduct of business as a broker-dealer,
30 investment adviser, depository institution, insurance company or
31 fiduciary; or

32 (3) Involves the larceny, theft, robbery, extortion, forgery,
33 counterfeiting, fraudulent concealment, embezzlement, fraudulent
34 conversion or misappropriation of money or securities or conspiracy
35 to commit any of the foregoing offenses;

36 (e) Is or has been permanently or temporarily enjoined by any
37 court of competent jurisdiction, unless the order has been vacated,
38 from acting as an investment adviser, representative of an
39 investment adviser, underwriter, broker-dealer or as an affiliated
40 person or employee of an investment company, depository
41 institution or insurance company or from engaging in or continuing
42 any conduct or practice in connection with any of the foregoing
43 activities or in connection with the purchase or sale of a security;

44 (f) Is or has been the subject of an order of the Administrator,
45 unless the order has been vacated, denying, suspending or revoking



1 the person's license as a broker-dealer, sales representative,
2 investment adviser, representative of an investment adviser or
3 transfer agent;

4 (g) Is or has been the subject of any of the following orders
5 which were issued within the last 5 years, unless the order has been
6 vacated:

7 (1) An order by the securities agency or administrator of
8 another state, Canadian province or territory or by the Securities and
9 Exchange Commission or a comparable regulatory agency of
10 another country, entered after notice and opportunity for hearing,
11 denying, suspending or revoking the person's license as a broker-
12 dealer, sales representative, investment adviser, representative of an
13 investment adviser or transfer agent;

14 (2) A suspension or expulsion from membership in or
15 association with a member of a self-regulatory organization;

16 (3) An order of the United States Postal Service relating to
17 fraud;

18 (4) An order to cease and desist entered after notice and
19 opportunity for hearing by the Administrator, the securities agency
20 or administrator of another state, Canadian province or territory, the
21 Securities and Exchange Commission or a comparable regulatory
22 agency of another country, or the Commodity Futures Trading
23 Commission; or

24 (5) An order by the Commodity Futures Trading
25 Commission denying, suspending or revoking registration under the
26 Commodity Exchange Act;

27 (h) Has engaged in unethical or dishonest practices in the
28 securities business;

29 (i) Is insolvent, either in the sense that liabilities exceed assets or
30 in the sense that obligations cannot be met as they mature, but the
31 Administrator may not enter an order against a broker-dealer or
32 investment adviser under this paragraph without a finding of
33 insolvency as to the broker-dealer or investment adviser;

34 (j) Has failed to pay a tax as required pursuant to the provisions
35 of chapter 363A of NRS ~~§~~ *or sections 2 to 34, inclusive, of this*
36 *act*;

37 (k) Is determined by the Administrator in compliance with NRS
38 90.430 not to be qualified on the basis of lack of training,
39 experience and knowledge of the securities business; or

40 (l) Has failed reasonably to supervise a sales representative,
41 employee or representative of an investment adviser.

42 2. The Administrator may not institute a proceeding on the
43 basis of a fact or transaction known to the director when the license
44 became effective unless the proceeding is instituted within 90 days
45 after issuance of the license.



1 3. If the Administrator finds that an applicant or licensed
2 person is no longer in existence or has ceased to do business as a
3 broker-dealer, sales representative, investment adviser,
4 representative of an investment adviser or transfer agent or is
5 adjudicated mentally incompetent or subjected to the control of a
6 committee, conservator or guardian or cannot be located after
7 reasonable search, the Administrator may by order deny the
8 application or revoke the license.

9 **Sec. 43.** NRS 90.730 is hereby amended to read as follows:

10 90.730 1. Except as otherwise provided in subsection 2,
11 information and records filed with or obtained by the Administrator
12 are public information and are available for public examination.

13 2. Except as otherwise provided in subsections 3 and 4 and
14 NRS 239.0115, the following information and records do not
15 constitute public information under subsection 1 and are
16 confidential:

17 (a) Information or records obtained by the Administrator in
18 connection with an investigation concerning possible violations of
19 this chapter; and

20 (b) Information or records filed with the Administrator in
21 connection with a registration statement filed under this chapter or a
22 report under NRS 90.390 which constitute trade secrets or
23 commercial or financial information of a person for which that
24 person is entitled to and has asserted a claim of privilege or
25 confidentiality authorized by law.

26 3. The Administrator may submit any information or evidence
27 obtained in connection with an investigation to the:

28 (a) Attorney General or appropriate district attorney for the
29 purpose of prosecuting a criminal action under this chapter; and

30 (b) Department of Taxation for its use in carrying out the
31 provisions of chapter 363A of NRS ~~§~~ *and sections 2 to 34,*
32 *inclusive, of this act.*

33 4. The Administrator may disclose any information obtained in
34 connection with an investigation pursuant to NRS 90.620 to the
35 agencies and administrators specified in subsection 1 of NRS 90.740
36 but only if disclosure is provided for the purpose of a civil,
37 administrative or criminal investigation or proceeding, and the
38 receiving agency or administrator represents in writing that under
39 applicable law protections exist to preserve the integrity,
40 confidentiality and security of the information.

41 5. This chapter does not create any privilege or diminish any
42 privilege existing at common law, by statute, regulation or
43 otherwise.



1 **Sec. 44.** NRS 604A.820 is hereby amended to read as follows:
2 604A.820 1. If the Commissioner has reason to believe that
3 grounds for revocation or suspension of a license exist, the
4 Commissioner shall give 20 days' written notice to the licensee
5 stating the contemplated action and, in general, the grounds therefor
6 and set a date for a hearing.

7 2. At the conclusion of a hearing, the Commissioner shall:
8 (a) Enter a written order either dismissing the charges, revoking
9 the license or suspending the license for a period of not more than
10 60 days, which period must include any prior temporary suspension.
11 The Commissioner shall send a copy of the order to the licensee by
12 registered or certified mail.

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

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

19 3. The grounds for revocation or suspension of a license are
20 that:

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

22 (b) The licensee, either knowingly or without any exercise of
23 due care to prevent it, has violated any provision of this chapter or
24 any lawful regulation adopted pursuant thereto;

25 (c) The licensee has failed to pay a tax as required pursuant to
26 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 34,*
27 *inclusive, of this act;*

28 (d) Any fact or condition exists which would have justified the
29 Commissioner in denying the licensee's original application for a
30 license pursuant to the provisions of this chapter; or

31 (e) The licensee:

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

35 (2) Has failed to remain open for the conduct of the business
36 for a period of 180 days without good cause therefor.

37 4. Any revocation or suspension applies only to the license
38 granted to a person for the particular office for which grounds for
39 revocation or suspension exist.

40 5. An order suspending or revoking a license becomes effective
41 5 days after being entered unless the order specifies otherwise or a
42 stay is granted.

43 **Sec. 45.** NRS 645B.060 is hereby amended to read as follows:
44 645B.060 1. Subject to the administrative control of the
45 Director of the Department of Business and Industry, the



1 Commissioner shall exercise general supervision and control over
2 mortgage brokers and mortgage agents doing business in this State.

3 2. In addition to the other duties imposed upon him or her by
4 law, the Commissioner shall:

5 (a) Adopt regulations:

6 (1) Setting forth the requirements for an investor to acquire
7 ownership of or a beneficial interest in a loan secured by a lien on
8 real property. The regulations must include, without limitation, the
9 minimum financial conditions that the investor must comply with
10 before becoming an investor.

11 (2) Establishing reasonable limitations and guidelines on
12 loans made by a mortgage broker to a director, officer, mortgage
13 agent or employee of the mortgage broker.

14 (b) Adopt any other regulations that are necessary to carry out
15 the provisions of this chapter, except as to loan brokerage fees.

16 (c) Conduct such investigations as may be necessary to
17 determine whether any person has violated any provision of this
18 chapter, a regulation adopted pursuant to this chapter or an order of
19 the Commissioner.

20 (d) Except as otherwise provided in subsection 4, conduct an
21 annual examination of each mortgage broker doing business in this
22 State. The annual examination must include, without limitation, a
23 formal exit review with the mortgage broker. The Commissioner
24 shall adopt regulations prescribing:

25 (1) Standards for determining the rating of each mortgage
26 broker based upon the results of the annual examination; and

27 (2) Procedures for resolving any objections made by the
28 mortgage broker to the results of the annual examination. The
29 results of the annual examination may not be opened to public
30 inspection pursuant to NRS 645B.090 until after a period of time set
31 by the Commissioner to determine any objections made by the
32 mortgage broker.

33 (e) Conduct such other examinations, periodic or special audits,
34 investigations and hearings as may be necessary for the efficient
35 administration of the laws of this State regarding mortgage brokers
36 and mortgage agents. The Commissioner shall adopt regulations
37 specifying the general guidelines that will be followed when a
38 periodic or special audit of a mortgage broker is conducted pursuant
39 to this chapter.

40 (f) Classify as confidential certain records and information
41 obtained by the Division when those matters are obtained from a
42 governmental agency upon the express condition that they remain
43 confidential. This paragraph does not limit examination by:

44 (1) The Legislative Auditor; or



1 (2) The Department of Taxation if necessary to carry out the
2 provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 34, inclusive,*
3 *of this act.*

4 (g) Conduct such examinations and investigations as are
5 necessary to ensure that mortgage brokers and mortgage agents meet
6 the requirements of this chapter for obtaining a license, both at the
7 time of the application for a license and thereafter on a continuing
8 basis.

9 3. For each special audit, investigation or examination, a
10 mortgage broker or mortgage agent shall pay a fee based on the rate
11 established pursuant to NRS 645F.280.

12 4. The Commissioner may conduct examinations of a mortgage
13 broker, as described in paragraph (d) of subsection 2, on a biennial
14 instead of an annual basis if the mortgage broker:

15 (a) Received a rating in the last annual examination that meets a
16 threshold determined by the Commissioner;

17 (b) Has not had any adverse change in financial condition since
18 the last annual examination, as shown by financial statements of the
19 mortgage broker;

20 (c) Has not had any complaints received by the Division that
21 resulted in any administrative action by the Division; and

22 (d) Does not maintain any trust accounts pursuant to NRS
23 645B.170 or 645B.175 or arrange loans funded by private investors.

24 **Sec. 46.** NRS 645B.670 is hereby amended to read as follows:

25 645B.670 Except as otherwise provided in NRS 645B.690:

26 1. For each violation committed by an applicant for a license
27 issued pursuant to this chapter, whether or not the applicant is issued
28 a license, the Commissioner may impose upon the applicant an
29 administrative fine of not more than \$25,000 if the applicant:

30 (a) Has knowingly made or caused to be made to the
31 Commissioner any false representation of material fact;

32 (b) Has suppressed or withheld from the Commissioner any
33 information which the applicant possesses and which, if submitted
34 by the applicant, would have rendered the applicant ineligible to be
35 licensed pursuant to the provisions of this chapter; or

36 (c) Has violated any provision of this chapter, a regulation
37 adopted pursuant to this chapter or an order of the Commissioner in
38 completing and filing his or her application for a license or during
39 the course of the investigation of his or her application for a license.

40 2. For each violation committed by a mortgage broker, the
41 Commissioner may impose upon the mortgage broker an
42 administrative fine of not more than \$25,000, may suspend, revoke
43 or place conditions upon the mortgage broker's license, or may do
44 both, if the mortgage broker, whether or not acting as such:

45 (a) Is insolvent;



- 1 (b) Is grossly negligent or incompetent in performing any act for
2 which the mortgage broker is required to be licensed pursuant to the
3 provisions of this chapter;
- 4 (c) Does not conduct his or her business in accordance with law
5 or has violated any provision of this chapter, a regulation adopted
6 pursuant to this chapter or an order of the Commissioner;
- 7 (d) Is in such financial condition that the mortgage broker
8 cannot continue in business with safety to his or her customers;
- 9 (e) Has made a material misrepresentation in connection with
10 any transaction governed by this chapter;
- 11 (f) Has suppressed or withheld from a client any material facts,
12 data or other information relating to any transaction governed by the
13 provisions of this chapter which the mortgage broker knew or, by
14 the exercise of reasonable diligence, should have known;
- 15 (g) Has knowingly made or caused to be made to the
16 Commissioner any false representation of material fact or has
17 suppressed or withheld from the Commissioner any information
18 which the mortgage broker possesses and which, if submitted by the
19 mortgage broker, would have rendered the mortgage broker
20 ineligible to be licensed pursuant to the provisions of this chapter;
- 21 (h) Has failed to account to persons interested for all money
22 received for a trust account;
- 23 (i) Has refused to permit an examination by the Commissioner
24 of his or her books and affairs or has refused or failed, within a
25 reasonable time, to furnish any information or make any report that
26 may be required by the Commissioner pursuant to the provisions of
27 this chapter or a regulation adopted pursuant to this chapter;
- 28 (j) Has been convicted of, or entered a plea of guilty or nolo
29 contendere to, a felony in a domestic, foreign or military court
30 within the 7 years immediately preceding the date of the application,
31 or at any time if such felony involved an act of fraud, dishonesty or
32 a breach of trust, or money laundering.
- 33 (k) Has refused or failed to pay, within a reasonable time, any
34 fees, assessments, costs or expenses that the mortgage broker is
35 required to pay pursuant to this chapter or a regulation adopted
36 pursuant to this chapter;
- 37 (l) Has failed to satisfy a claim made by a client which has been
38 reduced to judgment;
- 39 (m) Has failed to account for or to remit any money of a client
40 within a reasonable time after a request for an accounting or
41 remittal;
- 42 (n) Has commingled the money or other property of a client
43 with his or her own or has converted the money or property of
44 others to his or her own use;



1 (o) Has engaged in any other conduct constituting a deceitful,
2 fraudulent or dishonest business practice;

3 (p) Has repeatedly violated the policies and procedures of the
4 mortgage broker;

5 (q) Has failed to exercise reasonable supervision over the
6 activities of a mortgage agent as required by NRS 645B.460;

7 (r) Has instructed a mortgage agent to commit an act that would
8 be cause for the revocation of the license of the mortgage broker,
9 whether or not the mortgage agent commits the act;

10 (s) Has employed a person as a mortgage agent or authorized a
11 person to be associated with the mortgage broker as a mortgage
12 agent at a time when the mortgage broker knew or, in light of all the
13 surrounding facts and circumstances, reasonably should have known
14 that the person:

15 (1) Had been convicted of, or entered a plea of guilty or nolo
16 contendere to, a felony in a domestic, foreign or military court
17 within the 7 years immediately preceding the date of application, or
18 at any time if such felony involved an act of fraud, dishonesty or a
19 breach of trust, or money laundering; or

20 (2) Had a license or registration as a mortgage agent,
21 mortgage banker, mortgage broker or residential mortgage loan
22 originator revoked in this State or any other jurisdiction or had a
23 financial services license or registration suspended or revoked
24 within the immediately preceding 10 years;

25 (t) Has violated NRS 645C.557;

26 (u) Has failed to pay a tax as required pursuant to the provisions
27 of chapter 363A of NRS ~~§~~ *or sections 2 to 34, inclusive, of this*
28 *act*; or

29 (v) Has not conducted verifiable business as a mortgage broker
30 for 12 consecutive months, except in the case of a new applicant.
31 The Commissioner shall determine whether a mortgage broker is
32 conducting business by examining the monthly reports of activity
33 submitted by the mortgage broker or by conducting an examination
34 of the mortgage broker.

35 3. For each violation committed by a mortgage agent, the
36 Commissioner may impose upon the mortgage agent an
37 administrative fine of not more than \$25,000, may suspend, revoke
38 or place conditions upon the mortgage agent's license, or may do
39 both, if the mortgage agent, whether or not acting as such:

40 (a) Is grossly negligent or incompetent in performing any act for
41 which the mortgage agent is required to be licensed pursuant to the
42 provisions of this chapter;

43 (b) Has made a material misrepresentation in connection with
44 any transaction governed by this chapter;



1 (c) Has suppressed or withheld from a client any material facts,
2 data or other information relating to any transaction governed by the
3 provisions of this chapter which the mortgage agent knew or, by the
4 exercise of reasonable diligence, should have known;

5 (d) Has knowingly made or caused to be made to the
6 Commissioner any false representation of material fact or has
7 suppressed or withheld from the Commissioner any information
8 which the mortgage agent possesses and which, if submitted by the
9 mortgage agent, would have rendered the mortgage agent ineligible
10 to be licensed pursuant to the provisions of this chapter;

11 (e) Has been convicted of, or entered a plea of guilty or nolo
12 contendere to, a felony in a domestic, foreign or military court
13 within the 7 years immediately preceding the date of the application,
14 or at any time if such felony involved an act of fraud, dishonesty or
15 a breach of trust, or money laundering.

16 (f) Has failed to account for or to remit any money of a client
17 within a reasonable time after a request for an accounting or
18 remittal;

19 (g) Has commingled the money or other property of a client
20 with his or her own or has converted the money or property of
21 others to his or her own use;

22 (h) Has engaged in any other conduct constituting a deceitful,
23 fraudulent or dishonest business practice;

24 (i) Has violated NRS 645C.557;

25 (j) Has repeatedly violated the policies and procedures of the
26 mortgage broker with whom the mortgage agent is associated or by
27 whom he or she is employed; or

28 (k) Has violated any provision of this chapter, a regulation
29 adopted pursuant to this chapter or an order of the Commissioner or
30 has assisted or offered to assist another person to commit such a
31 violation.

32 **Sec. 47.** NRS 645E.300 is hereby amended to read as follows:

33 645E.300 1. Subject to the administrative control of the
34 Director of the Department of Business and Industry, the
35 Commissioner shall exercise general supervision and control over
36 mortgage bankers doing business in this State.

37 2. In addition to the other duties imposed upon him or her by
38 law, the Commissioner shall:

39 (a) Adopt regulations establishing reasonable limitations and
40 guidelines on loans made by a mortgage banker to a director, officer
41 or employee of the mortgage banker.

42 (b) Adopt any other regulations that are necessary to carry out
43 the provisions of this chapter, except as to loan fees.

44 (c) Conduct such investigations as may be necessary to
45 determine whether any person has violated any provision of this



1 chapter, a regulation adopted pursuant to this chapter or an order of
2 the Commissioner.

3 (d) Except as otherwise provided in subsection 4, conduct an
4 annual examination of each mortgage banker doing business in this
5 State.

6 (e) Conduct such other examinations, periodic or special audits,
7 investigations and hearings as may be necessary for the efficient
8 administration of the laws of this State regarding mortgage bankers.

9 (f) Classify as confidential certain records and information
10 obtained by the Division when those matters are obtained from a
11 governmental agency upon the express condition that they remain
12 confidential. This paragraph does not limit examination by:

13 (1) The Legislative Auditor; or

14 (2) The Department of Taxation if necessary to carry out the
15 provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 34, inclusive,*
16 *of this act.*

17 (g) Conduct such examinations and investigations as are
18 necessary to ensure that mortgage bankers meet the requirements of
19 this chapter for obtaining a license, both at the time of the
20 application for a license and thereafter on a continuing basis.

21 3. For each special audit, investigation or examination, a
22 mortgage banker shall pay a fee based on the rate established
23 pursuant to NRS 645F.280.

24 4. The Commissioner may conduct biennial examinations of a
25 mortgage banker instead of annual examinations, as described in
26 paragraph (d) of subsection 2, if the mortgage banker:

27 (a) Received a rating in the last annual examination that meets a
28 threshold determined by the Commissioner;

29 (b) Has not had any adverse change in financial condition since
30 the last annual examination, as shown by financial statements of the
31 mortgage banker; and

32 (c) Has not had any complaints received by the Division that
33 resulted in any administrative action by the Division.

34 **Sec. 48.** NRS 645E.670 is hereby amended to read as follows:

35 645E.670 1. For each violation committed by an applicant,
36 whether or not the applicant is issued a license, the Commissioner
37 may impose upon the applicant an administrative fine of not more
38 than \$10,000 if the applicant:

39 (a) Has knowingly made or caused to be made to the
40 Commissioner any false representation of material fact;

41 (b) Has suppressed or withheld from the Commissioner any
42 information which the applicant possesses and which, if submitted
43 by the applicant, would have rendered the applicant ineligible to be
44 licensed pursuant to the provisions of this chapter; or



1 (c) Has violated any provision of this chapter, a regulation
2 adopted pursuant to this chapter or an order of the Commissioner in
3 completing and filing his or her application for a license or during
4 the course of the investigation of his or her application for a license.

5 2. For each violation committed by a licensee, the
6 Commissioner may impose upon the licensee an administrative fine
7 of not more than \$10,000, may suspend, revoke or place conditions
8 upon the license, or may do both, if the licensee, whether or not
9 acting as such:

10 (a) Is insolvent;

11 (b) Is grossly negligent or incompetent in performing any act for
12 which the licensee is required to be licensed pursuant to the
13 provisions of this chapter;

14 (c) Does not conduct his or her business in accordance with law
15 or has violated any provision of this chapter, a regulation adopted
16 pursuant to this chapter or an order of the Commissioner;

17 (d) Is in such financial condition that the licensee cannot
18 continue in business with safety to his or her customers;

19 (e) Has made a material misrepresentation in connection with
20 any transaction governed by this chapter;

21 (f) Has suppressed or withheld from a client any material facts,
22 data or other information relating to any transaction governed by the
23 provisions of this chapter which the licensee knew or, by the
24 exercise of reasonable diligence, should have known;

25 (g) Has knowingly made or caused to be made to the
26 Commissioner any false representation of material fact or has
27 suppressed or withheld from the Commissioner any information
28 which the licensee possesses and which, if submitted by the
29 licensee, would have rendered the licensee ineligible to be licensed
30 pursuant to the provisions of this chapter;

31 (h) Has failed to account to persons interested for all money
32 received for a trust account;

33 (i) Has refused to permit an examination by the Commissioner
34 of his or her books and affairs or has refused or failed, within a
35 reasonable time, to furnish any information or make any report that
36 may be required by the Commissioner pursuant to the provisions of
37 this chapter or a regulation adopted pursuant to this chapter;

38 (j) Has been convicted of, or entered a plea of nolo contendere
39 to, a felony relating to the practice of mortgage bankers or any crime
40 involving fraud, misrepresentation or moral turpitude;

41 (k) Has refused or failed to pay, within a reasonable time, any
42 fees, assessments, costs or expenses that the licensee is required to
43 pay pursuant to this chapter or a regulation adopted pursuant to this
44 chapter;



1 (l) Has failed to pay a tax as required pursuant to the provisions
2 of chapter 363A of NRS ~~§~~ *or sections 2 to 34, inclusive, of this*
3 *act;*

4 (m) Has failed to satisfy a claim made by a client which has
5 been reduced to judgment;

6 (n) Has failed to account for or to remit any money of a client
7 within a reasonable time after a request for an accounting or
8 remittal;

9 (o) Has violated NRS 645C.557;

10 (p) Has commingled the money or other property of a client
11 with his or her own or has converted the money or property of
12 others to his or her own use; or

13 (q) Has engaged in any other conduct constituting a deceitful,
14 fraudulent or dishonest business practice.

15 3. An order that imposes discipline and the findings of fact and
16 conclusions of law supporting that order are public records.

17 **Sec. 49.** NRS 658.151 is hereby amended to read as follows:

18 658.151 1. The Commissioner may forthwith take possession
19 of the business and property of any depository institution to which
20 this title or title 56 of NRS applies when it appears that the
21 depository institution:

22 (a) Has violated its charter or any laws applicable thereto.

23 (b) Is conducting its business in an unauthorized or unsafe
24 manner.

25 (c) Is in an unsafe or unsound condition to transact its business.

26 (d) Has an impairment of its stockholders' or members' equity.

27 (e) Has refused to pay its depositors in accordance with the
28 terms on which such deposits were received, or has refused to pay
29 its holders of certificates of indebtedness or investment in
30 accordance with the terms upon which those certificates of
31 indebtedness or investment were sold.

32 (f) Has become or is in imminent danger of becoming otherwise
33 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 appointed
38 or authorized examiner of the Commissioner.

39 (i) Has made a voluntary assignment of its assets to trustees.

40 (j) Has failed to pay a tax as required pursuant to the provisions
41 of chapter 363A of NRS ~~§~~ *or sections 2 to 34, inclusive, of this*
42 *act.*

43 2. The Commissioner also may forthwith take possession of the
44 business and property of any depository institution to which this title
45 or title 56 of NRS applies when it appears that the officers of the



1 depository institution have refused to be examined upon oath
2 regarding its affairs.

3 **Sec. 50.** NRS 665.133 is hereby amended to read as follows:

4 665.133 1. The records and information described in NRS
5 665.130 may be disclosed to:

6 (a) An agency of the Federal Government or of another state
7 which regulates the financial institution which is the subject of the
8 records or information;

9 (b) The Director of the Department of Business and Industry for
10 the Director's confidential use;

11 (c) The State Board of Finance for its confidential use, if the
12 report or other information is necessary for the State Board of
13 Finance to perform its duties under this title;

14 (d) The Department of Taxation for its use in carrying out the
15 provisions of chapter 363A of NRS ~~§~~ *and sections 2 to 34,*
16 *inclusive, of this act;*

17 (e) An entity which insures or guarantees deposits;

18 (f) A public officer authorized to investigate criminal charges in
19 connection with the affairs of the depository institution;

20 (g) A person preparing a proposal for merging with or acquiring
21 an institution or holding company, but only after notice of the
22 disclosure has been given to the institution or holding company;

23 (h) Any person to whom the subject of the report has authorized
24 the disclosure;

25 (i) Any other person if the Commissioner determines, after
26 notice and opportunity for hearing, that disclosure is in the public
27 interest and outweighs any potential harm to the depository
28 institution and its stockholders, members, depositors and creditors;
29 and

30 (j) Any court in a proceeding initiated by the Commissioner
31 concerning the financial institution.

32 2. All the reports made available pursuant to this section
33 remain the property of the Division of Financial Institutions, and no
34 person, agency or authority to whom the reports are made available,
35 or any officer, director or employee thereof, may disclose any of the
36 reports or any information contained therein, except in published
37 statistical material that does not disclose the affairs of any natural
38 person or corporation.

39 **Sec. 51.** NRS 669.275 is hereby amended to read as follows:

40 669.275 1. The Commissioner may require a licensee to
41 provide an audited financial statement prepared by an independent
42 certified public accountant licensed to do business in this State.

43 2. On the fourth Monday in January of each year, each licensee
44 shall submit to the Commissioner a list of stockholders required to
45 be maintained pursuant to paragraph (c) of subsection 1 of



1 NRS 78.105 or the list of members required to be maintained
2 pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by
3 the president or a manager, as appropriate.

4 3. The list of members required to be maintained pursuant to
5 paragraph (a) of subsection 1 of NRS 86.241 must include the
6 percentage of each member's interest in the company, in addition to
7 the requirements set forth in that section.

8 4. Except as otherwise provided in NRS 239.0115, any
9 document submitted pursuant to this section is confidential. *This*
10 *subsection does not limit the examination of any document by the*
11 *Department of Taxation if necessary to carry out the provisions of*
12 *sections 2 to 34, inclusive, of this act.*

13 **Sec. 52.** NRS 669.2825 is hereby amended to read as follows:

14 669.2825 1. The Commissioner may institute disciplinary
15 action or forthwith initiate proceedings to take possession of the
16 business and property of any retail trust company when it appears
17 that the retail trust company:

18 (a) Has violated its charter or any state or federal laws
19 applicable to the business of a trust company.

20 (b) Is conducting its business in an unauthorized or unsafe
21 manner.

22 (c) Is in an unsafe or unsound condition to transact its business.

23 (d) Has an impairment of its stockholders' equity.

24 (e) Has refused to pay or transfer account assets to its account
25 holders as required by the terms of the accounts' governing
26 instruments.

27 (f) Has become insolvent.

28 (g) Has neglected or refused to comply with the terms of a
29 lawful order of the Commissioner.

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

33 (i) Has made a voluntary assignment of its assets to receivers,
34 conservators, trustees or creditors without complying with
35 NRS 669.230.

36 (j) Has failed to pay a tax as required pursuant to the provisions
37 of chapter 363A of NRS ~~H~~ *or sections 2 to 34, inclusive, of this*
38 *act.*

39 (k) Has materially and willfully breached its fiduciary duties to
40 its customers.

41 (l) Has failed to properly disclose all fees, interest and other
42 charges to its customers.

43 (m) Has willfully engaged in material conflicts of interest
44 regarding a customer's account.



1 (n) Has made intentional material misrepresentations regarding
2 any aspect of the services performed or proposed to be performed by
3 the retail trust company.

4 2. The Commissioner also may forthwith initiate proceedings
5 to take possession of the business and property of any trust company
6 when it appears that the officers of the trust company have refused
7 to be examined upon oath regarding its affairs.

8 **Sec. 53.** NRS 669.2847 is hereby amended to read as follows:

9 669.2847 1. If the Commissioner has reason to believe that
10 grounds for revocation or suspension of a license exist, the
11 Commissioner shall give at least 20 days' written notice to the
12 licensee stating the contemplated action and, in general, the grounds
13 therefor and set a date for a hearing.

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

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

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

23 (c) If a fine is imposed pursuant to this section, enter such order
24 as is necessary to recover the costs of the proceeding, including his
25 or her investigative costs and attorney's fees.

26 3. The grounds for revocation or suspension of a license are
27 that:

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

29 (b) The licensee, either knowingly or without any exercise of
30 due care to prevent it, has violated any provision of this chapter or
31 any regulation adopted pursuant thereto or any lawful order of the
32 Division of Financial Institutions;

33 (c) The licensee has failed to pay a tax as required pursuant to
34 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 34,*
35 *inclusive, of this act;*

36 (d) Any fact or condition exists which would have justified the
37 Commissioner in denying the licensee's original application for a
38 license pursuant to the provisions of this chapter; or

39 (e) The licensee:

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

43 (2) Has failed to remain open for the conduct of the business
44 for a period of 30 days without good cause therefor.



1 4. An order suspending or revoking a license becomes effective
2 5 days after being entered unless the order specifies otherwise or a
3 stay is granted.

4 **Sec. 54.** NRS 669.285 is hereby amended to read as follows:

5 669.285 Except as otherwise provided in NRS 239.0115, any
6 application and personal or financial records submitted by a person
7 pursuant to the provisions of this chapter and any personal or
8 financial records or other documents obtained by the Division of
9 Financial Institutions pursuant to an examination or audit conducted
10 by the Division are confidential and may be disclosed only to:

11 1. The Division, any authorized employee of the Division and
12 any state or federal agency investigating the activities covered under
13 the provisions of this chapter; ~~and~~

14 2. *The Department of Taxation for its use in carrying out the*
15 *provisions of sections 2 to 34, inclusive, of this act; and*

16 3. Any person when the Commissioner, in the Commissioner's
17 discretion, determines that the interests of the public that would be
18 protected by disclosure outweigh the interest of any person in the
19 confidential information not being disclosed.

20 **Sec. 55.** NRS 669A.310 is hereby amended to read as follows:

21 669A.310 1. Except as otherwise provided in this section,
22 any application and personal or financial records submitted by a
23 person pursuant to the provisions of this chapter, any personal or
24 financial records or other documents obtained by the Division of
25 Financial Institutions pursuant to an examination or audit conducted
26 by the Division pursuant to this chapter and any other private
27 information relating to a family trust company are confidential and
28 may be disclosed only to:

29 (a) The Division, any authorized employee of the Division and a
30 state or federal agency investigating activities regulated pursuant to
31 this chapter; ~~and~~

32 (b) *The Department of Taxation for its use in carrying out the*
33 *provisions of sections 2 to 34, inclusive, of this act; and*

34 (c) Any other person if the Commissioner, in the
35 Commissioner's discretion, determines that the interests of the
36 public in disclosing the information outweigh the interests of
37 the person about whom the information pertains in not disclosing
38 the information.

39 2. The Commissioner shall give to the family trust company to
40 which the information relates 10-days' prior written notice of intent
41 to disclose confidential information directly or indirectly to a person
42 pursuant to paragraph ~~(b)~~ (c) of subsection 1. Any family trust
43 company which receives such a notice may object to the disclosure
44 of the confidential information and will be afforded the right to a
45 hearing in accordance with the provisions of chapter 233B of NRS.



1 If a family trust company requests a hearing, the Commissioner may
2 not reveal confidential information prior to the conclusion of the
3 hearing and a ruling. Prior to dissemination of any confidential
4 information, the Commissioner shall require a written agreement not
5 to reveal the confidential information by the party receiving the
6 confidential information. In no event shall the Commissioner
7 disclose confidential information to the general public, any
8 competitor or any potential competitor of a family trust company.

9 3. Nothing in this chapter is intended to preclude a law
10 enforcement officer from gaining access to otherwise confidential
11 records by subpoena, court order, search warrant or other lawful
12 means. Notwithstanding any other provision of this chapter, the
13 Commissioner shall have the ability to share information with other
14 out of state or federal regulators with whom the Department of
15 Business and Industry has an agreement regarding the sharing of
16 information. Nothing in this chapter is intended to preclude any
17 agency of this State from gaining access to otherwise confidential
18 records in accordance with any applicable law.

19 **Sec. 56.** NRS 673.484 is hereby amended to read as follows:

20 673.484 The Commissioner may after notice and hearing
21 suspend or revoke the charter of any association for:

22 1. Repeated failure to abide by the provisions of this chapter or
23 the regulations adopted thereunder.

24 2. Failure to pay a tax as required pursuant to the provisions of
25 chapter 363A of NRS ~~H~~ *or sections 2 to 34, inclusive, of this act.*

26 **Sec. 57.** NRS 675.440 is hereby amended to read as follows:

27 675.440 1. If the Commissioner has reason to believe that
28 grounds for revocation or suspension of a license exist, he or she
29 shall give 20 days' written notice to the licensee stating the
30 contemplated action and, in general, the grounds therefor and set a
31 date for a hearing.

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

33 (a) Enter a written order either dismissing the charges, revoking
34 the license, or suspending the license for a period of not more than
35 60 days, which period must include any prior temporary suspension.
36 A copy of the order must be sent by registered or certified mail to
37 the licensee.

38 (b) Impose upon the licensee an administrative fine of not more
39 than \$10,000 for each violation by the licensee of any provision of
40 this chapter or any lawful regulation adopted under it.

41 (c) If a fine is imposed pursuant to this section, enter such order
42 as is necessary to recover the costs of the proceeding, including his
43 or her investigative costs and attorney's fees.

44 3. The grounds for revocation or suspension of a license are
45 that:



- 1 (a) The licensee has failed to pay the annual license fee;
2 (b) The licensee, either knowingly or without any exercise of
3 due care to prevent it, has violated any provision of this chapter or
4 any lawful regulation adopted under it;
5 (c) The licensee has failed to pay a tax as required pursuant to
6 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 34,*
7 *inclusive, of this act;*
8 (d) Any fact or condition exists which would have justified the
9 Commissioner in denying the licensee's original application for a
10 license hereunder; or
11 (e) The applicant failed to open an office for the conduct of the
12 business authorized under this chapter within 120 days after the date
13 the license was issued, or has failed to remain open for the conduct
14 of the business for a period of 120 days without good cause therefor.
15 4. Any revocation or suspension applies only to the license
16 granted to a person for the particular office for which grounds for
17 revocation or suspension exist.
18 5. An order suspending or revoking a license becomes effective
19 5 days after being entered unless the order specifies otherwise or a
20 stay is granted.
21 **Sec. 58.** NRS 677.510 is hereby amended to read as follows:
22 677.510 1. If the Commissioner has reason to believe that
23 grounds for revocation or suspension of a license exist, he or she
24 shall give 20 days' written notice to the licensee stating the
25 contemplated action and, in general, the grounds therefor and set a
26 date for a hearing.
27 2. At the conclusion of a hearing, the Commissioner shall:
28 (a) Enter a written order either dismissing the charges, or
29 revoking the license, or suspending the license for a period of not
30 more than 60 days, which period must include any prior temporary
31 suspension. A copy of the order must be sent by registered or
32 certified mail to the licensee.
33 (b) Impose upon the licensee an administrative fine of not more
34 than \$10,000 for each violation by the licensee of any provision of
35 this chapter or any lawful regulation adopted pursuant thereto.
36 (c) If a fine is imposed pursuant to this section, enter such order
37 as is necessary to recover the costs of the proceeding, including his
38 or her investigative costs and attorney's fees.
39 3. The grounds for revocation or suspension of a license are
40 that:
41 (a) The licensee has failed to pay the annual license fee;
42 (b) The licensee, either knowingly or without any exercise of
43 due care to prevent it, has violated any provision of this chapter, or
44 any lawful regulation adopted pursuant thereto;



1 (c) The licensee has failed to pay a tax as required pursuant to
2 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 34,*
3 *inclusive, of this act;*

4 (d) Any fact or condition exists which would have justified the
5 Commissioner in denying the licensee's original application for a
6 license hereunder; or

7 (e) The applicant failed to open an office for the conduct of the
8 business authorized under this chapter within 120 days after the date
9 the license was issued, or has failed to remain open for the conduct
10 of the business for a period of 120 days without good cause therefor.

11 4. Any revocation or suspension applies only to the license
12 granted to a person for the particular office for which grounds for
13 revocation or suspension exist.

14 5. An order suspending or revoking a license becomes effective
15 5 days after being entered unless the order specifies otherwise or a
16 stay is granted.

17 **Sec. 59.** NRS 680B.037 is hereby amended to read as follows:

18 680B.037 ~~Payment~~

19 *1. Except as otherwise provided in subsection 2, payment* by
20 an insurer of the tax imposed by NRS 680B.027 is in lieu of all
21 taxes imposed by the State or any city, town or county upon
22 premiums or upon income of insurers and of franchise, privilege or
23 other taxes measured by income of the insurer.

24 *2. The provisions of subsection 1 do not apply to the tax*
25 *imposed pursuant to the provisions of sections 2 to 34, inclusive,*
26 *of this act.*

27 **Sec. 60.** NRS 683A.451 is hereby amended to read as follows:

28 683A.451 The Commissioner may refuse to issue a license or
29 certificate pursuant to this chapter or may place any person to whom
30 a license or certificate is issued pursuant to this chapter on
31 probation, suspend the person for not more than 12 months, or
32 revoke or refuse to renew his or her license or certificate, or may
33 impose an administrative fine or take any combination of the
34 foregoing actions, for one or more of the following causes:

35 1. Providing incorrect, misleading, incomplete or partially
36 untrue information in his or her application for a license.

37 2. Violating a law regulating insurance, or violating a
38 regulation, order or subpoena of the Commissioner or an equivalent
39 officer of another state.

40 3. Obtaining or attempting to obtain a license through
41 misrepresentation or fraud.

42 4. Misappropriating, converting or improperly withholding
43 money or property received in the course of the business of
44 insurance.



1 5. Intentionally misrepresenting the terms of an actual or
2 proposed contract of or application for insurance.

3 6. Conviction of a felony.

4 7. Admitting or being found to have committed an unfair trade
5 practice or fraud.

6 8. Using fraudulent, coercive or dishonest practices, or
7 demonstrated incompetence, untrustworthiness or financial
8 irresponsibility in the conduct of business in this State or elsewhere.

9 9. Denial, suspension or revocation of a license as a producer
10 of insurance, or its equivalent, in any other state, territory or
11 province.

12 10. Forging another's name to an application for insurance or
13 any other document relating to the transaction of insurance.

14 11. Improperly using notes or other reference material to
15 complete an examination for a license related to insurance.

16 12. Knowingly accepting business related to insurance from an
17 unlicensed person.

18 13. Failing to comply with an administrative or judicial order
19 imposing an obligation of child support.

20 14. Failing to pay a tax as required pursuant to the provisions
21 of chapter 363A of NRS ***H or sections 2 to 34, inclusive, of this***
22 ***act.***

23 **Sec. 61.** NRS 686C.360 is hereby amended to read as follows:
24 686C.360 The Association is exempt from payment of all fees
25 and all taxes levied by this state or any of its political subdivisions,
26 except taxes on property ***H and the tax imposed pursuant to***
27 ***sections 2 to 34, inclusive, of this act.***

28 **Sec. 62.** NRS 687A.130 is hereby amended to read as follows:
29 687A.130 The Association is exempt from payment of all fees
30 and all taxes levied by this State or any of its subdivisions, except
31 taxes:

32 1. Levied on real or personal property; or

33 2. Imposed pursuant to the provisions of chapter 363A or 363B
34 of NRS ***H or sections 2 to 34, inclusive, of this act.***

35 **Sec. 63.** NRS 688C.210 is hereby amended to read as follows:
36 688C.210 1. After notice, and after a hearing if requested, the
37 Commissioner may suspend, revoke, refuse to issue or refuse to
38 renew a license under this chapter if the Commissioner finds that:

39 (a) There was material misrepresentation in the application for
40 the license;

41 (b) The licensee or an officer, partner, member or significant
42 managerial employee has been convicted of fraudulent or dishonest
43 practices, is subject to a final administrative action for
44 disqualification, or is otherwise shown to be untrustworthy or
45 incompetent;



1 (c) A provider of viatical settlements has engaged in a pattern of
2 unreasonable payments to viators;

3 (d) The applicant or licensee has been found guilty or guilty but
4 mentally ill of, or pleaded guilty, guilty but mentally ill or nolo
5 contendere to, a felony or a misdemeanor involving fraud, forgery,
6 embezzlement, obtaining money under false pretenses, larceny,
7 extortion, conspiracy to defraud or any crime involving moral
8 turpitude, whether or not a judgment of conviction has been entered
9 by the court;

10 (e) A provider of viatical settlements has entered into a viatical
11 settlement in a form not approved pursuant to NRS 688C.220;

12 (f) A provider of viatical settlements has failed to honor
13 obligations of a viatical settlement or an agreement to purchase a
14 viatical settlement;

15 (g) The licensee no longer meets a requirement for initial
16 licensure;

17 (h) A provider of viatical settlements has assigned, transferred
18 or pledged a viaticated policy to a person other than another
19 provider licensed under this chapter, a purchaser of the viatical
20 settlement or a special organization;

21 (i) The applicant or licensee has provided materially untrue
22 information to an insurer that issued a policy that is the subject of a
23 viatical settlement;

24 (j) The applicant or licensee has failed to pay a tax as required
25 pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2*
26 *to 34, inclusive, of this act;*

27 (k) The applicant or licensee has violated a provision of this
28 chapter or other applicable provisions; or

29 (l) The applicant or licensee has acted in bad faith with regard to
30 a viator.

31 2. A suspension imposed for grounds set forth in paragraph (k)
32 or (l) of subsection 1 must not exceed a period of 12 months.

33 3. If the Commissioner takes action as described in subsection
34 1, the applicant or licensee may apply in writing for a hearing before
35 the Commissioner to determine the reasonableness of the action
36 taken by the Commissioner, pursuant to the provisions of NRS
37 679B.310 to 679B.370, inclusive.

38 **Sec. 64.** NRS 694C.450 is hereby amended to read as follows:

39 694C.450 1. Except as otherwise provided in this section, a
40 captive insurer shall pay to the Division, not later than March 1 of
41 each year, a tax at the rate of:

42 (a) Two-fifths of 1 percent on the first \$20,000,000 of its net
43 direct premiums;

44 (b) One-fifth of 1 percent on the next \$20,000,000 of its net
45 direct premiums; and



1 (c) Seventy-five thousandths of 1 percent on each additional
2 dollar of its net direct premiums.

3 2. Except as otherwise provided in this section, a captive
4 insurer shall pay to the Division, not later than March 1 of each
5 year, a tax at a rate of:

6 (a) Two hundred twenty-five thousandths of 1 percent on the
7 first \$20,000,000 of revenue from assumed reinsurance premiums;

8 (b) One hundred fifty thousandths of 1 percent on the next
9 \$20,000,000 of revenue from assumed reinsurance premiums; and

10 (c) Twenty-five thousandths of 1 percent on each additional
11 dollar of revenue from assumed reinsurance premiums.

12 ➤ The tax on reinsurance premiums pursuant to this subsection
13 must not be levied on premiums for risks or portions of risks which
14 are subject to taxation on a direct basis pursuant to subsection 1. A
15 captive insurer is not required to pay any reinsurance premium tax
16 pursuant to this subsection on revenue related to the receipt of assets
17 by the captive insurer in exchange for the assumption of loss
18 reserves and other liabilities of another insurer that is under
19 common ownership and control with the captive insurer, if the
20 transaction is part of a plan to discontinue the operation of the other
21 insurer and the intent of the parties to the transaction is to renew or
22 maintain such business with the captive insurer.

23 3. If the sum of the taxes to be paid by a captive insurer
24 calculated pursuant to subsections 1 and 2 is less than \$5,000 in any
25 given year, the captive insurer shall pay a tax of \$5,000 for that
26 year. The maximum aggregate tax for any year must not exceed
27 \$175,000. The maximum aggregate tax to be paid by a sponsored
28 captive insurer applies only to each protected cell and does not
29 apply to the sponsored captive insurer as a whole.

30 4. Two or more captive insurers under common ownership and
31 control must be taxed as if they were a single captive insurer.

32 5. Notwithstanding any specific statute to the contrary and
33 except as otherwise provided in this subsection, the tax provided for
34 by this section constitutes all the taxes collectible pursuant to the
35 laws of this State from a captive insurer, and no occupation tax or
36 other taxes may be levied or collected from a captive insurer by this
37 State or by any county, city or municipality within this State, except
38 for taxes imposed pursuant to chapter 363A or 363B of NRS *or*
39 *sections 2 to 34, inclusive, of this act* and ad valorem taxes on real
40 or personal property located in this State used in the production of
41 income by the captive insurer.

42 6. Twenty-five percent of the revenues collected from the tax
43 imposed pursuant to this section must be deposited with the State
44 Treasurer for credit to the Account for the Regulation and
45 Supervision of Captive Insurers created pursuant to NRS 694C.460.



1 The remaining 75 percent of the revenues collected must be
2 deposited with the State Treasurer for credit to the State General
3 Fund.

4 7. A captive insurer that is issued a license pursuant to this
5 chapter after July 1, 2003, is entitled to receive a nonrefundable
6 credit of \$5,000 applied against the aggregate taxes owed by the
7 captive insurer for the first year in which the captive insurer incurs
8 any liability for the payment of taxes pursuant to this section. A
9 captive insurer is entitled to a nonrefundable credit pursuant to this
10 section not more than once after the captive insurer is initially
11 licensed pursuant to this chapter.

12 8. As used in this section, unless the context otherwise
13 requires:

14 (a) "Common ownership and control" means:

15 (1) In the case of a stock insurer, the direct or indirect
16 ownership of 80 percent or more of the outstanding voting stock of
17 two or more corporations by the same member or members.

18 (2) In the case of a mutual insurer, the direct or indirect
19 ownership of 80 percent or more of the surplus and the voting power
20 of two or more corporations by the same member or members.

21 (b) "Net direct premiums" means the direct premiums collected
22 or contracted for on policies or contracts of insurance written by a
23 captive insurer during the preceding calendar year, less the amounts
24 paid to policyholders as return premiums, including dividends on
25 unabsorbed premiums or premium deposits returned or credited to
26 policyholders.

27 **Sec. 65.** NRS 695A.550 is hereby amended to read as follows:

28 695A.550 Every society organized or licensed under this
29 chapter is hereby declared to be a charitable and benevolent
30 institution, and is exempt from every state, county, district,
31 municipal and school tax other than *the tax imposed pursuant to*
32 *sections 2 to 34, inclusive, of this act and* taxes on real property and
33 office equipment.

34 **Sec. 66.** 1. The tax imposed by section 16 of this act applies
35 to the Nevada taxable income of a business entity for each taxable
36 year that ends after June 30, 2011.

37 2. Notwithstanding any other provision of this act to the
38 contrary:

39 (a) No return or payment of any tax is required pursuant to the
40 provisions of this act before January 1, 2012.

41 (b) No penalty or interest may be imposed against any person
42 for any failure of the person to comply with any of the provisions of
43 this act before January 1, 2012.

44 (c) For the purpose of determining the amount of the tax due
45 pursuant to section 16 of this act from a business entity for any



1 taxable year of the business entity that begins after July 1, 2010, and
2 ends before June 30, 2012, the tax rate must be applied only to the
3 product obtained by multiplying the amount of the Nevada taxable
4 income of the business entity that exceeds \$500,000 for that taxable
5 year by a fraction, the numerator of which is the number of days of
6 that taxable year that occur after June 30, 2011, and the denominator
7 of which is 365.

8 3. As used in this section, the words and terms defined in
9 sections 3 to 10, inclusive, of this act have the meanings ascribed to
10 them in those sections.

11 **Sec. 67.** The Department of Taxation shall adopt the
12 regulations required for the implementation of this act on or before
13 July 1, 2011.

14 **Sec. 68.** This act becomes effective:

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

18 2. On July 1, 2011, for all other purposes.

