

ASSEMBLY BILL NO. 286—ASSEMBLYMEN ANDERSON, MCCLAIN, THOMAS, MANENDO, BUCKLEY, CARPENTER, OHRENSCHALL, NOLAN, CLABORN, KOIVISTO, LESLIE, COLLINS, ANGLE, PARNELL, CHOWNING, SEGERBLOM, FREEMAN, BACHE, PERKINS, GIUNCHIGLIANI, ARBERRY, NEIGHBORS AND EVANS

FEBRUARY 19, 1999

JOINT SPONSOR: SENATOR CARE

Referred to Committee on Judiciary

SUMMARY—Requires licensing of commercial resident agents. (BDR 7-1509)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to corporations; requiring commercial resident agents to obtain a license; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 78 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 12, inclusive, of this act.
3 **Sec. 2. 1.** *As used in sections 2 to 12, inclusive, of this act, unless*
4 *the context otherwise requires, “commercial resident agent” means a*
5 *resident agent who, as part of a business or other commercial enterprise,*
6 *forms or assists in forming more than 50 corporations per year pursuant*
7 *to the provisions of this chapter and who:*
8 *(a) Provides or maintains a registered office for any of those*
9 *corporations;*
10 *(b) Conducts seminars or promotional workshops concerning the*
11 *desirability or benefits of forming a corporation in this state; or*
12 *(c) Provides financial, investment or other advice or materials to a*
13 *corporation or person who wishes to form a corporation in this state.*

1 2. The term includes an employee of such a resident agent if the
2 employee is responsible for forming a corporation pursuant to the
3 provisions of this chapter or for obtaining and distributing information
4 through any medium, including, without limitation, advertisements,
5 communications by telephone, mail, seminars or workshops, concerning
6 the desirability or benefits of forming a corporation pursuant to the
7 provisions of this chapter.

8 3. The term does not include:

9 (a) A resident agent for a profession, occupation or business that is
10 subject to regulation pursuant to the provisions of Title 54 of NRS; or

11 (b) An attorney licensed to practice law in this state.

12 Sec. 3. It is unlawful for a person to engage in business as, act in the
13 capacity of or hold himself out as a commercial resident agent within this
14 state without first obtaining a license to engage in business as a
15 commercial resident agent from the secretary of state.

16 Sec. 4. A license issued pursuant to the provisions of this chapter is
17 a revocable privilege, and the holder of the license does not thereby
18 acquire any vested right.

19 Sec. 5. 1. Each person desiring a license to engage in business as a
20 commercial resident agent must:

21 (a) File an application with the secretary of state on a form furnished
22 by the secretary of state. The application must be accompanied by a
23 nonrefundable fee of:

24 (1) One hundred dollars, if the applicant is an employee of a
25 commercial resident agent who performs the duties set forth in
26 subsection 2 of section 2 of this act; or

27 (2) One thousand dollars for all other applicants.

28 (b) Except as otherwise provided in paragraph (c), deposit with the
29 secretary of state a bond executed by the applicant as principal, and by a
30 corporation qualified under the laws of this state as surety, payable to the
31 State of Nevada in the amount of \$1,000,000, and conditioned upon the
32 proper performance of his duties.

33 (c) In lieu of the bond required by paragraph (b), submit evidence
34 sufficient to the secretary of state that the applicant has been issued a
35 policy of insurance in a form approved by the secretary of state which
36 provides adequate coverage for any loss, injury or other damage which
37 may be caused by the applicant in his capacity as a commercial resident
38 agent.

39 (d) Submit the statement required pursuant to section 7 of this act.

40 2. The secretary of state shall grant an application for a license to
41 any applicant who complies with the provisions of this section.

1 **Sec. 6.** *An application for a license to engage in business as a*
2 *commercial resident agent must include the social security number of the*
3 *applicant.*

4 **Sec. 7. 1.** *An applicant for the issuance or renewal of a license to*
5 *engage in business as a commercial resident agent must submit to the*
6 *secretary of state the statement prescribed by the welfare division of the*
7 *department of human resources pursuant to NRS 425.520. The statement*
8 *must be completed and signed by the applicant.*

9 **2.** *The secretary of state shall include the statement required*
10 *pursuant to subsection 1 in:*

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

13 *(b) A separate form prescribed by the secretary of state.*

14 **3.** *A license may not be issued or renewed by the secretary of state if*
15 *the applicant:*

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

17 *(b) Indicates on the statement submitted pursuant to subsection 1 that*
18 *he is subject to a court order for the support of a child and is not in*
19 *compliance with the order or a plan approved by the district attorney or*
20 *other public agency enforcing the order for the repayment of the amount*
21 *owed pursuant to the order.*

22 **4.** *If an applicant indicates on the statement submitted pursuant to*
23 *subsection 1 that he is subject to a court order for the support of a child*
24 *and is not in compliance with the order or a plan approved by the district*
25 *attorney or other public agency enforcing the order for the repayment of*
26 *the amount owed pursuant to the order, the secretary of state shall advise*
27 *the applicant to contact the district attorney or other public agency*
28 *enforcing the order to determine the actions that the applicant may take*
29 *to satisfy the arrearage.*

30 **Sec. 8. 1.** *If the secretary of state receives a copy of a court order*
31 *issued pursuant to NRS 425.540 that provides for the suspension of all*
32 *professional, occupational and recreational licenses, certificates and*
33 *permits issued to a licensee, the secretary of state shall deem the license*
34 *to be suspended at the end of the 30th day after the date the court order*
35 *was issued unless the secretary of state receives a letter issued to the*
36 *licensee by the district attorney or other public agency pursuant to NRS*
37 *425.550 stating that the licensee has complied with the subpoena or*
38 *warrant or has satisfied the arrearage pursuant to NRS 425.560.*

39 **2.** *The secretary of state shall reinstate a license that has been*
40 *suspended by a district court pursuant to NRS 425.540 if the secretary of*
41 *state receives a letter issued by the district attorney or other public agency*

1 pursuant to NRS 425.550 to the licensee stating that the licensee has
2 complied with the subpoena or warrant or has satisfied the arrearage
3 pursuant to NRS 425.560.

4 **Sec. 9.** The secretary of state shall:

5 1. Receive any complaints or reports of violations of the provisions of
6 this chapter relating to:

7 (a) A commercial resident agent or an employee of such an agent; or

8 (b) Fraudulent or unethical activities of the agent or employee; and

9 2. Refer such complaints or reported violations to the attorney
10 general for investigation and prosecution.

11 **Sec. 10.** 1. A commercial resident agent shall, in any printed
12 promotional materials, advertisements, communications by telephone,
13 mailings, seminars or workshops, provide a statement indicating whether
14 the office of the agent is the registered office of the corporation for which
15 he is a resident agent and whether the officers of that corporation
16 maintain regular office hours at that office.

17 2. A commercial resident agent shall submit to the secretary of state
18 quarterly reports specifying each corporation for which he was a resident
19 agent for the immediately preceding quarter. The reports must be
20 submitted at such times as are designated by the secretary of state.

21 **Sec. 11.** 1. A commercial resident agent who:

22 (a) Violates a fiduciary duty owed to a person in his capacity as a
23 commercial resident agent;

24 (b) Uses a device, scheme or artifice in any manner or engages in an
25 activity, practice or course of conduct that constitutes fraud or deceit;

26 (c) Is grossly negligent in providing financial, investment or other
27 advice or materials to a corporation or person who wishes to form a
28 corporation in this state; or

29 (d) Violates a statute or regulation relating to the duties of a resident
30 agent,
31 is liable in a civil action for damages for economic loss, including,
32 without limitation, costs and attorney's fees, to any person who incurs
33 such damages.

34 2. If a final judgment is entered against a commercial resident agent
35 pursuant to this section, or if a commercial resident agent violates any
36 provision of this chapter or any regulation adopted pursuant thereto, the
37 secretary of state shall suspend the license of that agent for a period to be
38 determined by the secretary of state. The license may be reinstated upon
39 the payment of a fee in an amount to be determined by the secretary of
40 state.

41 **Sec. 12.** The secretary of state shall adopt such regulations as are
42 necessary to carry out the provisions of sections 2 to 11, inclusive, of this
43 act.

1 **Sec. 13.** Section 5 of this act is hereby amended to read as follows:

2 Sec. 5. 1. Each person desiring a license to engage in
3 business as a commercial resident agent must:

4 (a) File an application with the secretary of state on a form
5 furnished by the secretary of state. The application must be
6 accompanied by a nonrefundable fee of:

7 (1) One hundred dollars, if the applicant is an employee of a
8 commercial resident agent who performs the duties set forth in
9 subsection 2 of section 2 of this act; or

10 (2) One thousand dollars for all other applicants.

11 (b) Except as otherwise provided in paragraph (c), deposit with
12 the secretary of state a bond executed by the applicant as principal,
13 and by a corporation qualified under the laws of this state as surety,
14 payable to the State of Nevada in the amount of \$1,000,000, and
15 conditioned upon the proper performance of his duties.

16 (c) In lieu of the bond required by paragraph (b), submit
17 evidence sufficient to the secretary of state that the applicant has
18 been issued a policy of insurance in a form approved by the
19 secretary of state which provides adequate coverage for any loss,
20 injury or other damage which may be caused by the applicant in his
21 capacity as a commercial resident agent.

22 ~~[(d) Submit the statement required pursuant to section 7 of this~~
23 ~~act.]~~

24 2. The secretary of state shall grant an application for a license
25 to any applicant who complies with the provisions of this section.

26 **Sec. 14.** Notwithstanding the provisions of sections 2 to 12, inclusive,
27 of this act, a person is not required to be licensed as a commercial resident
28 agent pursuant to the provisions of this act before January 1, 2000.

29 **Sec. 15.** The amendatory provisions of this act do not apply to
30 offenses that were committed before October 1, 1999.

31 **Sec. 16.** 1. This section and sections 1 to 12, inclusive, and 14 and
32 15 of this act become effective on October 1, 1999.

33 2. Section 13 of this act becomes effective on the date on which the
34 provisions of 42 U.S.C. § 666 requiring each state to establish procedures
35 under which the state has authority to withhold or suspend, or to restrict
36 the use of professional, occupational and recreational licenses of person
37 who:

38 (a) Have failed to comply with a subpoena or warrant relating to a
39 procedure to determine the paternity of a child or to establish or enforce an
40 obligation for the support of a child; or

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

43 are repealed by the Congress of the United States.

1 3. Sections 6, 7 and 8 of this act expire by limitation on the date on
2 which the provisions of 42 U.S.C. § 666 requiring each state to establish
3 procedures under which the state has authority to withhold or suspend, or
4 to restrict the use of professional, occupational and recreational licenses of
5 persons who:
6 (a) Have failed to comply with a subpoena or warrant relating to a
7 procedure to determine the paternity of a child or to establish or enforce an
8 obligation for the support of a child; or
9 (b) Are in arrears in the payment for the support of one or more
10 children,
11 are repealed by the Congress of the United States.

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