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FIRST REPRINT S.B. 198

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SENATE BILL NO. 198—SENATOR O’CONNELL

FEBRUARY 19, 2001

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Referred to Committee on Government Affairs

SUMMARY—Establishes bill of rights for persons whose financial or other business records are subject to examination by commissioner of financial institutions. (BDR 18-53)

FISCAL NOTE:   Effect on Local Government: Yes.  
                      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.

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AN ACT relating to the department of business and industry; establishing a bill of rights for persons whose financial or other business records are subject to examination by the commissioner of financial institutions; 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 232 of NRS is hereby amended by adding thereto  
2     the provisions set forth as sections 2 to 8, inclusive, of this act.  
3     **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless the*  
4     *context otherwise requires, the words and terms defined in sections 3 and*  
5     *4 of this act have the meanings ascribed to them in those sections.*  
6     **Sec. 3.** *“Commissioner” means the commissioner of financial*  
7     *institutions.*  
8     **Sec. 4.** *“Examination” includes any audit, investigation or other*  
9     *inspection of the financial or other business records of a person.*  
10    **Sec. 5.** *Section 6 of this act may be cited as the Business Records*  
11    *Bill of Rights.*  
12    **Sec. 6.** *The legislature hereby declares that, except as otherwise*  
13    *provided by specific statute, each person who is subject to regulation by*  
14    *the commissioner has the right:*  
15       1. *To be treated by officers and employees of the commissioner with*  
16       *courtesy, fairness, uniformity, consistency and common sense.*  
17       2. *To a prompt response from the commissioner to each*  
18       *communication from the person who is subject to regulation by the*  
19       *commissioner regarding the maintenance or examination of his financial*  
20       *or other business records.*



- 1     3. To provide the minimum documentation and other information as  
2     may reasonably be required by the commissioner to carry out its duties.
- 3     4. To written explanations of the common errors, oversights and  
4     violations that persons who are subject to regulation by the commissioner  
5     experience with their financial and other business records and  
6     instructions on how to avoid such problems.
- 7     5. In any meeting with the commissioner regarding the financial or  
8     other business records of the person who is subject to regulation by the  
9     commissioner, including any examination, conference, interview or  
10    hearing:
  - 11    (a) To an explanation by an officer, agent or employee of the  
12    commissioner that describes the procedures to be followed and the rights  
13    of the person who is subject to regulation by the commissioner  
14    thereunder;
  - 15    (b) To self-representation or representation by anyone who is  
16    otherwise authorized by law to represent the person who is subject to  
17    regulation by the commissioner before the commissioner;
  - 18    (c) To make an audio recording using the equipment of, and at the  
19    expense of, the person who is subject to regulation by the commissioner;  
20    and
  - 21    (d) To receive a copy of any document or audio recording made by or  
22    in the possession of the commissioner regarding the financial or other  
23    business records of the person who is subject to regulation of the  
24    commissioner, upon payment of the actual cost to the commissioner of  
25    making the copy.
- 26    6. To a full explanation of the authority of the commissioner relating  
27    to the examination of his financial or other business records, including  
28    any procedures and notices for review and appeal that are required for  
29    the protection of the person who is subject to regulation by the  
30    commissioner. An explanation which meets the requirements of this  
31    subsection must be included with each notice to a person who is subject  
32    to regulation by the commissioner that such an examination will be  
33    conducted by the commissioner.
- 34    7. To simplified written instructions concerning the rights and  
35    responsibilities of the person who is subject to regulation by the  
36    commissioner regarding the maintenance and examination of his  
37    financial and other business records.
- 38    8. To be free from the examination of his financial or other business  
39    records by an officer, agent or employee of the commissioner for any  
40    purpose that is not directly related to a regulatory function of the  
41    commissioner.
- 42    9. To be free from harassment and intimidation by an officer, agent  
43    or employee of the commissioner for any reason.
- 44    10. To discuss any examination of his financial or other business  
45    records by the commissioner, and any matters relating to the  
46    examination, without restriction by the commissioner, with any person or  
47    governmental entity.
- 48    11. To have any laws and regulations adopted pursuant thereto  
49    relating to the maintenance or examination of the financial or other



- 1 *business records of the person who is subject to regulation by the*  
2 *commissioner construed in favor of the person who is subject to*  
3 *regulation by the commissioner if those laws or regulations are of*  
4 *doubtful validity or effect, unless a specific provision of law is applicable.*  
5 **Sec. 7.** 1. *The commissioner shall adopt such regulations or*  
6 *ordinances as are appropriate to carry out the provisions of the Business*  
7 *Records Bill of Rights.*  
8 2. *The commissioner shall cause:*  
9 (a) *To be prepared in simple nontechnical terms a pamphlet setting*  
10 *forth the provisions of the Business Records Bill of Rights and a*  
11 *description of the applicable regulations or ordinances adopted pursuant*  
12 *to subsection 1.*  
13 (b) *A copy of the pamphlet to be distributed:*  
14 (1) *To each person who is subject to regulation by the*  
15 *commissioner on record with the commissioner and to any other person*  
16 *upon request; and*  
17 (2) *With each notice to a person who is subject to regulation by the*  
18 *commissioner that the commissioner will conduct an examination of the*  
19 *financial or other business records of the person who is subject to*  
20 *regulation by the commissioner.*  
21 **Sec. 8.** *Except as otherwise provided by specific statute, the*  
22 *commissioner shall, within 30 days after he receives from a person whom*  
23 *he regulates a written request relating to the maintenance or*  
24 *examination of his financial or other business records, provide the*  
25 *person who is subject to regulation by the commissioner with a written*  
26 *response to that request.*  
27 **Sec. 9.** NRS 232.505 is hereby amended to read as follows:  
28 232.505 As used in NRS 232.505 to 232.840, inclusive, *and sections 2*  
29 *to 8, inclusive, of this act*, unless the context requires otherwise:  
30 1. “Department” means the department of business and industry.  
31 2. “Director” means the director of the department.

