

CHAPTER.....

AN ACT relating to state purchasing; revising the provisions concerning certain penalties for a person who has entered into a contract with an agency of this state and who fails to perform according to the terms of the contract; and providing other matters properly relating thereto.

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

Section 1. NRS 333.365 is hereby amended to read as follows:

333.365 1. A person who has entered into a contract with the Purchasing Division *or another agency of this state* and who does not perform according to the terms of the contract is liable for, in addition to any other applicable damages for breach of contract, a penalty of not more than 5 percent of the total value of the bid ~~or~~ *contract*. The penalty must be recovered in a civil action upon the complaint of the Chief in any court of competent jurisdiction. In addition to recovering the penalty and any other applicable damages, the Chief may ~~remove the name of the person from the list of bidders and~~ refuse to accept a bid from ~~him~~ *the person or refuse to award a contract to the person, or both*, for not more than 2 years.

2. If the Chief does not bring an action to recover the penalty prescribed by subsection 1, he may:

(a) ~~Remove the name of the person from the list of bidders and refuse~~ *Refuse* to accept a bid from ~~him~~ *the person, refuse to award a contract to the person, or both*, for not more than 2 years; and

(b) Impose an administrative penalty, in an amount not to exceed 5 percent of the total value of the bid ~~or~~ *contract*. Such a penalty may be recovered only after notice is given to the person by mail.

3. ~~If the Chief has removed the name of a person from the list of bidders, that person must apply to the Chief to have his name reinstated on the list of bidders.~~

~~4.~~ A penalty imposed pursuant to subsection 1 or 2 may be deducted from any payment due the person or, if a bond has been issued or a check received, a claim may be made against the bond or check. If no payment is due and no bond was issued or check received, the Chief may issue a claim for payment of the penalty. The claim must be paid within 30 days.