

Amendment No. 209

Senate Amendment to Senate Bill No. 431

(BDR 55-361)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of SB431 (§§ 8-13, 15, 16, 18, 19, 21, 22, 23-25, 26, 27, 28, 29-32, 39, 43, 47, 54, 56, 56.5, 57, 65, 66, 72-79, 87, 88, 96, 97, 104, 105, 113).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 8, page 3, line 31, by deleting “\$500” and inserting “\$200”.

Amend sec. 8, page 3, line 38, by deleting “\$500” and inserting “\$400”.

Amend sec. 17, page 12, line 11, by deleting “*this title;*” and inserting:

“*chapters 657 to 668, inclusive, of NRS;*”.

Amend sec. 17, page 12, line 13, by deleting “*this title*” and inserting:

“*chapters 657 to 668, inclusive, of NRS*”.

Amend the bill as a whole by adding a new section designated sec. 17.5, following sec. 17, to read as follows:

SH/KP

Date: 4/22/2005

S.B. No. 431—Makes various changes to provisions governing financial institutions and related business entities.



“**Sec. 17.5.** Chapter 669 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 18.5 of this act.”.

Amend sec. 18, page 12, by deleting lines 17 through 19 and inserting:

“**Sec. 18. 1. *If a trust company fails to submit any report required***”.

Amend the bill as a whole by adding a new section designated sec. 18.5, following sec. 18, to read as follows:

“**Sec. 18.5. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:***

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.”.

Amend the bill as a whole by adding a new section designated sec. 21.5, following sec. 21, to read as follows:

“**Sec. 21.5.** Chapter 670 of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 22.5 of this act.”.

Amend sec. 22, page 15, by deleting lines 8 through 10 and inserting:

“**Sec. 22. 1. *If a corporation fails to submit any report required***”.

Amend the bill as a whole by adding a new section designated sec. 22.5, following sec. 22, to read as follows:

“**Sec. 22.5. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:***

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.”.

Amend the bill as a whole by adding a new section designated sec. 25.5, following sec. 25, to read as follows:

“**Sec. 25.5.** Chapter 670A of NRS is hereby amended by adding thereto the provisions set forth as sections 26 and 26.5 of this act.”.

Amend sec. 26, page 16, by deleting lines 36 through 38 and inserting:

“**Sec. 26. 1. If a corporation fails to submit any report required”.**

Amend the bill as a whole by adding a new section designated sec. 26.5, following sec. 26, to read as follows:

“**Sec. 26.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:**

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.”.

Amend the bill as a whole by adding a new section designated sec. 28.5, following sec. 28, to read as follows:

“**Sec. 28.5.** Chapter 671 of NRS is hereby amended by adding thereto the provisions set forth as sections 29 and 29.5 of this act.”.

Amend sec. 29, page 17, by deleting lines 29 through 31 and inserting:

“**Sec. 29. 1. If a licensee fails to submit any report required pursuant to”.**

Amend the bill as a whole by adding a new section designated sec. 29.5, following sec. 29, to read as follows:

“Sec. 29.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.”.

Amend the bill as a whole by adding sections 37.1 through 37.8, following sec. 37, to read as follows:

“Sec. 37.1. 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business described in subsection 1 of NRS 604.090 or participating in such business as principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. *For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to offer or provide a check-cashing or deferred deposit service or a check-cashing machine or kiosk is presumed to be engaged in the business described in subsection 1 of NRS 604.090.*

Sec. 37.2. 1. *The Commissioner may require the attendance of any person and examine him under oath regarding:*

- (a) Any loan, transaction or business regulated pursuant to the provisions of this chapter; or*
- (b) The subject matter of any audit, examination, investigation or hearing.*

2. *The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.*

Sec. 37.3. *If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.*

Sec. 37.4. *A licensee may surrender any license issued pursuant to the provisions of this chapter by delivering it to the Commissioner with written notice of its surrender, but a surrender does not affect his civil or criminal liability for acts committed prior thereto.*

Sec. 37.5. 1. *Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

Sec. 37.6. 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

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

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

(b) Impose upon the licensee a fine of \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

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

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

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

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

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

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

(e) The licensee failed to open an office for the conduct of the business authorized by his license within 120 days after the date his license was issued, or has failed to remain open for the conduct of the business for a period of 120 days without good cause therefor.

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

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

Sec. 37.7. A revocation, suspension, expiration or surrender of any license does not impair or affect the obligation of any preexisting lawful loan agreement between the licensee and any customer. Such a loan agreement and all lawful charges thereon may be collected by the licensee, its successors or assigns.

Sec. 37.8. *Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of any provision of subsection 1 of NRS 604.090 are guilty of a misdemeanor.”.*

Amend sec. 40, page 22, by deleting lines 35 through 40 and inserting:

“than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.”.

Amend sec. 43, page 24, line 14, by deleting “registration” and inserting “[~~registration~~]
licensing”.

Amend sec. 44, page 24, by deleting lines 31 through 39 and inserting:

“~~Each application for registration must be accompanied by~~ before an applicant may be issued a license, the applicant shall deposit a surety bond payable to the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business. Each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business. The surety bond required by this section is for the use and benefit of any customer receiving the [~~registrant’s~~] licensee’s check-cashing or deferred deposit service [~~—~~2.—The] at any location at which the licensee does business.

2. *Each* bond must be in a form satisfactory to the”.

Amend sec. 47, page 26, line 28, by deleting “\$500” and inserting “\$100”.

Amend the bill as a whole by adding a new section designated sec. 52.5, following sec. 52, to read as follows:

“Sec. 52.5. NRS 604.170 is hereby amended to read as follows:

604.170 1. The Commissioner may establish by regulation {:

~~—(a) The~~ *the* fees that may be imposed by a check-cashing service for cashing checks . {; and

~~—(b) The penalties that may be imposed by the Commissioner for a violation of the provisions of this chapter or the regulations adopted pursuant thereto.}~~

2. The Commissioner shall adopt such other regulations as are necessary to carry out the provisions of this chapter.”.

Amend sec. 55, page 29, line 18, by deleting:

“56, 57 and 58” and inserting:

“56 to 58, inclusive,”.

Amend the bill as a whole by adding a new section designated sec. 56.5, following sec. 56, to read as follows:

“Sec. 56.5. 1. A person who is not licensed in this State as a collection agency may apply to the Commissioner for a certificate of registration as a foreign collection agency.

2. To be issued and to hold a certificate of registration as a foreign collection agency, a person:

- (a) Must hold a license or permit to do business as a collection agency in another state;**
- (b) Must meet the qualifications to do business as a collection agency in this State;**
- (c) Must not have any employees or agents present in this State who engage in the collection of claims and must not maintain any business locations in this State as a collection agency;**
- (d) Must submit proof to the Commissioner, upon application and upon each annual renewal of the certification of registration, that the person and his employees and agents will not, in this State:**

(1) Engage in the business of soliciting the right to collect or receive payment for another of any claim; or

(2) Advertise or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim;

(e) When collecting claims against debtors who are present in this State, must:

(1) Limit his activities and those of his employees and agents to interstate communications by telephone, mail or facsimile; and

(2) Comply with the requirements of NRS 649.305 to 649.375, inclusive, with regard to his activities and those of his employees and agents;

(f) Must pay:

(1) A fee to apply for a certificate of registration of not less than \$200 and not more than \$600, prorated on the basis of the registration year as determined by the Commissioner; and

(2) An annual renewal fee of not more than \$200;

(g) Must deposit and maintain a bond or an appropriate substitute for the bond in the same manner as an applicant or licensee pursuant to NRS 649.105, 649.115 and 649.119;

(h) Must maintain his accounts, books and records in accordance with generally accepted accounting principles and in accordance with the requirements of subsection 1 of NRS 649.335; and

(i) Must pay any fees related to any examination of his accounts, books and records conducted by the Commissioner pursuant to subsection 3.

3. The Commissioner may conduct an annual examination and any additional examinations pursuant to NRS 649.335 of the accounts, books and records of each person who holds a certificate of registration as a foreign collection agency.

4. The Commissioner may take disciplinary action pursuant to NRS 649.385, 649.390 and 649.395 against a person who holds a certificate of registration as a foreign collection agency for any act or omission that would be grounds for taking such disciplinary action under those sections.

5. The Commissioner shall adopt:

(a) Regulations establishing the amount of the fees required pursuant to this section; and

(b) Any other regulations as may be necessary to carry out the provisions of this section.”.

Amend the bill as a whole by adding a new section designated sec. 59.5, following sec. 59, to read as follows:

“Sec. 59.5. NRS 649.075 is hereby amended to read as follows:

649.075 1. Except as otherwise provided in ~~[subsection 2,]~~ **this section**, a person shall not conduct within this State a collection agency or engage within this State in the business of collecting claims for others, or of soliciting the right to collect or receive payment for another of any claim, or advertise, or solicit, either in print, by letter, in person or otherwise, the right to collect or receive payment for another of any claim, or seek to make collection or obtain payment of any claim on behalf of another without having first applied for and obtained a license from the Commissioner.

2. A person is not required to obtain a license if:

(a) The collection agency he works for is located outside of this State;

(b) His activities in this State are limited to the collection of claims from residents of this State on behalf of residents of another state; and

(c) His contact with persons in this State is limited to interstate communications by telephone, mail or facsimile.

3. A person is not required to obtain a license if the person holds a certificate of registration as a foreign collection agency issued by the Commissioner pursuant to section 56.5 of this act.”.

Amend sec. 66, page 35, line 22, by deleting “\$250” and inserting:

“~~[\$250]~~ not more than \$500”.

Amend sec. 80, page 46, by deleting lines 8 through 10 and inserting:

“not more than \$10,000 upon a person who:

(a) Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

(b) Violates any provision of this chapter or any regulation adopted pursuant thereto.”.

Amend sec. 87, page 48, line 21, after the semicolon, by inserting “**and**”.

Amend sec. 87, page 48, by deleting lines 24 through 28 and inserting:

“the Commissioner . ~~[, must be paid at the time of making the application.]~~”.

Amend sec. 88, page 48, by deleting lines 37 and 38 and inserting:

“license held by him. The Commissioner may reinstate an expired”.