

ASSEMBLY BILL NO. 275—ASSEMBLYWOMAN GANSERT

MARCH 10, 2009

Referred to Committee on Taxation

SUMMARY—Revises the provisions governing certain taxes imposed on financial institutions. (BDR 32-38)

FISCAL NOTE: Effect on Local Government: No.  
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; repealing the excise tax imposed on banks that is based on the number of branch offices maintained in this State; reducing the rate of the tax imposed on financial institutions that is based on wages paid to employees; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law imposes a payroll tax on financial institutions at a rate that is
- 2 higher than the payroll tax imposed on other businesses and an excise tax on the
- 3 branch offices of a bank that is not imposed on other businesses. (NRS 363A.120,
- 4 363A.130) This bill repeals the higher payroll tax and the additional branch tax and
- 5 makes financial institutions subject to the same payroll tax as other businesses.

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

- 1 **Section 1.** NRS 360.2937 is hereby amended to read as
- 2 follows:
- 3 360.2937 1. Except as otherwise provided in this section,
- 4 NRS 360.320 or any other specific statute, and notwithstanding the
- 5 provisions of NRS 360.2935, interest must be paid upon an
- 6 overpayment of any tax provided for in chapter 362, ~~363A,~~ 363B,
- 7 369, 370, 372, 374, 377 or 377A, any fee provided for in NRS
- 8 444A.090 or 482.313, or any assessment provided for in NRS
- 9 585.497, at the rate of 0.5 percent per month from the last day of the



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1 calendar month following the period for which the overpayment was  
2 made.

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

6 3. The interest must be paid:

7 (a) In the case of a refund, to the last day of the calendar month  
8 following the date upon which the person making the overpayment,  
9 if he has not already filed a claim, is notified by the Department that  
10 a claim may be filed or the date upon which the claim is certified to  
11 the State Board of Examiners, whichever is earlier.

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

15 **Sec. 2.** NRS 360.297 is hereby amended to read as follows:

16 360.297 1. A responsible person who fails to collect or pay to  
17 the Department any tax or fee imposed by this chapter, chapter  
18 ~~363A,~~ 363B, 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090  
19 or 482.313, or chapter 680B of NRS, or who attempts to evade the  
20 payment of any such tax or fee, is jointly and severally liable with  
21 any other person who is required to pay such a tax or fee for the tax  
22 or fee owed plus interest and all applicable penalties. The  
23 responsible person shall pay the tax or fee upon notice from the  
24 Department that it is due.

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

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

27 (b) A member or employee of a partnership or limited-liability  
28 company,

29 ➔ whose job or duty it is to collect, account for or pay to the  
30 Department any tax or fee imposed by this chapter, chapter ~~363A,~~  
31 363B, 368A, 369, 370, 372 or 374 of NRS, NRS 444A.090 or  
32 482.313, or chapter 680B of NRS.

33 **Sec. 3.** NRS 360.300 is hereby amended to read as follows:

34 360.300 1. If a person fails to file a return or the Department  
35 is not satisfied with the return or returns of any tax, contribution or  
36 premium or amount of tax, contribution or premium required to be  
37 paid to the State by any person, in accordance with the applicable  
38 provisions of this chapter, chapter 360B, 362, ~~363A,~~ 363B, 369,  
39 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or  
40 chapter 585 or 680B of NRS as administered or audited by the  
41 Department, it may compute and determine the amount required to  
42 be paid upon the basis of:

43 (a) The facts contained in the return;

44 (b) Any information within its possession or that may come into  
45 its possession; or



(c) Reasonable estimates of the amount.

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

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

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

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

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

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

**Sec. 5.** NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of a tax imposed pursuant to NRS 361.320 or chapter 361A, 362, ~~363A,~~ 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS, is the result of circumstances beyond his control and occurred despite the exercise of ordinary care and without intent, the Department may relieve him of all or part of any interest or penalty, or both.

2. A person seeking this relief must file with the Department a statement under oath setting forth the facts upon which he bases his claim.



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

- (a) The name of the person to whom relief was granted; and
- (b) The amount of the relief.

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

**Sec. 6.** NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against him which remains unpaid, the Department may:

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

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

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

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

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

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

5. If the property of the delinquent taxpayer consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the Department until



1 otherwise notified by the Department. If the debt of the delinquent  
2 taxpayer is not paid within 1 year after the Department issued the  
3 original demand to transmit, the Department shall issue another  
4 demand to transmit to the person responsible for making the  
5 payments informing him to continue to transmit payments to  
6 the Department or that his duty to transmit the payments to the  
7 Department has ceased.

8 6. If the notice of the delinquency seeks to prevent the transfer  
9 or other disposition of a deposit in a bank or credit union or other  
10 credits or personal property in the possession or under the control of  
11 a bank, credit union or other depository institution, the notice must  
12 be delivered or mailed to any branch or office of the bank, credit  
13 union or other depository institution at which the deposit is carried  
14 or at which the credits or personal property is held.

15 7. If any person notified by the notice of the delinquency  
16 makes any transfer or other disposition of the property or debts  
17 required to be withheld or transmitted, to the extent of the value of  
18 the property or the amount of the debts thus transferred or paid, he is  
19 liable to the State for any indebtedness due pursuant to this chapter,  
20 or chapter 360B, 362, ~~[363A,]~~ 363B, 369, 370, 372, 372A, 374, 377,  
21 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of  
22 NRS from the person with respect to whose obligation the notice  
23 was given if solely by reason of the transfer or other disposition the  
24 State is unable to recover the indebtedness of the person with  
25 respect to whose obligation the notice was given.

26 **Sec. 7.** NRS 363B.030 is hereby amended to read as follows:

27 363B.030 "Employer" means any employer who is required to  
28 pay a contribution pursuant to NRS 612.535 for any calendar quarter  
29 with respect to any business activity of the employer, except ~~[a~~  
30 ~~financial institution,]~~ an Indian tribe, a nonprofit organization, a  
31 political subdivision or any person who does not supply a product or  
32 service, but who only consumes a service. For the purposes of this  
33 section:

34 1. ~~["Financial institution" has the meaning ascribed to it in~~  
35 ~~NRS 363A.050.~~

36 ~~—2.]~~ "Indian tribe" includes any entity described in subsection  
37 10 of NRS 612.055.

38 ~~[3-]~~ 2. "Nonprofit organization" means a nonprofit religious,  
39 charitable, fraternal or other organization that qualifies as a tax-  
40 exempt organization pursuant to 26 U.S.C. § 501(c).

41 ~~[4-]~~ 3. "Political subdivision" means any entity described in  
42 subsection 9 of NRS 612.055.

43 **Sec. 8.** NRS 90.420 is hereby amended to read as follows:

44 90.420 1. The Administrator by order may deny, suspend or  
45 revoke any license, fine any licensed person, limit the activities



1 governed by this chapter that an applicant or licensed person may  
2 perform in this State, bar an applicant or licensed person from  
3 association with a licensed broker-dealer or investment adviser or  
4 bar from employment with a licensed broker-dealer or investment  
5 adviser a person who is a partner, officer, director, sales  
6 representative, investment adviser or representative of an investment  
7 adviser, or a person occupying a similar status or performing a  
8 similar function for an applicant or licensed person, if the  
9 Administrator finds that the order is in the public interest and that  
10 the applicant or licensed person or, in the case of a broker-dealer or  
11 investment adviser, any partner, officer, director, sales  
12 representative, investment adviser, representative of an investment  
13 adviser, or person occupying a similar status or performing similar  
14 functions or any person directly or indirectly controlling the broker-  
15 dealer or investment adviser, or any transfer agent or any person  
16 directly or indirectly controlling the transfer agent:

17 (a) Has filed an application for licensing with the Administrator  
18 which, as of its effective date, or as of any date after filing in the  
19 case of an order denying effectiveness, was incomplete in a material  
20 respect or contained a statement that was, in light of the  
21 circumstances under which it was made, false or misleading with  
22 respect to a material fact;

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

26 (c) Is the subject of an adjudication or determination after notice  
27 and opportunity for hearing, within the last 5 years by a securities  
28 agency or administrator of another state or a court of competent  
29 jurisdiction that the person has violated the Securities Act of 1933,  
30 the Securities Exchange Act of 1934, the Investment Advisers Act  
31 of 1940, the Investment Company Act of 1940, the Commodity  
32 Exchange Act or the securities law of any other state, but only if the  
33 acts constituting the violation of that state's law would constitute a  
34 violation of this chapter had the acts taken place in this State;

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

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

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

43 (3) Involves the larceny, theft, robbery, extortion, forgery,  
44 counterfeiting, fraudulent concealment, embezzlement, fraudulent



1 conversion or misappropriation of money or securities or conspiracy  
2 to commit any of the foregoing offenses;

3 (e) Is or has been permanently or temporarily enjoined by any  
4 court of competent jurisdiction, unless the order has been vacated,  
5 from acting as an investment adviser, representative of an  
6 investment adviser, underwriter, broker-dealer or as an affiliated  
7 person or employee of an investment company, depository  
8 institution or insurance company or from engaging in or continuing  
9 any conduct or practice in connection with any of the foregoing  
10 activities or in connection with the purchase or sale of a security;

11 (f) Is or has been the subject of an order of the Administrator,  
12 unless the order has been vacated, denying, suspending or revoking  
13 his license as a broker-dealer, sales representative, investment  
14 adviser, representative of an investment adviser or transfer agent;

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

18 (1) An order by the securities agency or administrator of  
19 another state, Canadian province or territory or by the Securities and  
20 Exchange Commission or a comparable regulatory agency of  
21 another country, entered after notice and opportunity for hearing,  
22 denying, suspending or revoking the person's license as a broker-  
23 dealer, sales representative, investment adviser, representative of an  
24 investment adviser or transfer agent;

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

27 (3) An order of the United States Postal Service relating to  
28 fraud;

29 (4) An order to cease and desist entered after notice and  
30 opportunity for hearing by the Administrator, the securities agency  
31 or administrator of another state, Canadian province or territory, the  
32 Securities and Exchange Commission or a comparable regulatory  
33 agency of another country, or the Commodity Futures Trading  
34 Commission; or

35 (5) An order by the Commodity Futures Trading  
36 Commission denying, suspending or revoking registration under the  
37 Commodity Exchange Act;

38 (h) Has engaged in unethical or dishonest practices in the  
39 securities business;

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



(j) Has failed to pay a tax as required pursuant to the provisions of chapter ~~[363A]~~ 363B of NRS;

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

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

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

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

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

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

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

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

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

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

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

(b) Department of Taxation for its use in carrying out the provisions of chapter ~~[363A]~~ 363B of NRS.

4. The Administrator may disclose any information obtained in connection with an investigation pursuant to NRS 90.620 to the agencies and administrators specified in subsection 1 of NRS 90.740





1 but only if disclosure is provided for the purpose of a civil,  
2 administrative or criminal investigation or proceeding, and the  
3 receiving agency or administrator represents in writing that under  
4 applicable law protections exist to preserve the integrity,  
5 confidentiality and security of the information.

6 5. This chapter does not create any privilege or diminish any  
7 privilege existing at common law, by statute, regulation or  
8 otherwise.

9 **Sec. 10.** NRS 604A.820 is hereby amended to read as follows:

10 604A.820 1. If the Commissioner has reason to believe that  
11 grounds for revocation or suspension of a license exist, he shall give  
12 20 days' written notice to the licensee stating the contemplated  
13 action and, in general, the grounds therefor and set a date for a  
14 hearing.

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

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

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

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

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

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

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

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

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

38 (e) The licensee:

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

42 (2) Has failed to remain open for the conduct of the business  
43 for a period of 180 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. 11.** NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or his legal representative is entitled to information from the records of the Division, to the extent necessary for the proper presentation of his claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of the **State** Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made



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1 to allow the proper authority to enforce a law to recover a debt or  
2 obligation owed to the local government. Except as otherwise  
3 provided in NRS 239.0115, the information obtained by the local  
4 government is confidential and may not be used or disclosed for any  
5 purpose other than the collection of a debt or obligation owed to that  
6 local government. The Administrator may charge a reasonable fee  
7 for the cost of providing the requested information.

8 5. The Administrator may publish or otherwise provide  
9 information on the names of employers, their addresses, their type  
10 or class of business or industry, and the approximate number of  
11 employees employed by each such employer, if the information  
12 released will assist unemployed persons to obtain employment or  
13 will be generally useful in developing and diversifying the economic  
14 interests of this State. Upon request by a state agency which is able  
15 to demonstrate that its intended use of the information will benefit  
16 the residents of this State, the Administrator may, in addition to the  
17 information listed in this subsection, disclose the number of  
18 employees employed by each employer and the total wages paid by  
19 each employer. The Administrator may charge a fee to cover the  
20 actual costs of any administrative expenses relating to the disclosure  
21 of this information to a state agency. The Administrator may require  
22 the state agency to certify in writing that the agency will take all  
23 actions necessary to maintain the confidentiality of the information  
24 and prevent its unauthorized disclosure.

25 6. Upon request therefor, the Administrator shall furnish to any  
26 agency of the United States charged with the administration of  
27 public works or assistance through public employment, and may  
28 furnish to any state agency similarly charged, the name, address,  
29 ordinary occupation and employment status of each recipient of  
30 benefits and the recipient's rights to further benefits pursuant to this  
31 chapter.

32 7. To further a current criminal investigation, the chief  
33 executive officer of any law enforcement agency of this State may  
34 submit a written request to the Administrator that he furnish, from  
35 the records of the Division, the name, address and place of  
36 employment of any person listed in the records of employment of  
37 the Division. The request must set forth the social security number  
38 of the person about whom the request is made and contain a  
39 statement signed by the chief executive officer certifying that the  
40 request is made to further a criminal investigation currently being  
41 conducted by the agency. Upon receipt of such a request, the  
42 Administrator shall furnish the information requested. He may  
43 charge a fee to cover the actual costs of any related administrative  
44 expenses.



8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the ~~{taxes}~~ tax imposed pursuant to ~~{chapters 363A and}~~ chapter 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that he compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to ~~this~~ chapter ~~{612 of NRS}~~ for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under ~~this~~ chapter ~~{612 of NRS}~~ and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.



**Sec. 12.** NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or his legal representative is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➔ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may



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1 submit to the Administrator a written request for the name, address  
2 and place of employment of any person listed in the records of an  
3 insurer. The request must set forth the social security number of the  
4 person about whom the request is made and contain a statement  
5 signed by the chief executive officer certifying that the request is  
6 made to further a criminal investigation currently being conducted  
7 by the agency. Upon receipt of a request, the Administrator shall  
8 instruct the insurer to furnish the information requested. Upon  
9 receipt of such an instruction, the insurer shall furnish the  
10 information requested. The insurer may charge a reasonable fee to  
11 cover any related administrative expenses.

12 6. Upon request by the Department of Taxation, the  
13 Administrator shall provide:

14 (a) Lists containing the names and addresses of employers; and  
15 (b) Other information concerning employers collected and  
16 maintained by the Administrator or the Division to carry out the  
17 purposes of chapters 616A to 616D, inclusive, or chapter 617 of  
18 NRS,

19 ➔ to the Department for its use in verifying returns for the ~~taxes~~  
20 ~~tax~~ imposed pursuant to ~~chapters 363A and~~ ~~chapter~~ 363B of NRS.  
21 The Administrator may charge a reasonable fee to cover any related  
22 administrative expenses.

23 7. Any person who, in violation of this section, discloses  
24 information obtained from files of claimants or policyholders or  
25 obtains a list of claimants or policyholders under chapters 616A to  
26 616D, inclusive, or chapter 617 of NRS and uses or permits the use  
27 of the list for any political purposes, is guilty of a gross  
28 misdemeanor.

29 8. All letters, reports or communications of any kind, oral or  
30 written, from the insurer, or any of its agents, representatives or  
31 employees are privileged and must not be the subject matter or basis  
32 for any lawsuit if the letter, report or communication is written, sent,  
33 delivered or prepared pursuant to the requirements of chapters 616A  
34 to 616D, inclusive, or chapter 617 of NRS.

35 9. The provisions of this section do not prohibit the  
36 Administrator or the Division from disclosing any nonproprietary  
37 information relating to an uninsured employer or proof of industrial  
38 insurance.

39 **Sec. 13.** NRS 645B.060 is hereby amended to read as follows:

40 645B.060 1. Subject to the administrative control of the  
41 Director of the Department of Business and Industry, the  
42 Commissioner shall exercise general supervision and control over  
43 mortgage brokers and mortgage agents doing business in this State.

44 2. In addition to the other duties imposed upon him by law, the  
45 Commissioner shall:



(a) Adopt regulations:

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

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

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

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

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

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

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the Commissioner.

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter ~~363A~~ 363B of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the



1 time of the application for a license and thereafter on a continuing  
2 basis.

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

6 4. The Commissioner may conduct biennial examinations of a  
7 mortgage broker instead of annual examinations, as described in  
8 paragraph (d) of subsection 2, if the mortgage broker:

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

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

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

16 (d) Does not maintain any trust accounts pursuant to NRS  
17 645B.170 or 645B.175 or arrange loans funded by private investors.

18 **Sec. 14.** NRS 645B.670 is hereby amended to read as follows:

19 645B.670 Except as otherwise provided in NRS 645B.690:

20 1. For each violation committed by an applicant for a license  
21 issued pursuant to this chapter, whether or not he is issued a license,  
22 the Commissioner may impose upon the applicant an administrative  
23 fine of not more than \$10,000, if the applicant:

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

26 (b) Has suppressed or withheld from the Commissioner any  
27 information which the applicant possesses and which, if submitted  
28 by him, would have rendered the applicant ineligible to be licensed  
29 pursuant to the provisions of this chapter; or

30 (c) Has violated any provision of this chapter, a regulation  
31 adopted pursuant to this chapter or an order of the Commissioner in  
32 completing and filing his application for a license or during the  
33 course of the investigation of his application for a license.

34 2. For each violation committed by a mortgage broker, the  
35 Commissioner may impose upon the mortgage broker an  
36 administrative fine of not more than \$10,000, may suspend, revoke  
37 or place conditions upon his license, or may do both, if the mortgage  
38 broker, whether or not acting as such:

39 (a) Is insolvent;

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

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





1 (d) Is in such financial condition that he cannot continue in  
2 business with safety to his customers;

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

5 (f) Has suppressed or withheld from a client any material facts,  
6 data or other information relating to any transaction governed by the  
7 provisions of this chapter which the mortgage broker knew or, by  
8 the exercise of reasonable diligence, should have known;

9 (g) Has knowingly made or caused to be made to the  
10 Commissioner any false representation of material fact or has  
11 suppressed or withheld from the Commissioner any information  
12 which the mortgage broker possesses and which, if submitted by  
13 him, would have rendered the mortgage broker ineligible to be  
14 licensed pursuant to the provisions of this chapter;

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

17 (i) Has refused to permit an examination by the Commissioner  
18 of his books and affairs or has refused or failed, within a reasonable  
19 time, to furnish any information or make any report that may be  
20 required by the Commissioner pursuant to the provisions of this  
21 chapter or a regulation adopted pursuant to this chapter;

22 (j) Has been convicted of, or entered a plea of nolo contendere  
23 to, a felony relating to the practice of mortgage brokers or any crime  
24 involving fraud, misrepresentation or moral turpitude;

25 (k) Has refused or failed to pay, within a reasonable time, any  
26 fees, assessments, costs or expenses that the mortgage broker is  
27 required to pay pursuant to this chapter or a regulation adopted  
28 pursuant to this chapter;

29 (l) Has failed to satisfy a claim made by a client which has been  
30 reduced to judgment;

31 (m) Has failed to account for or to remit any money of a client  
32 within a reasonable time after a request for an accounting or  
33 remittal;

34 (n) Has commingled the money or other property of a client  
35 with his own or has converted the money or property of others to his  
36 own use;

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

39 (p) Has repeatedly violated the policies and procedures of the  
40 mortgage broker;

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

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



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

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) Has failed to pay a tax as required pursuant to the provisions of chapter ~~363A~~ **363B** of NRS; or

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

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

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

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

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

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

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

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



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

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

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

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

**Sec. 15.** NRS 645E.300 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter ~~363A~~ 363B of NRS.

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



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

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

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

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

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

14       **Sec. 16.** NRS 645E.670 is hereby amended to read as follows:

15       645E.670 1. For each violation committed by an applicant,  
16 whether or not he is issued a license, the Commissioner may impose  
17 upon the applicant an administrative fine of not more than \$10,000,  
18 if the applicant:

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

21       (b) Has suppressed or withheld from the Commissioner any  
22 information which the applicant possesses and which, if submitted  
23 by him, would have rendered the applicant ineligible to be licensed  
24 pursuant to the provisions of this chapter; or

25       (c) Has violated any provision of this chapter, a regulation  
26 adopted pursuant to this chapter or an order of the Commissioner in  
27 completing and filing his application for a license or during the  
28 course of the investigation of his application for a license.

29       2. For each violation committed by a licensee, the  
30 Commissioner may impose upon the licensee an administrative fine  
31 of not more than \$10,000, may suspend, revoke or place conditions  
32 upon his license, or may do both, if the licensee, whether or not  
33 acting as such:

34       (a) Is insolvent;

35       (b) Is grossly negligent or incompetent in performing any act for  
36 which he is required to be licensed pursuant to the provisions of this  
37 chapter;

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

41       (d) Is in such financial condition that he cannot continue in  
42 business with safety to his customers;

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



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

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

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

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

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

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

(l) Has failed to pay a tax as required pursuant to the provisions of chapter ~~363A~~ 363B of NRS;

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

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

(o) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

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

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

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

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

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



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

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

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

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

(f) Has become otherwise insolvent.

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

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

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

(j) Has failed to pay a tax as required pursuant to the provisions of chapter ~~363A~~ 363B of NRS.

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

**Sec. 18.** NRS 665.133 is hereby amended to read as follows:

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

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

(b) The Director of the Department of Business and Industry for his confidential use;

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

(d) The Department of Taxation for its use in carrying out the provisions of chapter ~~363A~~ 363B of NRS;

(e) An entity which insures or guarantees deposits;

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

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

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



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

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

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

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

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

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

2. Failure to pay a tax as required pursuant to the provisions of chapter ~~363A~~ **363B** of NRS.

**Sec. 20.** NRS 675.440 is hereby amended to read as follows:

675.440 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. A copy of the order must be sent by registered or certified mail to the licensee.

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

(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 under it;



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

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

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the 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. 21.** NRS 676.290 is hereby amended to read as follows:

676.290 1. The Commissioner may, pursuant to the procedure provided in this chapter, deny, suspend or revoke any license for which application has been made or which has been issued under the provisions of this chapter if he finds, as to the licensee, its associates, directors or officers, grounds for action.

2. Any one of the following grounds may provide the requisite grounds for denial, suspension or revocation:

(a) Conviction of a felony relating to the practice of debt adjusters or of a misdemeanor involving moral turpitude.

(b) Violation of any of the provisions of this chapter or regulations of the Commissioner.

(c) Fraud or deceit in procuring the issuance of the license.

(d) Continuous course of unfair conduct.

(e) Insolvency, filing in bankruptcy, receivership or assigning for the benefit of creditors by any licensee or applicant for a license under this chapter.

(f) Failure to pay a tax as required pursuant to the provisions of chapter ~~363A~~ 363B of NRS.

(g) Failure to pay the fee for renewal or reinstatement of a license.

3. The Commissioner shall, after notice and hearing, impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any of the provisions of this chapter or regulations of the Commissioner. If a fine is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Commissioner.





**Sec. 22.** NRS 677.510 is hereby amended to read as follows:

677.510 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, or revoking the license, or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. A copy of the order must be sent by registered or certified mail to the licensee.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any lawful 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~~ 363B of NRS;

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

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the 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. 23.** NRS 683A.451 is hereby amended to read as follows:

683A.451 The Commissioner may refuse to issue a license or certificate pursuant to this chapter or may place any person to whom a license or certificate is issued pursuant to this chapter on probation, suspend him for not more than 12 months, or revoke or refuse to renew his license or certificate, or may impose an



1 administrative fine or take any combination of the foregoing actions,  
2 for one or more of the following causes:

3 1. Providing incorrect, misleading, incomplete or partially  
4 untrue information in his application for a license.

5 2. Violating a law regulating insurance, or violating a  
6 regulation, order or subpoena of the Commissioner or an equivalent  
7 officer of another state.

8 3. Obtaining or attempting to obtain a license through  
9 misrepresentation or fraud.

10 4. Misappropriating, converting or improperly withholding  
11 money or property received in the course of the business of  
12 insurance.

13 5. Intentionally misrepresenting the terms of an actual or  
14 proposed contract of or application for insurance.

15 6. Conviction of a felony.

16 7. Admitting or being found to have committed an unfair trade  
17 practice or fraud.

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

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

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

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

28 12. Knowingly accepting business related to insurance from an  
29 unlicensed person.

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

32 14. Failing to pay a tax as required pursuant to the provisions  
33 of chapter ~~[363A]~~ 363B of NRS.

34 **Sec. 24.** NRS 687A.130 is hereby amended to read as follows:

35 687A.130 The Association is exempt from payment of all fees  
36 and all taxes levied by this State or any of its subdivisions, except  
37 taxes:

38 1. Levied on real or personal property; or

39 2. Imposed pursuant to the provisions of chapter ~~[363A or]~~  
40 363B of NRS.

41 **Sec. 25.** NRS 688C.210 is hereby amended to read as follows:

42 688C.210 After notice, and after a hearing if requested, the  
43 Commissioner may suspend, revoke, refuse to issue or refuse to  
44 renew a license under this chapter if he finds that:



1 1. There was material misrepresentation in the application for  
2 the license;

3 2. The licensee or an officer, partner, member or significant  
4 managerial employee has been convicted of fraudulent or dishonest  
5 practices, is subject to a final administrative action for  
6 disqualification, or is otherwise shown to be untrustworthy or  
7 incompetent;

8 3. A provider of viatical settlements has engaged in a pattern of  
9 unreasonable payments to viators;

10 4. The applicant or licensee has been found guilty or guilty but  
11 mentally ill of, or pleaded guilty, guilty but mentally ill or nolo  
12 contendere to, a felony or a misdemeanor involving fraud, forgery,  
13 embezzlement, obtaining money under false pretenses, larceny,  
14 extortion, conspiracy to defraud or any crime involving moral  
15 turpitude, whether or not a judgment of conviction has been entered  
16 by the court;

17 5. A provider of viatical settlements has entered into a viatical  
18 settlement in a form not approved pursuant to NRS 688C.220;

19 6. A provider of viatical settlements has failed to honor  
20 obligations of a viatical settlement;

21 7. The licensee no longer meets a requirement for initial  
22 licensure;

23 8. A provider of viatical settlements has assigned, transferred  
24 or pledged a viaticated policy to a person other than another  
25 provider licensed under this chapter, a purchaser of the viatical  
26 settlement, a special organization or a trust for a related provider;

27 9. The applicant or licensee has provided materially untrue  
28 information to an insurer that issued a policy that is the subject of a  
29 viatical settlement;

30 10. The applicant or licensee has failed to pay a tax as required  
31 pursuant to the provisions of chapter ~~363A~~ 363B of NRS; or

32 11. The applicant or licensee has violated a provision of this  
33 chapter.

34 **Sec. 26.** NRS 694C.450 is hereby amended to read as follows:

35 694C.450 1. Except as otherwise provided in this section, a  
36 captive insurer shall pay to the Division, not later than March 1 of  
37 each year, a tax at the rate of:

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

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

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



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

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

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

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

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

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

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

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

6. Twenty-five percent of the revenues collected from the tax imposed pursuant to this section must be deposited with the State Treasurer for credit to the Account for the Regulation and Supervision of Captive Insurers created pursuant to NRS 694C.460. The remaining 75 percent of the revenues collected must be deposited with the State Treasurer for credit to the State General Fund.



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

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

(a) "Common ownership and control" means:

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

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

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

**Sec. 27.** NRS 363A.010, 363A.015, 363A.020, 363A.030, 363A.040, 363A.050, 363A.060, 363A.070, 363A.080, 363A.090, 363A.100, 363A.110, 363A.120, 363A.130, 363A.135, 363A.140, 363A.150, 363A.160, 363A.170, 363A.180, 363A.190, 363A.200, 363A.210, 363A.220, 363A.230, 363A.240, 363A.250 and 363A.260 are hereby repealed.

**Sec. 28.** The provisions of this act do not:

1. Affect any rights, duties or liability of any person relating to any taxes imposed pursuant to chapter 363A of NRS for any period ending before July 1, 2009.

2. Apply to the administration, collection and enforcement of any taxes imposed pursuant to chapter 363A of NRS for any period ending before July 1, 2009.

**Sec. 29.** This act becomes effective:

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

2. On July 1, 2009, for all other purposes.



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LEADLINES OF REPEALED SECTIONS

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- 363A.010 Definitions.
- 363A.015 "Business activity" defined.
- 363A.020 "Commission" defined.
- 363A.030 "Employer" defined.
- 363A.040 "Employment" defined.
- 363A.050 "Financial institution" defined.
- 363A.060 "Taxpayer" defined.
- 363A.070 Duties of Department.
- 363A.080 Maintenance and availability of records of taxpayer; penalty.
- 363A.090 Examination of records by Department; payment of expenses of Department for examination of records outside State.
- 363A.100 Authority of Executive Director to request information to carry out chapter.
- 363A.110 Confidentiality of records and files of Department.
- 363A.120 Excise tax on banks: Imposition, amount and payment; filing of return.
- 363A.130 Payroll tax: Imposition, amount and payment; filing of return.
- 363A.135 Payroll tax: Deduction of certain amounts paid for health insurance or health benefit plan for employees.
- 363A.140 Extension of time for payment; payment of interest during period of extension.
- 363A.150 Certification of excess amount collected; credit and refund.
- 363A.160 Limitations on claims for refund or credit; form and contents of claim; failure to file claim constitutes waiver; service of notice of rejection of claim.
- 363A.170 Interest on overpayments; disallowance of interest.
- 363A.180 Injunction or other process to prevent collection of tax prohibited; filing of claim is condition precedent to maintaining action for refund.
- 363A.190 Action for refund: Period for commencement; venue; waiver.



**363A.200 Rights of claimant upon failure of Department to mail notice of action on claim; allocation of judgment for claimant.**

**363A.210 Allowance of interest in judgment for amount illegally collected.**

**363A.220 Standing to recover.**

**363A.230 Action for recovery of erroneous refund: Jurisdiction; venue; prosecution.**

**363A.240 Cancellation of illegal determination.**

**363A.250 Prohibited acts; penalty.**

**363A.260 Remedies of State are cumulative.**

