

Amendment No. 14

Assembly Amendment to Assembly Bill No. 72

(BDR 7-405)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 72 (§§ 2, 7, 10).

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"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

BFG/KEL



Date: 4/1/2011

A.B. No. 72—Revises provisions relating to securities. (BDR 7-405)



ASSEMBLY BILL NO. 72—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 15, 2010

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to securities. (BDR 7-405)

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 securities; designating certain uses of a certification or professional designation as unethical or dishonest practices in the securities business; requiring the filing of certain forms when a sales representative terminates association with a broker-dealer; revising activities for which the Administrator of the Securities Division of the Office of the Secretary of State may deny a license or impose certain limitations or disciplinary actions upon a licensee; revising certain registration and filing requirements for certain securities; increasing the penalty for the putting off, circulation or publication of any false or misleading writing, statement or intelligence regarding a security that is publicly traded; prohibiting certain activities in an investigation, proceeding or prosecution; increasing certain fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that a person engages in unethical or dishonest practices in the securities business if the person uses a certification or professional designation in certain specified ways.

Section 2 of this bill increases the annual licensing fee for a representative of an investment adviser from \$110 to \$125 and requires licensing of branch offices of investment advisers in the same manner as branch offices of broker-dealers.

Existing law requires a person licensed as a sales representative or the broker-dealer on whose behalf the sales representative is acting to promptly notify the Administrator of the Securities Division of the Office of the Secretary of State when the sales representative terminates association with the broker-dealer. (NRS 90.380) **Section 3** of this bill specifies that the sales representative or the broker-dealer must promptly file with the Administrator a Uniform Termination Notice for Securities Industry Registration (Form U-5).

Existing law authorizes the Administrator to deny a license or impose certain limitations or disciplinary actions upon a licensee if, within the preceding 10 years, the applicant or licensee has been convicted of certain felonies or misdemeanors. (NRS 90.420) **Section 4** of this bill includes among the specified felonies and misdemeanors crimes which involve moral turpitude. **Section 4** also authorizes the Administrator to take the described actions if the

applicant or licensee: (1) has been convicted of the specified felonies at any point in time and the specified misdemeanors within the preceding 10 years; or (2) is or has been the subject of certain orders prohibiting the person from serving in certain capacities.

Existing law exempts from certain registration and filing requirements certain governmental securities except for securities payable solely from revenues to be received from an enterprise unless certain conditions are met. (NRS 90.520) **Section 5** of this bill specifies that the enterprise must be a private industrial or commercial enterprise.

Existing law exempts from certain registration and filing requirements certain specified securities if certain documents, including a notice on Form NF or Form N-9, as prescribed by the Administrator, are filed with the Administrator before the initial offering of the securities in this State. (NRS 90.565) **Section 6** of this bill establishes the effective period of a notice filed on Form NF or Form N-9 and a procedure for its renewal.

Existing law requires an issuer of securities to file with the Administrator a fee of \$500 within 15 days after the first sale of the security in this State if the Administrator exempts that security from certain registration and filing requirements. (NRS 90.567) **Section 7** of this bill requires the issuer to: (1) file any other document which the Administrator may require in addition to the \$500 fee; and (2) pay an additional fee of \$250 if a filing is up to 10 days late and \$500 if a filing is more than 10 days late.

Existing law makes the putting off, circulation or publication of any false or misleading writing, statement or intelligence regarding a security that is publicly traded a gross misdemeanor. (NRS 205.440) **Sections 8 and 12** of this bill make such conduct a category B felony instead.

Existing law prohibits certain activities in an investigation, proceeding or prosecution with respect to a violation of any securities laws, regulations or orders issued thereunder. (NRS 90.605) **Section 9** of this bill prohibits the willful making of a materially false or fictitious statement or representation with the intent to effectuate certain concealments, delays or hindrances impeding the investigation, proceeding or prosecution.

Section 10 of this bill increases the fee for a request to the Administrator for a waiver or a no-action letter from \$200 to \$500.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person engages in unethical or dishonest practices in the securities business if, without limitation, the person uses a certification or professional designation that:

(a) Indicates or implies that the person has special certification or training in advising or providing services to older persons or retirees in connection with the offer, sale or purchase of securities or in the provision of advice as to the value of or advisability of investing in, purchasing or selling securities, either directly or indirectly, through publications or writings or by issuing or publishing analyses or reports related to securities if the person does not have such special certification or training;

(b) The person has not earned or is otherwise ineligible to use;

(c) Is nonexistent;

(d) The person conferred upon himself or herself;

(e) Indicates or implies a level of occupational qualifications obtained through education, training or experience that the person using the certification or professional designation has not obtained; or

(f) Was obtained from a certifying or designating organization that, except as otherwise provided in subsection 2:

1 (1) *Is primarily engaged in the business of instruction in sales or*
2 *marketing;*

3 (2) *Does not have reasonable standards or procedures for assuring the*
4 *competency of its certificate holders or designees;*

5 (3) *Does not have reasonable standards or procedures for monitoring*
6 *and disciplining its certificate holders or designees for conduct that is improper*
7 *or unethical; or*

8 (4) *Does not have reasonable requirements for continuing education for*
9 *its certificate holders or designees in order to maintain the certificate or*
10 *designation.*

11 2. *There is a rebuttable presumption that paragraph (f) of subsection 1 does*
12 *not include a certification or professional designation that:*

13 (a) *Does not primarily apply to sales or marketing; and*

14 (b) *Was conferred by a certifying or designating organization that has been*
15 *accredited by:*

16 (1) *The American National Standards Institute;*

17 (2) *The National Commission for Certifying Agencies; or*

18 (3) *An organization that is on the list provided by the United States*
19 *Department of Education entitled "Accrediting Agencies Recognized for Title IV*
20 *Purposes."* ~~*{A copy of the list may be obtained at the Internet address*~~
21 ~~*http://www2.ed.gov/admins/finaid/accred/accreditation_pg9.html.}*~~

22 3. *In determining whether a combination of words or an acronym standing*
23 *for a combination of words constitutes a certification or professional designation*
24 *indicating or implying that a person has special certification or training in*
25 *advising or providing services to older persons or retirees, factors to be*
26 *considered will include, without limitation:*

27 (a) *The use of one or more words such as "elder," "retirement," "senior" or*
28 *similar words combined with one or more words such as "chartered," "certified,"*
29 *"registered," "adviser," "consultant," "planner," or "specialist" or similar words*
30 *in the name of the certification or professional designation; and*

31 (b) *The manner in which those words are combined.*

32 4. *For the purposes of this section, a title of a job within an organization*
33 *that is licensed or registered by a financial services regulatory agency of this*
34 *State, any other state or the Federal Government is not a certification or*
35 *professional designation if the title is not used in a manner that would confuse or*
36 *mislead a reasonable consumer and the title:*

37 (a) *Indicates seniority or standing within the organization; or*

38 (b) *Specifies a person's area of specialization within the organization.*

39 5. *As used in this section:*

40 (a) *"Financial services regulatory agency" includes, without limitation, an*
41 *agency that regulates broker-dealers, investment advisers or investment*
42 *companies as defined in the Investment Company Act of 1940, 15 U.S.C. § 80a-3.*

43 (b) *"Older person" has the meaning ascribed to it in NRS 200.5092.*

44 **Sec. 2.** *NRS 90.360 is hereby amended to read as follows:*

45 90.360 1. *An applicant for licensing shall pay a nonrefundable licensing fee,*
46 *due annually in the following amounts:*

47 (a) *Broker-dealer, \$300.*

48 (b) *Sales representative, \$125.*

49 (c) *Investment adviser, \$300.*

50 (d) *Representative of an investment adviser, ~~[\$110.]~~ \$125.*

51 2. *The Administrator by regulation shall require licensing of branch offices. A*
52 *broker-dealer or investment adviser who desires to obtain a branch office license*
53 *must, in addition to complying with any other requirements established by the*

Administrator for such a license, submit an application for the license and pay a fee of \$100. If any change occurs in the information set forth in an application made pursuant to this subsection, the applicant shall, within 30 days after the change, file an amendment to the application and pay a fee of \$50. A license obtained pursuant to this subsection expires on December 31 of each year. The license must be renewed annually on or before December 31 by paying a fee of \$100.

3. For the purpose of this section, a “branch office” means any place of business in this State other than the principal office in the state of the broker-dealer ~~or investment adviser~~, from which one or more sales representatives ~~or representatives of an investment adviser~~ transact business.

Sec. 3. NRS 90.380 is hereby amended to read as follows:

90.380 1. Unless a proceeding under NRS 90.420 has been instituted, the license of any broker-dealer, sales representative, investment adviser or representative of an investment adviser becomes effective 30 days after an application for licensing has been filed and is complete, including any amendment, if all requirements imposed pursuant to NRS 90.370 and 90.375 have been satisfied. An application or amendment is complete when the applicant has furnished information responsive to each applicable item of the application. The Administrator may authorize an earlier effective date of licensing.

2. The license of a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent is effective until terminated by revocation, suspension, expiration or withdrawal.

3. The license of a sales representative is only effective with respect to transactions effected on behalf of the broker-dealer or issuer for whom the sales representative is licensed.

4. A person shall not at any one time act as a sales representative for more than one broker-dealer or for more than one issuer, unless the Administrator by regulation or order authorizes multiple licenses.

5. If a person licensed as a sales representative terminates association with a broker-dealer or issuer or ceases to be a sales representative, the sales representative and the broker-dealer or issuer on whose behalf the sales representative was acting shall promptly ~~notify~~ **file with** the Administrator ~~in a Uniform Termination Notice for Securities Industry Registration (Form U-5).~~

6. The Administrator by regulation may authorize one or more special classifications of licenses as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent to be issued to applicants subject to limitations and conditions on the nature of the activities that may be conducted by persons so licensed.

7. The license of a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent expires if:

(a) The statement required pursuant to NRS 90.375 is not submitted when it is due; or

(b) Any annual fee required by NRS 90.360 is not paid when it is due.

8. A license that has expired may be reinstated retroactively if the licensed person:

(a) Submits the statement required pursuant to NRS 90.375; and

(b) Pays any fee required by NRS 90.360, plus a fee for reinstatement in the amount of \$50,

➤ within 30 days after the date of expiration. If the license is not reinstated within that time, it shall be deemed to have lapsed as of the date of expiration, and the licensed person must thereafter submit a new application for licensing if the licensed person desires to be relicensed.

1 **Sec. 4.** NRS 90.420 is hereby amended to read as follows:

2 90.420 1. The Administrator by order may deny, suspend or revoke any
3 license, fine any licensed person, limit the activities governed by this chapter that
4 an applicant or licensed person may perform in this State, bar an applicant or
5 licensed person from association with a licensed broker-dealer or investment
6 adviser or bar from employment with a licensed broker-dealer or investment
7 adviser a person who is a partner, officer, director, sales representative, investment
8 adviser or representative of an investment adviser, or a person occupying a similar
9 status or performing a similar function for an applicant or licensed person, if the
10 Administrator finds that the order is in the public interest and that the applicant or
11 licensed person or, in the case of a broker-dealer or investment adviser, any partner,
12 officer, director, sales representative, investment adviser, representative of an
13 investment adviser, or person occupying a similar status or performing similar
14 functions or any person directly or indirectly controlling the broker-dealer or
15 investment adviser, or any transfer agent or any person directly or indirectly
16 controlling the transfer agent:

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

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

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

32 (d) ~~[Within the last 10 years has]~~ *Has* been convicted of a felony or , *within*
33 *the previous 10 years has been convicted of a* misdemeanor , which the
34 Administrator finds:

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

38 (2) Arises out of the conduct of business as a broker-dealer, investment
39 adviser, depository institution, insurance company or fiduciary; ~~[or]~~

40 (3) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting,
41 fraudulent concealment, embezzlement, fraudulent conversion or misappropriation
42 of money or securities or conspiracy to commit any of the foregoing offenses; *or*

43 (4) *Involves moral turpitude;*

44 (e) Is or has been permanently or temporarily enjoined by any court of
45 competent jurisdiction, unless the order has been vacated, from acting as an
46 investment adviser, representative of an investment adviser, underwriter, broker-
47 dealer or as an affiliated person or employee of an investment company, depository
48 institution or insurance company or from engaging in or continuing any conduct or
49 practice in connection with any of the foregoing activities or in connection with the
50 purchase or sale of a security;

51 (f) Is or has been the subject of an order of the Administrator, unless the order
52 has been vacated, denying, suspending or revoking the person's license as a broker-

1 dealer, sales representative, investment adviser, representative of an investment
2 adviser or transfer agent;

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

5 (1) An order by the securities agency or administrator of another state,
6 Canadian province or territory or by the Securities and Exchange Commission or a
7 comparable regulatory agency of another country, entered after notice and
8 opportunity for hearing, denying, suspending or revoking the person's license as a
9 broker-dealer, sales representative, investment adviser, representative of an
10 investment adviser or transfer agent;

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

13 (3) *An order by a self-regulatory organization that prohibits the person*
14 *from serving, indefinitely or for a specified period, as a principal or in a*
15 *supervisory capacity within a business or organization which is a member of a*
16 *self-regulatory organization;*

17 (4) An order of the United States Postal Service relating to fraud;

18 ~~[(4)]~~ (5) An order to cease and desist entered after notice and opportunity
19 for hearing by the Administrator, the securities agency or administrator of another
20 state, Canadian province or territory, the Securities and Exchange Commission or a
21 comparable regulatory agency of another country, or the Commodity Futures
22 Trading Commission; or

23 ~~[(5)]~~ (6) An order by the Commodity Futures Trading Commission
24 denying, suspending or revoking registration under the Commodity Exchange Act;

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

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

30 (j) Has failed to pay a tax as required pursuant to the provisions of chapter
31 363A of NRS;

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

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

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

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

46 **Sec. 5.** NRS 90.520 is hereby amended to read as follows:

47 90.520 1. As used in this section:

48 (a) "Guaranteed" means guaranteed as to payment of all or substantially all of
49 principal and interest or dividends.

50 (b) "Insured" means insured as to payment of all or substantially all of
51 principal and interest or dividends.

52 2. Except as otherwise provided in subsections 4 and 5, the following
53 securities are exempt from NRS 90.460 and 90.560:

(a) A security, including a revenue obligation, issued, insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or a certificate of deposit for any of the foregoing, but this exemption does not include a security payable solely from revenues to be received from ~~any~~ *a private industrial or commercial* enterprise unless the:

(1) Payments are insured or guaranteed by the United States, an agency or corporate or other instrumentality of the United States, an international agency or corporate or other instrumentality of which the United States and one or more foreign governments are members, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more states or their political subdivisions, or by a person whose securities are exempt from registration pursuant to paragraphs (b) to (e), inclusive, or (g), or the revenues from which the payments are to be made are a direct obligation of such a person;

(2) Security is issued by this State or an agency, instrumentality or political subdivision of this State; or

(3) Payments are insured or guaranteed by a person who, within the 12 months next preceding the date on which the securities are issued, has received a rating within one of the top four rating categories of either Moody's Investors Service, Inc., or Standard and Poor's Ratings Services.

(b) A security issued, insured or guaranteed by Canada, a Canadian province or territory, a political subdivision of Canada or of a Canadian province or territory, an agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government or governmental combination or entity with which the United States maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer, insurer or guarantor.

(c) A security issued by and representing an interest in or a direct obligation of a depository institution if the deposit or share accounts of the depository institution are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a successor to an applicable agency authorized by federal law.

(d) A security issued by and representing an interest in or a direct obligation of, or insured or guaranteed by, an insurance company organized under the laws of any state and authorized to do business in this State.

(e) A security issued or guaranteed by a railroad, other common carrier, public utility or holding company that is:

(1) Subject to the jurisdiction of the Surface Transportation Board;

(2) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of a registered holding company within the meaning of that act;

(3) Regulated in respect to its rates and charges by a governmental authority of the United States or a state; or

(4) Regulated in respect to the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province or territory.

(f) Equipment trust certificates in respect to equipment leased or conditionally sold to a person, if securities issued by the person would be exempt pursuant to this section.

(g) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, ~~the American Stock Exchange,~~ *NYSE Amex Equities*, the

1 Chicago Stock Exchange, the Pacific Stock Exchange or other exchange designated
2 by the Administrator, any other security of the same issuer which is of senior or
3 substantially equal rank, a security called for by subscription right or warrant so
4 listed or approved, or a warrant or right to purchase or subscribe to any of the
5 foregoing.

6 (h) A security designated or approved for designation upon issuance or notice
7 of issuance for inclusion in the national market system by the ~~Financial Industry~~
8 ~~Regulatory Authority.] NASDAQ Stock Market~~, any other security of the same
9 issuer which is of senior or substantially equal rank, a security called for by
10 subscription right or warrant so designated, or a warrant or a right to purchase or
11 subscribe to any of the foregoing.

12 (i) An option issued by a clearing agency registered under the Securities
13 Exchange Act of 1934, other than an off-exchange futures contract or substantially
14 similar arrangement, if the security, currency, commodity or other interest
15 underlying the option is:

16 (1) Registered under NRS 90.470, 90.480 or 90.490;

17 (2) Exempt pursuant to this section; or

18 (3) Not otherwise required to be registered under this chapter.

19 (j) A security issued by a person organized and operated not for private profit
20 but exclusively for a religious, educational, benevolent, charitable, fraternal, social,
21 athletic or reformatory purpose, or as a chamber of commerce, or trade or
22 professional association if at least 10 days before the sale of the security the issuer
23 has filed with the Administrator a notice setting forth the material terms of the
24 proposed sale and copies of any sales and advertising literature to be used and the
25 Administrator by order does not disallow the exemption within the next 5 full
26 business days.

27 (k) A promissory note, draft, bill of exchange or banker's acceptance that
28 evidences an obligation to pay cash within 9 months after the date of issuance,
29 exclusive of days of grace, is issued in denominations of at least \$50,000 and
30 receives a rating in one of the three highest rating categories from a nationally
31 recognized statistical rating organization, or a renewal of such an obligation that is
32 likewise limited, or a guarantee of such an obligation or of a renewal.

33 (l) A security issued in connection with an employees' stock purchase, savings,
34 option, profit-sharing, pension or similar employees' benefit plan.

35 (m) A membership or equity interest in, or a retention certificate or like
36 security given in lieu of a cash patronage dividend issued by, a cooperative
37 organized and operated as a nonprofit membership cooperative under the
38 cooperative laws of any state if not traded to the general public.

39 (n) A security issued by an issuer registered as an open-end management
40 investment company or unit investment trust under section 8 of the Investment
41 Company Act of 1940 if:

42 (1) The issuer is advised by an investment adviser that is a depository
43 institution exempt from registration under the Investment Advisers Act of 1940 or
44 that is currently registered as an investment adviser, and has been registered, or is
45 affiliated with an adviser that has been registered, as an investment adviser under
46 the Investment Advisers Act of 1940 for at least 3 years next preceding an offer or
47 sale of a security claimed to be exempt pursuant to this paragraph, and the issuer
48 has acted, or is affiliated with an investment adviser that has acted, as investment
49 adviser to one or more registered investment companies or unit investment trusts
50 for at least 3 years next preceding an offer or sale of a security claimed to be
51 exempt under this paragraph; or

52 (2) The issuer has a sponsor that has at all times throughout the 3 years
53 before an offer or sale of a security claimed to be exempt pursuant to this paragraph

sponsored one or more registered investment companies or unit investment trusts the aggregate total assets of which have exceeded \$100,000,000.

3. For the purpose of paragraph (n) of subsection 2, an investment adviser is affiliated with another investment adviser if it controls, is controlled by, or is under common control with the other investment adviser.

4. The exemption provided by paragraph (n) of subsection 2 is available only if the person claiming the exemption files with the Administrator a notice of intention to sell which sets forth the name and address of the issuer and the securities to be offered in this State and pays a fee:

(a) Of \$500 for the initial claim of exemption and the same amount at the beginning of each fiscal year thereafter in which securities are to be offered in this State, in the case of an open-end management company; or

(b) Of \$300 for the initial claim of exemption in the case of a unit investment trust.

5. An exemption provided by paragraph ~~((a), (b))~~ (c), (d), (e), (f), (i) ~~or~~ (k) ~~for (n))~~ of subsection 2 is available only if, within the 12 months immediately preceding the use of the exemption, a notice of claim of exemption has been filed with the Administrator and a nonrefundable fee of \$300 has been paid.

Sec. 6. NRS 90.565 is hereby amended to read as follows:

90.565 **1.** An offering of securities is exempt from the provisions of NRS 90.460 and 90.560 if:

~~((a))~~ (a) The securities are set forth in subparagraph (2) of paragraph (b) of section 18 of the Securities Act of 1933, 15 U.S.C. § 77r(b)(2); and

~~((b))~~ (b) Before the initial offering in this State of the securities:

~~((a))~~ (1) A copy of the issuer's federal registration statement is filed with the Securities and Exchange Commission; or

~~((b))~~ (2) A notice ~~on Form NF or Form N-9, as prescribed by the Administrator,~~ filing is filed with the Administrator with a fee of \$500.

2. A notice filing pursuant to subparagraph (2) of paragraph (b) of subsection 1 is effective for 1 year commencing on the later of:

(a) The date the notice filing is filed with the Administrator; or

(b) The effective date specified in the issuer's federal registration statement that is filed with the Securities and Exchange Commission.

3. On or before the expiration of a notice filing, an issuer may renew the notice filing by:

(a) Paying a renewal fee of \$500; and

(b) Filing with the Administrator:

(1) A copy of those records filed by the issuer with the Securities and Exchange Commission pursuant to rule or order under this chapter; or

(2) A notice filing. This requirement may be satisfied by reference to a notice filing that was previously filed with the Administrator.

4. The renewal of a notice filing becomes effective upon the expiration of the notice filing being renewed.

5. As used in this section, "notice filing" means a notice on Form NF or Form N-9, as prescribed by the Administrator, to be filed with the Administrator.

Sec. 7. NRS 90.567 is hereby amended to read as follows:

90.567 **1.** If, pursuant to NRS 90.540, the Administrator by regulation or order exempts from the provisions of NRS 90.460 and 90.560 an offer to sell or the sale of a security ~~by an issuer to persons who are or the issuer believes are accredited investors,~~ and the offer to sell or the sale of the security complies with the requirements of Regulation D of the Securities and Exchange Commission, 17 C.F.R. §§ 230.501 to 230.506, inclusive, except for 17 C.F.R. § 230.504, the issuer shall, within 15 days after the first sale in this State, file with the

1 Administrator a fee of \$500 ~~[]~~ *and any other document which the Administrator*
2 *by regulation or order may require.*

3 2. ~~{As used in this section, "accredited investor" has the meaning ascribed to~~
4 ~~it in 17 C.F.R. § 230.501(a).}~~ *In addition to the fee set forth in subsection 1, an*
5 *issuer shall pay an additional fee of:*

6 (a) ~~[\$250]~~ *Two hundred fifty dollars for any filing that is filed 1 to 10 days*
7 *after the date required by subsection 1; or*

8 (b) ~~[\$500]~~ *Five hundred dollars for any filing that is filed more than 10 days*
9 *after the date required by subsection 1.*

10 **Sec. 8.** NRS 90.580 is hereby amended to read as follows:

11 90.580 1. Without limiting the general applicability of NRS 90.570, a
12 person shall not:

13 (a) Quote a fictitious price with respect to a security;

14 (b) Effect a transaction in a security which involves no change in the beneficial
15 ownership of the security for the purpose of creating a false or misleading
16 appearance of active trading in a security or with respect to the market for the
17 security;

18 (c) Enter an order for the purchase of a security with the knowledge that an
19 order of substantially the same size and at substantially the same time and price for
20 the sale of the security has been or will be entered by or for the same or affiliated
21 person for the purpose of creating a false or misleading appearance of active trading
22 in a security or with respect to the market for the security;

23 (d) Enter an order for the sale of a security with knowledge that an order of
24 substantially the same size and at substantially the same time and price for the
25 purchase of the security has been or will be entered by or for the same or affiliated
26 person for the purpose of creating a false or misleading appearance of active trading
27 in a security or with respect to the market for the security; ~~{or}~~

28 (e) Employ any other deceptive or fraudulent device, scheme or artifice to
29 manipulate the market in a security ~~[]~~; *or*

30 (f) *Put off, circulate or publish any false or misleading writing, statement or*
31 *information regarding a security that is publicly traded.*

32 2. Transactions effected in compliance with, or conduct which does not
33 violate, the applicable provisions of the Securities Exchange Act of 1934 and the
34 rules and regulations of the Securities and Exchange Commission thereunder are
35 not violations of subsection 1.

36 **Sec. 9.** NRS 90.605 is hereby amended to read as follows:

37 90.605 In any investigation, proceeding or prosecution with respect to any
38 violation of a provision of this chapter, a regulation adopted pursuant to this
39 chapter, an order denying, suspending or revoking the effectiveness of registration
40 or an order to cease and desist issued by the Administrator, a person shall not
41 willfully:

42 1. *Make any materially false, fictitious or fraudulent statement or*
43 *representation;*

44 2. Offer or procure to be offered into evidence, as genuine, any book, paper,
45 document or record if the person knows that the book, paper, document or record
46 has been forged or fraudulently altered; or

47 ~~[2.]~~ 3. Destroy, alter, erase, obliterate or conceal, or cause to be destroyed,
48 altered, erased, obliterated or concealed, any book, paper, document or record, with
49 the intent to:

50 (a) Conceal any violation of any provision of this chapter, a regulation adopted
51 pursuant to this chapter, an order denying, suspending or revoking the effectiveness
52 of registration or an order to cease and desist issued by the Administrator;

(b) Protect or conceal the identity of any person who has violated any provision of this chapter, a regulation adopted pursuant to this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator; or

(c) Delay or hinder the investigation or prosecution of any person for any violation of any provision of this chapter, a regulation adopted pursuant to this chapter, an order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator.

Sec. 10. NRS 90.715 is hereby amended to read as follows:

90.715 1. Except as otherwise provided in this section, the Division shall interpret strictly the provisions of this chapter and the regulations adopted pursuant thereto and shall not waive the enforcement of any such provision.

2. Subject to the provisions of this section and at the sole discretion of the Administrator, the Division may:

(a) Grant a waiver of the enforcement of any provision of this chapter or the regulations adopted pursuant thereto if the Administrator determines that the waiver is appropriate under the circumstances and is clearly within the authority of the Division to grant.

(b) Issue a no-action letter relating to a proposed transaction. Such a letter must not be issued in any case in which the issue presented may be resolved through a careful reading of the relevant provisions of this chapter or the regulations adopted pursuant thereto or through an interpretation of those provisions by competent counsel.

3. A request for a waiver or no-action letter must be submitted in writing to the office of the Administrator, accompanied by a fee of ~~[\$200.]~~ **\$500.**

4. Except under extraordinary circumstances, the Division shall not respond to any request:

(a) Involving the antifraud provisions of this chapter or the regulations adopted pursuant thereto; or

(b) Relating to a transaction that has been consummated.

5. Unless otherwise specified in writing by the Division, a waiver or no-action letter is limited to the specific security, case, matter or transaction carried out and has no precedential value in any other context.

6. As used in this section, "no-action letter" means a written communication issued by the Division by which a person is advised that a transaction carried out under a set of assumed facts will not result in a recommendation by the staff of the Division that an enforcement action be taken.

Sec. 11. NRS 205.435 is hereby amended to read as follows:

205.435 ~~[Am]~~ ***Unless a greater penalty is imposed by a specific statute, an officer, agent or other person in the service of a joint-stock company or corporation, domestic or foreign, who, willfully and knowingly with the intent to defraud:***

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes or causes to be signed or executed, with the intent to sell, pledge or issue, or cause to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of ownership of any share of that company or corporation, or any conveyance or encumbrance of real or personal property, contract, bond or evidence of debt, or writing purporting to be a conveyance or encumbrance of real or personal property, contract, bond or evidence of debt of that company or corporation, without being first duly authorized by the company or corporation, or in excess of the power of the company or corporation, or of the limit imposed by law or otherwise upon its power to create or issue stock or evidence of debt; or

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or cancelled certificate or other evidence of the transfer of ownership of any such share,

➤ is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 12. NRS 205.440 is hereby amended to read as follows:

205.440 Every person who, with intent to affect the market price of any ~~security or~~ property, shall put off, circulate or publish any false or misleading writing, statement or intelligence, shall be guilty of a gross misdemeanor.

Sec. 13. 1. This section and sections 1 ~~and 2 to~~ , 4, 9, 11 and 12, inclusive, of this act become effective upon passage and approval.

2. ~~{Section}~~ Sections 2, 3, 5 to 8, inclusive, and 10 of this act ~~{becomes}~~ become effective on July 1, 2011.

~~{ 3. Section 3 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~— (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~— (b) Are in arrears in the payment for the support of one or more children, ➤ are repealed by the Congress of the United States.}~~