

ASSEMBLY BILL NO. 279—ASSEMBLYWOMAN PIERCE

MARCH 15, 2013

Referred to Committee on Taxation

SUMMARY—Imposes a tax on certain income of business entities engaged in business in this State. (BDR 32-784)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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; providing for the imposition, administration, collection and enforcement of a tax on certain income of business entities engaged in business in this State; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 14** of this bill imposes an excise tax on each business entity engaged in
2 business in this State at the rate of 4.5 percent of the portion of its Nevada taxable
3 income that exceeds \$500,000 each taxable year. In accordance with **section 9** of
4 this bill, the Nevada taxable income of a business entity is determined by taking the
5 amount of its federal taxable income, making various adjustments to that amount
6 under **section 18** of this bill, and then apportioning all or part of that adjusted
7 amount to this State pursuant to **section 19** of this bill based upon the portion of its
8 property, payroll and sales that are located within this State. **Sections 1-36** of this
9 bill provide for the administration, collection and enforcement of the tax by the
10 Department of Taxation in a manner similar to other state taxes. **Sections 38, 40,**
11 **42, 44, 45, 48, 49, 52-54, 56 and 59** of this bill authorize the imposition of various
12 types of disciplinary action against certain business entities who fail to pay the tax
13 by the agencies responsible for their supervision and licensing. **Sections 39, 41, 43,**
14 **46, 47, 50 and 51** of this bill authorize the Department to obtain certain records and
15 information from those agencies to assist the Department in its administration of
16 the tax.



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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 32, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Business” means any activity engaged in or caused to be engaged in with the object of gain, benefit or advantage, either direct or indirect, to any person or governmental entity.*

Sec. 4. 1. *Except as otherwise provided in this section, “business entity” means a corporation, partnership, proprietorship, independent contractor, limited-liability company, business association, joint venture, limited-liability partnership, business trust, professional association, joint stock company, holding company and any other person engaging in a business.*

2. *“Business entity” does not include:*

(a) A natural person unless that person is engaging in a business and is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming, or its equivalent or successor form, for that business;

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3);

(c) A governmental entity; or

(d) Any person or other entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

Sec. 5. *“Commission” means the Nevada Tax Commission.*

Sec. 6. *“Engaging in a business” means commencing, conducting or continuing a business, the exercise of corporate or franchise powers regarding a business, and the liquidation of a business which is or was engaging in a business when the liquidator holds itself out to the public as conducting that business.*

Sec. 7. 1. *“Federal taxable income” means, except as otherwise provided in this section, the taxable income of a business entity for a taxable year, as set forth in the federal*



1 *income tax return filed by the business entity for that year with the*
2 *Internal Revenue Service.*

3 2. *If the business entity is a natural person, "federal taxable*
4 *income" means the taxable income of the person for a taxable*
5 *year from engaging in a business for which the person is required*
6 *to file with the Internal Revenue Service a Schedule C (Form*
7 *1040), Profit or Loss From Business, or its equivalent or successor*
8 *form, a Schedule E (Form 1040), Supplemental Income and Loss,*
9 *or its equivalent or successor form, or a Schedule F (Form 1040),*
10 *Profit or Loss From Farming, or its equivalent or successor form,*
11 *as set forth in the federal income tax return filed by the person for*
12 *that year with the Internal Revenue Service.*

13 3. *The term includes any taxable income which is required to*
14 *be reported as such pursuant to federal law, regardless of whether*
15 *it is actually reported.*

16 **Sec. 8. "Governmental entity" means:**

17 1. *The United States and any of its unincorporated agencies*
18 *and instrumentalities.*

19 2. *Any incorporated agency or instrumentality of the United*
20 *States wholly owned by the United States or by a corporation*
21 *wholly owned by the United States.*

22 3. *The State of Nevada and any of its unincorporated*
23 *agencies and instrumentalities.*

24 4. *Any county, city, district or other political subdivision of*
25 *this State.*

26 **Sec. 9. "Nevada taxable income" means the federal taxable**
27 **income of a business entity, as adjusted pursuant to section 18 of**
28 **this act and apportioned to this State pursuant to section 19 of this**
29 **act.**

30 **Sec. 10. "Taxable year" means the taxable year used by a**
31 **business entity for the purposes of federal income taxation.**

32 **Sec. 11. The Department shall:**

33 1. *Administer and enforce the provisions of this chapter, and*
34 *may adopt such regulations as it deems appropriate for that*
35 *purpose.*

36 2. *Deposit all taxes, interest and penalties it receives pursuant*
37 *to this chapter in the State Treasury for credit to the State General*
38 *Fund.*

39 **Sec. 12. 1. Each person responsible for maintaining the**
40 **records of a business entity shall:**

41 (a) *Keep such records as may be necessary to determine the*
42 *amount of the liability of the business entity pursuant to the*
43 *provisions of this chapter;*



1 (b) Preserve those records for 4 years or until any litigation or
2 prosecution pursuant to this chapter is finally determined,
3 whichever is longer; and

4 (c) Make the records available for inspection by the
5 Department upon demand at reasonable times during regular
6 business hours.

7 2. The Department may by regulation specify the types of
8 records which must be kept to determine the amount of the
9 liability of a business entity pursuant to the provisions of this
10 chapter.

11 3. Any person who violates the provisions of subsection 1 is
12 guilty of a misdemeanor.

13 **Sec. 13.** 1. To verify the accuracy of any return filed or, if
14 no return is filed by a business entity, to determine the amount
15 required to be paid, the Department, or any person authorized in
16 writing by the Department, may examine the books, papers and
17 records of any person who may be liable for the tax imposed by
18 this chapter.

19 2. Any person who may be liable for the tax imposed by this
20 chapter and who keeps outside of this State any books, papers or
21 records relating thereto shall pay to the Department an amount
22 equal to the allowance provided for state officers and employees
23 generally while traveling outside of the State for each day or
24 fraction thereof during which an employee of the Department is
25 engaged in examining those documents, plus any other actual
26 expenses incurred by the employee while he or she is absent from
27 his or her regular place of employment to examine those
28 documents.

29 **Sec. 14.** 1. An excise tax is hereby imposed upon each
30 business entity for the privilege of engaging in a business in this
31 State at the rate of 4.5 percent of the Nevada taxable income of the
32 business entity in excess of \$500,000 each taxable year. The tax
33 for each taxable year is due on the last day of that taxable year.

34 2. Except as otherwise provided in this chapter, each business
35 entity engaging in a business in this State during a taxable year
36 whose Nevada taxable income for that year exceeds \$500,000 shall
37 file with the Department a return on a form prescribed by the
38 Department, together with the remittance of any tax due pursuant
39 to this chapter for that taxable year, not later than 30 days after
40 the date the business entity is required to file its federal income tax
41 return for that taxable year with the Internal Revenue Service.
42 The return required by this subsection must be executed under
43 penalty of perjury and include such information as is required by
44 the Department.



3. A person who receives Nevada taxable income as a shareholder of an S corporation, as the owner of a sole proprietorship, as a beneficiary of a trust or as a member of a partnership or limited-liability company is liable for and shall pay the tax due on that income if that tax is not paid on behalf of that person by the S corporation, sole proprietorship, trust, partnership or limited-liability company.

Sec. 15. 1. In addition to the returns required by section 14 of this act, a business entity that is a member of an affiliated group and is engaged in a unitary business in this State with one or more other members of the affiliated group shall file with the Department such reports regarding the unitary business as the Department determines to be appropriate for the administration and enforcement of the provisions of this chapter.

2. The Department may allow two or more business entities that are members of an affiliated group to file a consolidated return for the purposes of this chapter if the business entities are allowed to file a consolidated return for the purposes of federal income taxation.

3. As used in this section:

(a) "Affiliated group" means a group of two or more business entities, each of which is controlled by one or more common owners or by one or more of the members of the group.

(b) "Controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a business entity, whether through the ownership of voting securities, by contract or otherwise.

(c) "Unitary business" means a business characterized by unity of ownership, functional integration, centralization of management and economy of scale.

Sec. 16. Upon written application made before the date on which a business entity is otherwise required to file a return and pay the tax imposed by this chapter, the Department may:

1. If the business entity is granted an extension of time by the Federal Government for the filing of its federal income tax return, extend the time for filing the return required by this chapter until not later than 30 days after the date the business entity is required to file its federal income tax return pursuant to the extension of time granted by the Federal Government. The Department may require, as a condition to the granting of any extension pursuant to this subsection, the payment of the tax estimated to be due pursuant to this chapter.

2. For good cause, extend by 30 days the time within which the business entity is required to pay the tax. If the tax is paid during a period of extension granted pursuant to this subsection,



1 *no penalty or late charge may be imposed for failure to pay at the*
2 *time required, but the business entity shall pay interest at the rate*
3 *of 0.75 percent per month from the date on which the amount*
4 *would have been due without the extension until the date of*
5 *payment, unless otherwise provided in NRS 360.232 or 360.320.*

6 **Sec. 17. 1.** *If a business entity files an amended federal*
7 *income tax return that reflects a change in income required to be*
8 *reported pursuant to this chapter, the business entity shall file an*
9 *amended return with the Department within 30 days after the*
10 *filing of the federal return.*

11 **2.** *If the federal taxable income of a business entity changes*
12 *as a result of an audit or other adjustment by the Internal Revenue*
13 *Service or another competent authority, the business entity shall*
14 *file an amended return with the Department within 30 days after*
15 *the audit report or other adjustment becomes final.*

16 **3.** *If, based upon an amended return filed pursuant to this*
17 *section, it appears that the tax imposed by this chapter has not*
18 *been fully assessed, the Department shall assess the deficiency,*
19 *with interest calculated at the rate and in the manner set forth in*
20 *NRS 360.417. Any assessment required by this subsection must be*
21 *made within 1 year after the Department receives the amended*
22 *return.*

23 **Sec. 18. 1.** *In computing the Nevada taxable income of a*
24 *business entity, its federal taxable income must be:*

25 *(a) Increased by:*

26 *(1) The amount of any deduction for the tax imposed by*
27 *section 14 of this act or the equivalent taxing statute of another*
28 *state.*

29 *(2) The amount of any net operating loss in the taxable*
30 *year that is carried back to previous taxable years pursuant to 26*
31 *U.S.C. § 172.*

32 *(3) The amount of any deduction claimed for the taxable*
33 *year pursuant to 26 U.S.C. § 172 which was previously used to*
34 *offset any increase required by this subsection.*

35 *(4) Any interest or dividends on the obligations or securities*
36 *of any state or political subdivision of a state, other than this State*
37 *or a political subdivision of this State.*

38 *(b) Reduced by:*

39 *(1) Any income that is exempt from taxation by this State*
40 *under the Constitution, laws or treaties of the United States or the*
41 *Nevada Constitution, except that the amount of any reduction*
42 *made pursuant to this subparagraph must be decreased by any*
43 *expense incurred in the production of the income to the extent that*
44 *the expense is deductible in determining federal taxable income.*



1 (2) Any interest income received on obligations of the
2 United States.

3 (3) The amount of any refund of income tax received from
4 another state which has been included as income in computing
5 federal taxable income.

6 (4) If the business entity is required to pay a tax on the net
7 proceeds of minerals extracted pursuant to chapter 362 of NRS,
8 the exempt mining revenue of the business entity for the taxable
9 year.

10 2. The Department shall adopt regulations for the
11 administration of this section. The regulations must specify in
12 detail the adjustments to the federal taxable income of a business
13 entity required by subparagraph (4) of paragraph (b) of
14 subsection 1.

15 3. For the purposes of this section, "exempt mining revenue"
16 means a percentage of the federal taxable income of the business
17 entity equal to the percentage obtained by dividing the amount of
18 the gross proceeds used to determine the amount of the tax due
19 pursuant to chapter 362 of NRS from the business entity for the
20 taxable year, by the amount of the total revenue of the business
21 entity for the taxable year.

22 **Sec. 19.** 1. Except as otherwise provided in subsection 2, a
23 business entity that has federal taxable income from engaging in a
24 business:

25 (a) Solely within this State shall apportion its entire federal
26 taxable income to this State.

27 (b) Both within and outside of this State shall apportion its
28 federal taxable income to this State by multiplying the amount of
29 that income by a fraction, the numerator of which is the sum of
30 the property factor plus the payroll factor plus the sales factor, and
31 the denominator of which is 3.

32 2. If the application of the provisions of subsection 1 does not
33 fairly represent the extent of the business of a business entity in
34 this State, the business entity may petition the Department for, or
35 the Department may require, with regard to all or any part of the
36 business of that business entity:

37 (a) Separate accounting;

38 (b) The exclusion of one or more of the factors enumerated in
39 subsection 1;

40 (c) The inclusion of one or more additional factors that will
41 fairly represent the business of the business entity in this State; or

42 (d) The use of any other reasonable method to effect an
43 equitable apportionment of income.

44 3. For the purposes of this section:



1 (a) The “property factor” is a fraction, the numerator of which
2 is the average value of the real and tangible personal property
3 owned or rented by the business entity and used in this State
4 during the taxable year, and the denominator of which is the
5 average value of all the real and tangible personal property owned
6 or rented and used by the business entity during that year.

7 (b) The “payroll factor” is a fraction, the numerator of which
8 is the total amount paid in this State during the taxable year by the
9 business entity as compensation, and the denominator of which is
10 the total compensation paid everywhere by the business entity
11 during that year.

12 (c) The “sales factor” is a fraction, the numerator of which is
13 the total sales of the business entity occurring in this State during
14 the taxable year, and the denominator of which is the total sales
15 of the business entity everywhere during that year.

16 **Sec. 20.** 1. For the purposes of this chapter, the method of
17 accounting and the taxable year used by a business entity must be
18 the same as those used by the business entity for the purposes of
19 federal income taxation. If the business entity does not regularly
20 use a single method of accounting, the taxable income of the
21 business entity must be computed under such a method as the
22 Department determines will fairly reflect that income.

23 2. If there is any change in the method of accounting or the
24 taxable year used by a business entity for the purposes of federal
25 income taxation, the same change must be implemented for the
26 purposes of this chapter.

27 **Sec. 21.** If the Department determines that any tax, penalty
28 or interest has been paid more than once or has been erroneously
29 or illegally collected or computed, the Department shall set forth
30 that fact in the records of the Department and certify to the State
31 Board of Examiners the amount collected in excess of the amount
32 legally due and the person from whom it was collected or by whom
33 it was paid. If approved by the State Board of Examiners, the
34 excess amount collected or paid must, after being credited against
35 any amount then due from the person in accordance with NRS
36 360.236, be refunded to the person or his or her successors in
37 interest.

38 **Sec. 22.** 1. Except as otherwise provided in NRS 360.235
39 and 360.395:

40 (a) No refund may be allowed unless a claim for it is filed with
41 the Department within 3 years after the last day of the month
42 following the taxable year for which the overpayment was made.

43 (b) No credit may be allowed after the expiration of the period
44 specified for filing claims for refund unless a claim for credit is
45 filed with the Department within that period.



2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

Sec. 23. 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of any amount of the taxes imposed by this chapter at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

Sec. 24. 1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of this State to prevent or enjoin the collection under this chapter of the tax imposed by this chapter or any amount of tax, penalty or interest required to be collected.

2. No suit or proceeding may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed.

Sec. 25. 1. Within 90 days after a final decision upon a claim filed pursuant to this chapter is rendered by the Commission, the claimant may bring an action against the Department on the grounds set forth in the claim in a court of competent jurisdiction in Carson City, the county of this State where the claimant resides or maintains his or her principal place of business or a county in which any relevant proceedings were conducted by the Department, for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

2. Failure to bring an action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

Sec. 26. 1. If the Department fails to mail notice of action on a claim within 6 months after the claim is filed, the claimant may consider the claim disallowed and file an appeal with the Commission within 30 days after the last day of the 6-month period. If the claimant is aggrieved by the decision of the



1 *Commission rendered on appeal, the claimant may, within 90 days*
2 *after the decision is rendered, bring an action against the*
3 *Department on the grounds set forth in the claim for the recovery*
4 *of the whole or any part of the amount claimed as an*
5 *overpayment.*

6 *2. If judgment is rendered for the plaintiff, the amount of the*
7 *judgment must first be credited toward any tax due from the*
8 *plaintiff.*

9 *3. The balance of the judgment must be refunded to the*
10 *plaintiff.*

11 **Sec. 27.** *In any judgment, interest must be allowed at the rate*
12 *of 3 percent per annum upon the amount found to have been*
13 *illegally collected from the date of payment of the amount to the*
14 *date of allowance of credit on account of the judgment, or to a*
15 *date preceding the date of the refund warrant by not more than 30*
16 *days. The date must be determined by the Department.*

17 **Sec. 28.** *A judgment may not be rendered in favor of the*
18 *plaintiff in any action brought against the Department to recover*
19 *any amount paid when the action is brought by or in the name of*
20 *an assignee of the person paying the amount or by any person*
21 *other than the person who paid the amount.*

22 **Sec. 29.** *1. The Department may recover a refund or any*
23 *part thereof which is erroneously made and any credit or part*
24 *thereof which is erroneously allowed in an action brought in a*
25 *court of competent jurisdiction in Carson City or Clark County in*
26 *the name of the State of Nevada.*

27 *2. The action must be tried in Carson City or Clark County*
28 *unless the court, with the consent of the Attorney General, orders*
29 *a change of place of trial.*

30 *3. The Attorney General shall prosecute the action, and the*
31 *provisions of the Nevada Revised Statutes, the Nevada Rules of*
32 *Civil Procedure and the Nevada Rules of Appellate Procedure*
33 *relating to service of summons, pleadings, proofs, trials and*
34 *appeals are applicable to the proceedings.*

35 **Sec. 30.** *1. If any amount in excess of \$25 has been*
36 *illegally determined, either by the Department or by the person*
37 *filing the return, the Department shall certify that fact to the State*
38 *Board of Examiners, and the latter shall authorize the*
39 *cancellation of the amount upon the records of the Department.*

40 *2. If an amount not exceeding \$25 has been illegally*
41 *determined, either by the Department or by the person filing the*
42 *return, the Department, without certifying that fact to the State*
43 *Board of Examiners, shall authorize the cancellation of the*
44 *amount upon the records of the Department.*

45 **Sec. 31.** *1. A person shall not:*



1 (a) *Make, cause to be made or permit to be made any false or*
2 *fraudulent return or declaration or false statement in any return*
3 *or declaration with intent to defraud the State or to evade payment*
4 *of the tax or any part of the tax imposed by this chapter.*

5 (b) *Make, cause to be made or permit to be made any false*
6 *entry in books, records or accounts with intent to defraud the State*
7 *or to evade the payment of the tax or any part of the tax imposed*
8 *by this chapter.*

9 (c) *Keep, cause to be kept or permit to be kept more than one*
10 *set of books, records or accounts with intent to defraud the State*
11 *or to evade the payment of the tax or any part of the tax imposed*
12 *by this chapter.*

13 2. *Any person who violates the provisions of subsection 1 is*
14 *guilty of a gross misdemeanor.*

15 **Sec. 32.** *The remedies of the State provided for in this*
16 *chapter are cumulative, and no action taken by the Department or*
17 *the Attorney General constitutes an election by the State to pursue*
18 *any remedy to the exclusion of any other remedy for which*
19 *provision is made in this chapter.*

20 **Sec. 33.** NRS 360.2937 is hereby amended to read as follows:

21 360.2937 1. Except as otherwise provided in this section,
22 NRS 360.320 or any other specific statute, and notwithstanding the
23 provisions of NRS 360.2935, interest must be paid upon an
24 overpayment of any tax provided for in chapter 362, 363A, 363B,
25 369, 370, 372, 374, 377 or 377A of NRS, *or sections 2 to 32,*
26 *inclusive, of this act,* any fee provided for in NRS 444A.090 or
27 482.313, or any assessment provided for in NRS 585.497, at the rate
28 of 0.25 percent per month from the last day of the calendar month
29 following the period for which the overpayment was made.

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

33 3. The interest must be paid:

34 (a) In the case of a refund, to the last day of the calendar month
35 following the date upon which the person making the overpayment,
36 if the person has not already filed a claim, is notified by the
37 Department that a claim may be filed or the date upon which the
38 claim is certified to the State Board of Examiners, whichever is
39 earlier.

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

43 **Sec. 34.** NRS 360.300 is hereby amended to read as follows:

44 360.300 1. If a person fails to file a return or the Department
45 is not satisfied with the return or returns of any tax, contribution or



1 premium or amount of tax, contribution or premium required to be
2 paid to the State by any person, in accordance with the applicable
3 provisions of this chapter, chapter 360B, 362, 363A, 363B, 369,
4 370, 372, 372A, 374, 377, 377A or 444A of NRS, *or sections 2 to*
5 *32, inclusive, of this act*, NRS 482.313, or chapter 585 or 680B of
6 NRS as administered or audited by the Department, it may compute
7 and determine the amount required to be paid upon the basis of:

8 (a) The facts contained in the return;

9 (b) Any information within its possession or that may come into
10 its possession; or

11 (c) Reasonable estimates of the amount.

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

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

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

22 5. When a business is discontinued, a determination may be
23 made at any time thereafter within the time prescribed in NRS
24 360.355 as to liability arising out of that business, irrespective of
25 whether the determination is issued before the due date of the
26 liability.

27 **Sec. 35.** NRS 360.417 is hereby amended to read as follows:

28 360.417 Except as otherwise provided in NRS 360.232 and
29 360.320, and unless a different penalty or rate of interest is
30 specifically provided by statute, any person who fails to pay any tax
31 provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377,
32 377A, 444A or 585 of NRS, *or sections 2 to 32, inclusive, of this*
33 *act*, or any fee provided for in NRS 482.313, and any person or
34 governmental entity that fails to pay any fee provided for in NRS
35 360.787, to the State or a county within the time required, shall pay
36 a penalty of not more than 10 percent of the amount of the tax or fee
37 which is owed, as determined by the Department, in addition to the
38 tax or fee, plus interest at the rate of 0.75 percent per month, or
39 fraction of a month, from the last day of the month following the
40 period for which the amount or any portion of the amount should
41 have been reported until the date of payment. The amount of any
42 penalty imposed must be based on a graduated schedule adopted by
43 the Nevada Tax Commission which takes into consideration the
44 length of time the tax or fee remained unpaid.



Sec. 36. 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 the person 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 or her possession or under his or her 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 or her possession or under his or her control at the time the person 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 or her possession, under his or her control or owing by that person 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 or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to



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1 the Department or that his or her duty to transmit the payments to
2 the Department has ceased.

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

10 7. If any person notified by the notice of the delinquency
11 makes any transfer or other disposition of the property or debts
12 required to be withheld or transmitted, to the extent of the value of
13 the property or the amount of the debts thus transferred or paid, that
14 person is liable to the State for any indebtedness due pursuant to this
15 chapter, or chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A,
16 374, 377, 377A or 444A of NRS, *sections 2 to 32, inclusive, of this*
17 *act*, NRS 482.313, or chapter 585 or 680B of NRS from the person
18 with respect to whose obligation the notice was given if solely by
19 reason of the transfer or other disposition the State is unable to
20 recover the indebtedness of the person with respect to whose
21 obligation the notice was given.

22 **Sec. 37.** NRS 78.245 is hereby amended to read as follows:

23 78.245 ~~Not~~

24 *1. Except as otherwise provided in subsection 2, no* stocks,
25 bonds or other securities issued by any corporation organized under
26 this chapter, nor the income or profits therefrom, nor the transfer
27 thereof by assignment, descent, testamentary disposition or
28 otherwise, shall be taxed by this State when such stocks, bonds or
29 other securities shall be owned by nonresidents of this State or by
30 foreign corporations.

31 *2. The provisions of subsection 1 do not apply to the tax*
32 *imposed pursuant to the provisions of sections 2 to 32, inclusive,*
33 *of this act.*

34 **Sec. 38.** NRS 90.420 is hereby amended to read as follows:

35 90.420 1. The Administrator by order may deny, suspend or
36 revoke any license, fine any licensed person, limit the activities
37 governed by this chapter that an applicant or licensed person may
38 perform in this State, bar an applicant or licensed person from
39 association with a licensed broker-dealer or investment adviser or
40 bar from employment with a licensed broker-dealer or investment
41 adviser a person who is a partner, officer, director, sales
42 representative, investment adviser or representative of an investment
43 adviser, or a person occupying a similar status or performing a
44 similar function for an applicant or licensed person, if the
45 Administrator finds that the order is in the public interest and that



1 the applicant or licensed person or, in the case of a broker-dealer or
2 investment adviser, any partner, officer, director, sales
3 representative, investment adviser, representative of an investment
4 adviser, or person occupying a similar status or performing similar
5 functions or any person directly or indirectly controlling the broker-
6 dealer or investment adviser, or any transfer agent or any person
7 directly or indirectly controlling the transfer agent:

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

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

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

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

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

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

34 (3) Involves the larceny, theft, robbery, extortion, forgery,
35 counterfeiting, fraudulent concealment, embezzlement, fraudulent
36 conversion or misappropriation of money or securities or conspiracy
37 to commit any of the foregoing offenses;

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



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

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

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

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

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

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

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

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

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of 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 of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act;*

(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



1 became effective unless the proceeding is instituted within 90 days
2 after issuance of the license.

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

11 **Sec. 39.** NRS 90.730 is hereby amended to read as follows:

12 90.730 1. Except as otherwise provided in subsection 2,
13 information and records filed with or obtained by the Administrator
14 are public information and are available for public examination.

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

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

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

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

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

32 (b) Department of Taxation for its use in carrying out the
33 provisions of chapter 363A of NRS ~~and~~ *and sections 2 to 32,*
34 *inclusive, of this act.*

35 4. The Administrator may disclose any information obtained in
36 connection with an investigation pursuant to NRS 90.620 to the
37 agencies and administrators specified in subsection 1 of NRS 90.740
38 but only if disclosure is provided for the purpose of a civil,
39 administrative or criminal investigation or proceeding, and the
40 receiving agency or administrator represents in writing that under
41 applicable law protections exist to preserve the integrity,
42 confidentiality and security of the information.

43 5. This chapter does not create any privilege or diminish any
44 privilege existing at common law, by statute, regulation or
45 otherwise.



Sec. 40. NRS 604A.820 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 32, inclusive, of this act;*

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

(e) The licensee:

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

(2) Has failed to remain open for the conduct of the business 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. 41. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the



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1 Commissioner shall exercise general supervision and control over
2 mortgage brokers and mortgage agents doing business in this State.

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

5 (a) Adopt regulations:

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

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

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

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

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

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

27 (2) Procedures for resolving any objections made by the
28 mortgage broker to the results of the annual examination. The
29 results of the annual examination may not be opened to public
30 inspection pursuant to NRS 645B.090 until after a period of time set
31 by the Commissioner to determine any objections made by the
32 mortgage broker.

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

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

44 (1) The Legislative Auditor; or



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(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

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

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

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

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

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

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

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

Sec. 42. NRS 645B.670 is hereby amended to read as follows:

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

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

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

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

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

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;



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

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

(d) Is in such financial condition that the mortgage broker cannot continue in business with safety to his or her customers;

(e) Has made a material misrepresentation in connection with 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 mortgage broker 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 mortgage broker possesses and which, if submitted by the mortgage broker, would have rendered the mortgage broker 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 or her 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 or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;

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

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

(m) 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;

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



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

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

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

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, 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 or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or

(2) Had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration revoked within the immediately preceding 10 years;

(t) Has violated NRS 645C.557; or

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's 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 the mortgage agent 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



1 suppressed or withheld from the Commissioner any information
2 which the mortgage agent possesses and which, if submitted by the
3 mortgage agent, would have rendered the mortgage agent ineligible
4 to be licensed pursuant to the provisions of this chapter;

5 (e) Has been convicted of, or entered or agreed to enter a plea of
6 guilty or nolo contendere to, a felony in a domestic, foreign or
7 military court within the 7 years immediately preceding the date of
8 the application, or at any time if such felony involved an act of
9 fraud, dishonesty or a breach of trust, moral turpitude or money
10 laundering;

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

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

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

19 (i) Has violated NRS 645C.557;

20 (j) Has repeatedly violated the policies and procedures of the
21 mortgage broker with whom the mortgage agent is associated or by
22 whom he or she is employed; or

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

27 **Sec. 43.** NRS 645E.300 is hereby amended to read as follows:

28 645E.300 1. Subject to the administrative control of the
29 Director of the Department of Business and Industry, the
30 Commissioner shall exercise general supervision and control over
31 mortgage bankers doing business in this State.

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

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

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

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

43 (d) Except as otherwise provided in subsection 4, conduct an
44 annual examination of each mortgage banker doing business in this
45 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 of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

(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.

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

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

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

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

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

Sec. 44. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

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

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

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

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine



1 of not more than \$25,000, may suspend, revoke or place conditions
2 upon the license, or may do both, if the licensee, whether or not
3 acting as such:

4 (a) Is insolvent;

5 (b) Is grossly negligent or incompetent in performing any act for
6 which the licensee is required to be licensed pursuant to the
7 provisions of this chapter;

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

11 (d) Is in such financial condition that the licensee cannot
12 continue in business with safety to his or her customers;

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

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

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

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

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

32 (j) Has been convicted of, or entered or agreed to enter a plea of
33 nolo contendere to, a felony in a domestic, foreign or military court
34 within the 7 years immediately preceding the date of the application,
35 or at any time if such felony involved an act of fraud, dishonesty or
36 a breach of trust, moral turpitude or money laundering;

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

41 (l) Has failed to pay a tax as required pursuant to the provisions
42 of chapter 363A of NRS ~~§~~ *or sections 2 to 32, inclusive, of this*
43 *act;*

44 (m) Has failed to satisfy a claim made by a client which has
45 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 violated NRS 645C.557;

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

(q) 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. 45. 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 or is in imminent danger of becoming 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 of NRS **H or sections 2 to 32, inclusive, of this act.**

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. 46. 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 the Director's 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 of NRS ~~§~~ and sections 2 to 32, inclusive, of this act;

(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. 47. NRS 669.275 is hereby amended to read as follows:

669.275 1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the



percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential. *This subsection does not limit the examination of any document by the Department of Taxation if necessary to carry out the provisions of sections 2 to 32, inclusive, of this act.*

Sec. 48. NRS 669.2825 is hereby amended to read as follows:

669.2825 1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(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' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(f) Has become 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 receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company



1 when it appears that the officers of the trust company have refused
2 to be examined upon oath regarding its affairs.

3 **Sec. 49.** NRS 669.2847 is hereby amended to read as follows:

4 669.2847 1. If the Commissioner has reason to believe that
5 grounds for revocation or suspension of a license exist, the
6 Commissioner shall give at least 20 days' written notice to the
7 licensee stating the contemplated action and, in general, the grounds
8 therefor and set a date for a hearing.

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

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

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

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

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

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

24 (b) The licensee, either knowingly or without any exercise of
25 due care to prevent it, has violated any provision of this chapter or
26 any regulation adopted pursuant thereto or any lawful order of the
27 Division of Financial Institutions;

28 (c) The licensee has failed to pay a tax as required pursuant to
29 the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 32,*
30 *inclusive, of this act;*

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

34 (e) The licensee:

35 (1) Failed to open an office for the conduct of the business
36 authorized by his or her license within 180 days after the date the
37 license was issued; or

38 (2) Has failed to remain open for the conduct of the business
39 for a period of 30 days without good cause therefor.

40 4. An order suspending or revoking a license becomes effective
41 5 days after being entered unless the order specifies otherwise or a
42 stay is granted.

43 **Sec. 50.** NRS 669.285 is hereby amended to read as follows:

44 669.285 Except as otherwise provided in NRS 239.0115, any
45 application and personal or financial records submitted by a person



1 pursuant to the provisions of this chapter and any personal or
2 financial records or other documents obtained by the Division of
3 Financial Institutions pursuant to an examination or audit conducted
4 by the Division are confidential and may be disclosed only to:

5 1. The Division, any authorized employee of the Division and
6 any state or federal agency investigating the activities covered under
7 the provisions of this chapter; ~~and~~

8 2. *The Department of Taxation for its use in carrying out the*
9 *provisions of sections 2 to 32, inclusive, of this act; and*

10 3. Any person when the Commissioner, in the Commissioner's
11 discretion, determines that the interests of the public that would be
12 protected by disclosure outweigh the interest of any person in the
13 confidential information not being disclosed.

14 **Sec. 51.** NRS 669A.310 is hereby amended to read as follows:

15 669A.310 1. Except as otherwise provided in this section,
16 any application and personal or financial records submitted by a
17 person pursuant to the provisions of this chapter, any personal or
18 financial records or other documents obtained by the Division of
19 Financial Institutions pursuant to an examination or audit conducted
20 by the Division pursuant to this chapter and any other private
21 information relating to a family trust company are confidential and
22 may be disclosed only to:

23 (a) The Division, any authorized employee of the Division and a
24 state or federal agency investigating activities regulated pursuant to
25 this chapter; ~~and~~

26 (b) *The Department of Taxation for its use in carrying out the*
27 *provisions of sections 2 to 32, inclusive, of this act; and*

28 (c) Any other person if the Commissioner, in the
29 Commissioner's discretion, determines that the interests of the
30 public in disclosing the information outweigh the interests of
31 the person about whom the information pertains in not disclosing
32 the information.

33 2. The Commissioner shall give to the family trust company to
34 which the information relates 10-days' prior written notice of intent
35 to disclose confidential information directly or indirectly to a person
36 pursuant to paragraph ~~(b)~~ (c) of subsection 1. Any family trust
37 company which receives such a notice may object to the disclosure
38 of the confidential information and will be afforded the right to a
39 hearing in accordance with the provisions of chapter 233B of NRS.
40 If a family trust company requests a hearing, the Commissioner may
41 not reveal confidential information prior to the conclusion of the
42 hearing and a ruling. Prior to dissemination of any confidential
43 information, the Commissioner shall require a written agreement not
44 to reveal the confidential information by the party receiving the
45 confidential information. In no event shall the Commissioner



1 disclose confidential information to the general public, any
2 competitor or any potential competitor of a family trust company.

3 3. Nothing in this chapter is intended to preclude a law
4 enforcement officer from gaining access to otherwise confidential
5 records by subpoena, court order, search warrant or other lawful
6 means. Notwithstanding any other provision of this chapter, the
7 Commissioner shall have the ability to share information with other
8 out of state or federal regulators with whom the Department of
9 Business and Industry has an agreement regarding the sharing of
10 information. Nothing in this chapter is intended to preclude any
11 agency of this State from gaining access to otherwise confidential
12 records in accordance with any applicable law.

13 **Sec. 52.** NRS 673.484 is hereby amended to read as follows:

14 673.484 The Commissioner may after notice and hearing
15 suspend or revoke the charter of any association for:

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

18 2. Failure to pay a tax as required pursuant to the provisions of
19 chapter 363A of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

20 **Sec. 53.** NRS 675.440 is hereby amended to read as follows:

21 675.440 1. If the Commissioner has reason to believe that
22 grounds for revocation or suspension of a license exist, he or she
23 shall give 20 days' written notice to the licensee stating the
24 contemplated action and, in general, the grounds therefor and set a
25 date for a hearing.

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

27 (a) Enter a written order either dismissing the charges, revoking
28 the license, or suspending the license for a period of not more than
29 60 days, which period must include any prior temporary suspension.
30 A copy of the order must be sent by registered or certified mail to
31 the licensee.

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

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

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

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

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



(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 32, inclusive, of this act;*

(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. 54. 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 or she 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 or her investigative costs and attorney's fees.

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

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

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

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 32, inclusive, of this act;*



(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. 55. NRS 680B.037 is hereby amended to read as follows:
680B.037 ~~{Payment}~~

1. Except as otherwise provided in subsection 2, payment by an insurer of the tax imposed by NRS 680B.027 is in lieu of all taxes imposed by the State or any city, town or county upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer.

2. The provisions of subsection 1 do not apply to the tax imposed pursuant to the provisions of sections 2 to 32, inclusive, of this act.

Sec. 56. 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 the person for not more than 12 months, or revoke or refuse to renew his or her license or certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the following causes:

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

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

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

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

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

6. Conviction of a felony.



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

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

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

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

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

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

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

14. Failing to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

Sec. 57. NRS 686C.360 is hereby amended to read as follows:

686C.360 The Association is exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions, except taxes on property ~~H~~ *and the tax imposed pursuant to sections 2 to 32, inclusive, of this act.*

Sec. 58. NRS 687A.130 is hereby amended to read as follows:

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

1. Levied on real or personal property; or

2. Imposed pursuant to the provisions of chapter 363A or 363B of NRS ~~H~~ *or sections 2 to 32, inclusive, of this act.*

Sec. 59. NRS 688C.210 is hereby amended to read as follows:

688C.210 1. After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if the Commissioner finds that:

(a) There was material misrepresentation in the application for the license;

(b) The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

(c) A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;



(d) The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

(e) A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

(f) A provider of viatical settlements has failed to honor obligations of a viatical settlement or an agreement to purchase a viatical settlement;

(g) The licensee no longer meets a requirement for initial licensure;

(h) A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement or a special organization;

(i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

(j) The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ *or sections 2 to 32, inclusive, of this act;*

(k) The applicant or licensee has violated a provision of this chapter or other applicable provisions; or

(l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.

3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

Sec. 60. NRS 694C.450 is hereby amended to read as follows:

694C.450 1. 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 rate of:

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

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

(c) Seventy-five thousandths of 1 percent on each additional 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 a 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 imposed pursuant to chapter 363A or 363B of NRS *or sections 2 to 32, inclusive, of this act* 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



1 deposited with the State Treasurer for credit to the State General
2 Fund.

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

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

13 (a) "Common ownership and control" means:

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

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

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

26 **Sec. 61.** NRS 695A.550 is hereby amended to read as follows:

27 695A.550 Every society organized or licensed under this
28 chapter is hereby declared to be a charitable and benevolent
29 institution, and is exempt from every state, county, district,
30 municipal and school tax other than *the tax imposed pursuant to*
31 *sections 2 to 32, inclusive, of this act and* taxes on real property and
32 office equipment.

33 **Sec. 62.** 1. The tax imposed by section 14 of this act applies
34 to the Nevada taxable income of a business entity for each taxable
35 year that ends after June 30, 2013.

36 2. Notwithstanding any other provision of this act to the
37 contrary:

38 (a) No return or payment of any tax is required pursuant to the
39 provisions of this act before January 1, 2014.

40 (b) No penalty or interest may be imposed against any person
41 for any failure of the person to comply with any of the provisions of
42 this act before January 1, 2014.

43 (c) For the purpose of determining the amount of the tax due
44 pursuant to section 14 of this act from a business entity for any
45 taxable year of the business entity that begins after July 1, 2012, and



1 ends before June 30, 2014, the tax rate must be applied only to the
2 product obtained by multiplying the amount of the Nevada taxable
3 income of the business entity that exceeds \$500,000 for that taxable
4 year by a fraction, the numerator of which is the number of days of
5 that taxable year that occur after June 30, 2013, and the denominator
6 of which is 365.

7 3. As used in this section, the words and terms defined in
8 sections 3 to 10, inclusive, of this act have the meanings ascribed to
9 them in those sections.

10 **Sec. 63.** The Department of Taxation shall adopt the
11 regulations required for the implementation of this act on or before
12 July 1, 2013.

13 **Sec. 64.** This act becomes effective:

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

17 2. On July 1, 2013, for all other purposes.

