

SENATE BILL NO. 103—SENATORS SETTELMAYER AND DENIS

PREFILED FEBRUARY 1, 2015

Referred to Committee on Revenue and
Economic Development

SUMMARY—Exempts certain persons from the modified business
tax on financial institutions. (BDR 32-42)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; exempting certain persons who sell,
solicit or negotiate insurance from the modified business
tax applicable to financial institutions; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law imposes an excise tax, commonly known as the modified business
2 tax, on employers who are financial institutions. (NRS 363A.130) Other employers
3 are taxed at a lower rate. (NRS 363B.110) **Section 1** of this bill exempts from the
4 definition of “financial institution” any person who is primarily engaged in the sale,
5 solicitation or negotiation of insurance, making such a person subject to the
6 modified business tax applicable to employers generally. For such a person, **section**
7 **2** of this bill provides that the general modified business tax is first applicable for
8 the calendar quarter beginning after the effective date of this bill.

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

1 **Section 1.** NRS 363A.050 is hereby amended to read as
2 follows:
3 363A.050 1. Except as otherwise provided in subsection 2,
4 “financial institution” means:
5 (a) An institution licensed, registered or otherwise authorized to
6 do business in this State pursuant to the provisions of title 55 or 56
7 of NRS or chapter 604A, 645B or 645E of NRS, or a similar
8 institution chartered or licensed pursuant to federal law;



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(b) A person licensed or registered or required to be licensed or registered pursuant to NRS 90.310, 90.330, 90.453, 686A.340 or 688C.190;

(c) A person holding or required to hold a solicitation permit or license pursuant to NRS 692B.040, 692B.190 or 692B.260;

(d) A person designated or registered or required to be designated or registered pursuant to the Commodity Exchange Act, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940 or the Investment Advisers Act of 1940, as amended;

(e) A person licensed pursuant to 7 U.S.C. § 2009cc-3 to operate as a rural business investment company;

(f) A person registered or required to be registered as a savings and loan holding company pursuant to 12 U.S.C. § 1467a;

(g) A person registered or required to be registered as a bank holding company pursuant to 12 U.S.C. § 1844;

(h) An investment bank holding company supervised pursuant to 15 U.S.C. § 78q;

(i) A person electing to be treated as a business development company pursuant to 15 U.S.C. § 80a-53;

(j) A person licensed pursuant to 15 U.S.C. § 681 to operate as a small business investment company;

(k) A person granted final approval pursuant to 15 U.S.C. § 689c to operate as a new markets venture capital company;

(l) A person qualifying as and electing to be considered a real estate investment trust pursuant to 26 U.S.C. § 856;

(m) A bank, as defined in 12 U.S.C. § 1813(a);

(n) A savings association, as defined in 12 U.S.C. § 1813(b);

(o) A savings bank, as defined in 12 U.S.C. § 1813(g);

(p) A thrift institution, as defined in 12 U.S.C. § 1841(i);

(q) A national banking association organized under the National Bank Act;

(r) An entity that is related to any of the entities described in paragraphs (a), (b), (d) to (k), inclusive, and (m) to (q), inclusive, regardless of whether the entity described in any of those paragraphs is doing business in this State; and

(s) An issuer or a service provider,

↳ who is conducting a business activity in this State.

2. The term does not include:

(a) A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act;

(b) A federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act; ~~land~~



(c) *A person who sells, solicits or negotiates insurance and whose business primarily consists of the sale, solicitation or negotiation of insurance; and*

(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.

3. For the purposes of this section:

(a) "Credit card" has the meaning ascribed to it in NRS 97A.050.

(b) "Entity" includes, without limitation, any corporation, limited-liability company, association, organization, company, firm, partnership, joint venture, trust, business trust, receiver, trustee, syndicate, cooperative or assignee, or any other group or combination acting as a unit.

(c) "Issuer" has the meaning ascribed to it in NRS 97A.100, except that the term does not include a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

(d) *A business "primarily consists of the sale, solicitation or negotiation of insurance" if more than 50 percent of the annual income of the business from commissions is derived from the sale, solicitation or negotiation of insurance.*

(e) Entities are "related" if at least 50 percent of the interest, either by vote or value, in each entity is owned, either directly or indirectly, by the same entity, including either of those entities.

~~(e)~~ (f) "Service provider" has the meaning ascribed to it in NRS 97A.130, except that the term does not include a service provider who acts in that capacity solely on behalf of a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

Sec. 2. For any person described in paragraph (c) of subsection 2 of NRS 363A.050, as amended by section 1 of this act:

1. The provisions of NRS 363A.130 apply to the person until the beginning of the calendar quarter described in subsection 2.

2. The provisions of NRS 363B.110 first apply to the person for the calendar quarter next succeeding the effective date of this act.

Sec. 3. This act becomes effective upon passage and approval.

