

SENATE BILL NO. 41—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Judiciary

SUMMARY—Revises various provisions relating to business entities. (BDR 7-425)

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

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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 business; removing the exemption from the requirement to obtain a state business registration for businesses whose primary purpose is to create or produce motion pictures; revising provisions governing the examination of the records required to be maintained by registered agents; revising the requirement for certain charitable organizations to register with the Secretary of State before soliciting charitable contributions in this State; revising provisions governing the reinstatement of the charter of a corporation sole; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires certain businesses to obtain a state business registration from the Secretary of State and to pay an annual fee for such registration. (NRS 76.100, 76.130) **Section 1** of this bill removes the exemption from this requirement for businesses whose primary purpose is to create or produce motion pictures and, thus, requires such businesses to obtain a state business registration and pay the annual fee.

Existing law requires foreign and domestic entities to appoint a registered agent. (NRS 77.310) Under existing law, the Secretary of State may conduct an examination of the records required to be maintained by a registered agent if the Secretary of State has reason to believe that a violation of the laws governing registered agents has been committed. (NRS 77.443) **Section 2** of this bill revises this provision to authorize the Secretary of State to conduct a periodic, special or other examination of the records of a registered agent as the Secretary of State



deems necessary or appropriate to determine whether a violation of the law governing registered agents has been committed.

Existing law requires certain charitable organizations that intend to solicit tax-deductible charitable contributions in this State to register with the Secretary of State by filing certain information and a financial report with the Secretary of State before the charitable organization first solicits charitable contributions in this State or has charitable contributions solicited in this State on its behalf. (NRS 82A.100) For the purposes of this registration requirement, the definition of "charitable organization" excludes an organization that is established for and serving bona fide religious purposes and, thus, such religious organizations are exempt from the requirement to register with the Secretary of State before soliciting tax-deductible charitable contributions. (NRS 82A.025) **Section 3** of this bill removes a duplicative exemption from the registration requirement for certain church organizations.

Under existing law, if a corporation sole has not filed an annual list within 1 year after the annual list is due, the corporation sole's right to transact business in this State is forfeited. (NRS 78.175, 84.110, 84.140) The corporation sole may reinstate its right to transact business in this State if, within 5 years after forfeiting its right to transact business, it files the required annual lists and pays certain fees, including, without limitation, a reinstatement fee. (NRS 78.180, 84.110, 84.150) Existing law contains two conflicting provisions that set forth the reinstatement fee, one provision states that the fee for reinstatement is \$25 and the other provision states that the fee is \$100. (NRS 84.110, 84.150) Under a well-established rule of statutory construction, "when statutes are in conflict, the one more recent in time controls over the provisions of an earlier enactment." *Laird v. State of Nev. Pub. Employees Ret. Bd.*, 98 Nev. 42, 45 (1982). Because the \$25 reinstatement fee was enacted in 1995 and the \$100 reinstatement fee was enacted in 2003, the fee for reinstatement under existing law is \$100. (Section 39 of Chapter 435, Statutes of Nevada 1995, p. 1124; Section 69 of Chapter 4, Statutes of Nevada 2003, 20th Special Session, p. 57) **Section 4** of this bill clarifies that the reinstatement fee is \$100 by removing a reference to the \$25 reinstatement fee.

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

**Section 1.** NRS 76.020 is hereby amended to read as follows:

76.020 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit;

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity; or

(c) Any entity organized pursuant to this title, including, without limitation, those entities required to file with the Secretary of State,



whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

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

(c) A person who operates a business from his or her home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

~~(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.~~

~~(f)~~ A business organized pursuant to chapter 82 or 84 of NRS.

~~(e)~~ **(f)** A business organized pursuant to chapter 81 of NRS if the business is a nonprofit unit-owners' association.

**Sec. 2.** NRS 77.443 is hereby amended to read as follows:

77.443 The Secretary of State may conduct *periodic, special or any other* examinations of any records required to be maintained pursuant to this chapter or any other provision of NRS pertaining to the duties of a registered agent ~~if~~ **as** the Secretary of State ~~has reason to believe that~~ **deems necessary or appropriate to determine whether** a violation of this chapter or any other provision of NRS pertaining to the duties of a registered agent has been ~~violated~~ **committed**.

**Sec. 3.** NRS 82A.110 is hereby amended to read as follows:

82A.110 1. A charitable organization is not required to be registered with the Secretary of State pursuant to NRS 82A.100 during any year in which its only solicitations for contributions, donations, gifts or the like are:

(a) Directed only to a total of fewer than 15 persons annually;

(b) Directed only to persons who are related within the third degree of consanguinity or affinity to the officers, directors, trustees or executive personnel of the charitable organization;

~~(c) Conducted by a church or one or more of its integrated auxiliaries or by a convention or association of churches that is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), and exempt from filing an annual return pursuant to section 6033 of the Internal Revenue Code, 26 U.S.C. § 6033;~~



1 ~~—(d)~~ Appeals for funds to benefit a particular person or his or her  
2 immediate family named in the solicitation, but only if all the  
3 proceeds of the solicitation are given to or expended for the direct  
4 benefit of the person or his or her immediate family; or

5 ~~H(e)~~ (d) Conducted by an alumni association of an accredited  
6 institution which solicits only persons who have an established  
7 affiliation with the institution, including, without limitation, current  
8 and former students, members of the faculty or staff, or persons who  
9 are within the third degree of consanguinity or affinity of such  
10 persons.

11 2. A charitable organization that believes it is exempt from  
12 registration pursuant to this section must, before it solicits a  
13 charitable contribution in this State or has a charitable contribution  
14 solicited in this State on its behalf by another person, and annually  
15 thereafter, file a declaration of exemption on a form prescribed by  
16 the Secretary of State.

17 **Sec. 4.** NRS 84.150 is hereby amended to read as follows:

18 84.150 1. Except as otherwise provided in subsections 3 and  
19 4, the Secretary of State shall reinstate any corporation sole which  
20 has forfeited its right to transact business under the provisions of  
21 this chapter and restore the right to carry on business in this State  
22 and exercise its corporate privileges and immunities, if it:

23 (a) Files with the Secretary of State:

24 (1) The information required pursuant to NRS 77.310; and

25 (2) A declaration under penalty of perjury, on a form  
26 provided by the Secretary of State, that the reinstatement is  
27 authorized by a court of competent jurisdiction in this State or by  
28 the archbishop, bishop, president, trustee in trust, president of stake,  
29 president of congregation, overseer, presiding elder, district  
30 superintendent, other presiding officer or member of the clergy of a  
31 church or religious society or denomination, who has been chosen,  
32 elected or appointed in conformity with the constitution, canons,  
33 rites, regulations or discipline of the church or religious society or  
34 denomination, and in whom is vested the legal title to property held  
35 for the purposes, use or benefit of the church or religious society or  
36 denomination; and

37 (b) Pays to the Secretary of State ~~H~~ *the*:

38 (1) ~~{The filing}~~ *Filing* fees and penalties set forth in this  
39 chapter for each year or portion thereof during which its charter has  
40 been revoked; and

41 (2) ~~{A fee of \$25}~~ *Fee* for reinstatement ~~H~~ *set forth in*  
42 *paragraph (c) of subsection 2 of NRS 84.110.*

43 2. When the Secretary of State reinstates the corporation to its  
44 former rights, the Secretary of State shall:



1 (a) Immediately issue and deliver to the corporation a certificate  
2 of reinstatement authorizing it to transact business, as if the fees had  
3 been paid when due; and

4 (b) Upon demand, issue to the corporation a certified copy of the  
5 certificate of reinstatement.

6 3. The Secretary of State shall not order a reinstatement unless  
7 all delinquent fees and penalties have been paid, and the revocation  
8 of its charter occurred only by reason of its failure to pay the fees  
9 and penalties.

10 4. If a corporate charter has been revoked pursuant to the  
11 provisions of this chapter and has remained revoked for 10  
12 consecutive years, the charter must not be reinstated.

13 5. A reinstatement pursuant to this section relates back to the  
14 date on which the corporation forfeited its right to transact business  
15 under the provisions of this chapter and reinstates the corporation's  
16 right to transact business as if such right had at all times remained in  
17 full force and effect.

