

SENATE BILL NO. 437—COMMITTEE ON JUDICIARY

MARCH 25, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the creation, operation and oversight of marijuana limited charter banks and marijuana credit unions. (BDR 56-369)

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 financial institutions; creating the Marijuana Limited Charter Bank and Marijuana Credit Union Advisory Board; prescribing the membership and duties of the Board; authorizing the formation of marijuana limited charter banks and marijuana credit unions; setting forth certain requirements for the formation and operation of a marijuana limited charter bank and a marijuana credit union; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the creation, operation and oversight of various financial institutions, including banks, trust companies, thrift companies and credit unions. (Titles 55 and 56 of NRS) Existing law generally exempts a person who holds a valid medical marijuana establishment registration certificate or license to operate a marijuana establishment from state prosecution for the possession, delivery and production of marijuana and provides for the licensing and regulation of such establishments. (NRS 453A.320-453A.370, 453D.120, 453D.200) This bill provides for the creation, operation and oversight of marijuana limited charter banks and marijuana credit unions for the purpose of allowing marijuana establishments and medical marijuana establishments access to limited banking services.

Section 15 of this bill requires a person who desires to operate a marijuana limited charter bank or marijuana credit union to submit an application and fees to the Commissioner of Financial Institutions and to organize as a corporation or company in accordance with applicable procedures for either a bank or a credit union. **Section 16** of this bill provides that all laws that are applicable to a bank or a credit union are applicable to a marijuana limited charter bank or a marijuana credit



union, as applicable, except to the extent inconsistent with the provisions of this bill.

The federal Bank Secrecy Act requires certain financial institutions to keep certain records and file certain reports that are determined to have a high degree of usefulness in criminal, tax or regulatory investigation or proceedings, or in the conduct of intelligence or counterintelligence activities. (31 U.S.C. §§ 5311 et seq.) **Section 17** of this bill requires a marijuana limited charter bank or a marijuana credit union to adopt policies and practices that allow the marijuana limited charter bank or marijuana credit union to achieve the principles and goals outlined in the federal Bank Secrecy Act and to cooperate with the Financial Crimes Enforcement Network of the United States Department of the Treasury.

Section 18 of this bill requires a marijuana limited charter bank or a marijuana credit union to obtain and maintain insurance on its accounts and sets forth certain requirements regarding that insurance.

Section 19 of this bill authorizes a marijuana limited charter bank or a marijuana credit union to issue special purpose checks, which may be used only for the purposes of: (1) paying state or local taxes; (2) paying certain expenses related to the operation of a marijuana establishment or medical marijuana establishment; and (3) purchasing bonds, notes and other obligations issued by the State or a political subdivision of the State.

Section 20 of this bill authorizes the formation of networks of marijuana limited charter banks or marijuana credit unions. **Section 22** of this bill authorizes a marijuana limited charter bank or a marijuana credit union to charge fees for the services the marijuana limited charter bank or marijuana credit union provides.

Section 23 of this bill prohibits a marijuana limited charter bank or a marijuana credit union from providing services relating to banking other than the services authorized under the provisions of this bill or as incidental or necessary to provide those services. **Section 24** of this bill provides for an administrative fine to be imposed on a person violating the provisions governing marijuana limited charter banks and marijuana credit unions.

Section 13 of this bill creates the Marijuana Limited Charter Bank and Marijuana Credit Union Advisory Board and prescribes the membership of the Board. **Section 14** of this bill sets forth the duties of the Board, which include: (1) examining and assessing the implementation and enforcement of the provisions of this bill and other state and federal laws to ensure that certain goals are being met; (2) holding public hearings; (3) providing certain guidance and education relating to marijuana limited charter banks and marijuana credit unions; and (4) developing legislative and executive recommendations.

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

Section 1. Title 56 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 25, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in section 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Bank” has the meaning ascribed to it in NRS 657.016.*



1 **Sec. 4.** *“Banking services” means the provision of depository*
2 *accounts and the issuance and acceptance of special purpose*
3 *checks consistent with the requirements and limitations of this*
4 *chapter.*

5 **Sec. 5.** *“Board” means the Marijuana Limited Charter Bank*
6 *and Marijuana Credit Union Advisory Board created by section 13*
7 *of this act.*

8 **Sec. 6.** *“Commissioner” means the Commissioner of*
9 *Financial Institutions.*

10 **Sec. 7.** *“Marijuana credit union” means a nonprofit*
11 *cooperative corporation that is licensed under this chapter and*
12 *provides banking services to marijuana establishments, medical*
13 *marijuana establishments or other customers as authorized*
14 *pursuant to this chapter.*

15 **Sec. 8.** *“Marijuana establishment” has the meaning ascribed*
16 *to it in NRS 453D.030.*

17 **Sec. 9.** *“Marijuana limited charter bank” means a*
18 *corporation or limited-liability company that is licensed under this*
19 *chapter and provides banking services to marijuana*
20 *establishments, medical marijuana establishments or other*
21 *customers as authorized pursuant to this chapter.*

22 **Sec. 10.** *“Medical marijuana establishment” has the*
23 *meaning ascribed to it in NRS 453A.116.*

24 **Sec. 11.** *“Special purpose check” means a check issued by a*
25 *marijuana limited charter bank or marijuana credit union that*
26 *may be used only for the purposes prescribed in section 19 of this*
27 *act.*

28 **Sec. 12.** *The Legislature hereby finds and declares that:*

29 1. *Because marijuana is currently illegal to grow, possess or*
30 *sell under federal law, financial institutions are reluctant to*
31 *provide financial services to marijuana establishments and*
32 *medical marijuana establishments, even when such establishments*
33 *are properly licensed and fully legal under Nevada law.*
34 *Consequently, most marijuana establishments and medical*
35 *marijuana establishments are forced to operate almost entirely on*
36 *a cash-only basis.*

37 2. *It is essential for the economy of this State and for the*
38 *safety of the residents and legal businesses of this State to allow*
39 *marijuana establishments and medical marijuana establishments*
40 *access to limited banking services.*

41 3. *It is the purpose of this chapter to fill in the gaps in federal*
42 *law by providing marijuana establishments and medical*
43 *marijuana establishments a safe and efficient way to pay taxes and*
44 *invest in the economy of this State while complying as fully as is*
45 *possible with federal law.*



Sec. 13. 1. The Marijuana Limited Charter Bank and Marijuana Credit Union Advisory Board is hereby created. The Board consists of:

- (a) The State Treasurer;**
- (b) The State Controller; and**
- (c) The Executive Director of the Department of Taxation.**

2. The Director of the Office of Finance shall serve as an ex officio nonvoting member of the Board.

3. The Board shall designate from among its members a Chair and Vice Chair and shall adopt rules for its own management.

4. A majority of the members of the Board constitutes a quorum for the transaction of business, and a quorum may exercise any power or authority conferred on the Board.

5. The Board shall meet at least once each calendar year and at other times at the call of the Chair or a majority of its members.

6. Each member of the Board:

- (a) Serves without compensation; and**
- (b) While engaged in the business of the Board, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.**

Sec. 14. The Board shall:

1. Examine and assess the implementation and enforcement of the provisions of this chapter and any other related provisions of federal and state law to ensure the laws of this State provide a safe and efficient way:

(a) For a marijuana establishment or a medical marijuana establishment to pay state and local taxes and fees;

(b) For a marijuana establishment or a medical marijuana establishment to pay rent associated with the operation of the establishment;

(c) For a marijuana limited charter bank or marijuana credit union to issue special purpose checks;

(d) For persons in the marijuana industry to legally invest in the economy of this State; and

(e) To reduce the burden placed on this State and local governments from collecting and managing large sums of cash.

2. Hold public hearings to receive public comment and to discuss issues relevant to carrying out the duties of the Board.

3. Provide guidance and education to broker-dealers and investment advisers, as defined in NRS 90.220 and 90.250, respectively, on how to accommodate customers of marijuana limited charter banks and marijuana credit unions in purchasing, holding and selling any of the investments described in section 19 of this act.



4. *Develop legislative and executive recommendations on matters described in subsection 1.*

5. *On or before December 31 of each year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report detailing the findings, activities and recommendations of the Board.*

Sec. 15. *1. A person who desires to operate a marijuana limited charter bank or marijuana credit union and provide banking services to marijuana establishments, medical marijuana establishments and other customers as authorized by this chapter must obtain a license from the Commissioner.*

2. A person applying for a license to operate a marijuana limited charter bank or marijuana credit union must submit to the Commissioner an application. Such an application must:

(a) Be made upon a form prescribed by the Commissioner;

(b) Include any information the Commissioner deems necessary; and

(c) Be accompanied by a fee in an amount established by the Commissioner by regulation not to exceed \$10,000.

3. An applicant who desires to operate a marijuana limited charter bank shall organize as a corporation or company in the manner provided in chapter 659 of NRS and shall comply with the requirements of that chapter, except to the extent that such requirements are inconsistent with the provisions of this chapter.

4. An applicant who desires to operate a marijuana credit union shall organize as a nonprofit cooperative corporation in the manner provided in chapter 678 of NRS and shall comply with the requirements of that chapter, except to the extent that such requirements are inconsistent with the provisions of this chapter.

5. If an applicant satisfies the requirements of this section and any other requirements the Commissioner may prescribe, the Commissioner shall issue to the applicant a license to operate a marijuana limited charter bank or marijuana credit union.

6. A license issued pursuant to this section is not transferable or assignable.

7. The Commissioner shall adopt regulations establishing the requirements for the licensure of marijuana limited charter banks and marijuana credit unions in this State.

8. The regulations adopted pursuant to subsection 7 must:

(a) Prescribe the form and contents of an application for the initial issuance and renewal of a license as a marijuana limited charter bank or a marijuana credit union.

(b) Prescribe the manner in which an application may be approved or denied.



(c) *Prescribe the grounds and procedures for the revocation, suspension, denial or nonrenewal of a license.*

(d) *Establish fees for an application for, the initial issuance of and the renewal of a license.*

Sec. 16. *1. A marijuana limited charter bank is deemed to be a bank. All laws applicable to a bank, in every respect not inconsistent with the provisions of this chapter, apply to a marijuana limited charter bank.*

2. A marijuana credit union is deemed to be a credit union. All laws applicable to a credit union, in every respect not inconsistent with the provisions of this chapter, apply to a credit union.

3. If there is a conflict between any other provision of law and the provisions of this chapter, the provisions of this chapter control.

Sec. 17. *A marijuana limited charter bank or a marijuana credit union shall adopt policies and practices that allow the marijuana limited charter bank or marijuana credit union to achieve the principles and goals outlined in the federal Bank Secrecy Act, 31 U.S.C. §§ 5311 et seq., and cooperate with the Financial Crimes Enforcement Network of the United States Department of the Treasury.*

Sec. 18. *1. A marijuana limited charter bank or marijuana credit union shall obtain and maintain insurance on the accounts of the marijuana limited charter bank or marijuana credit union in an amount determined to be sufficient by the Commissioner.*

2. A marijuana limited charter bank or marijuana credit union must apply to the Commissioner for approval of a plan of insurance for the accounts of the marijuana limited charter bank or marijuana credit union under a contract of insurance issued by a private insurer, which must be approved by the Commissioner and the Commissioner of Insurance.

3. The accounts of a marijuana charter bank or marijuana credit union are not required to be insured by the Federal Deposit Insurance Corporation or the National Credit Union Insurance Share Fund.

Sec. 19. *1. A marijuana limited charter bank or marijuana credit union may issue to a holder of an account in the marijuana limited charter bank or marijuana credit union a special purpose check, which shall be valid only for the purposes specified in subsection 3.*

2. The name of the marijuana limited charter bank or marijuana credit union and the following disclosure must be printed plainly and conspicuously on the front of each special purpose check in at least a 12-point font:



This check is issued by (insert name of the marijuana limited charter bank or marijuana credit union) and may only be deposited or cashed at this marijuana limited charter bank or marijuana credit union or another marijuana limited charter bank or marijuana credit union that agrees to accept the check.

3. A special purpose check issued by a marijuana limited charter bank or marijuana credit union may only be used for the following purposes:

(a) To pay state or local taxes;

(b) To pay rent on property that is leased by, or on behalf of, a marijuana establishment or medical marijuana establishment;

(c) To pay a vendor of a marijuana establishment or medical marijuana establishment that is physically located in this State; or

(d) To purchase bonds, notes or other obligations issued by this State or any of its political subdivisions.

4. A governmental agency of this State or a political subdivision of this State may accept a special purpose check issued by a marijuana limited charter bank or marijuana credit union.

5. A person, governmental agency of this State or a political subdivision of this State is not required to accept a special purpose check issued by a marijuana limited charter bank or marijuana credit union.

6. A marijuana limited charter bank or a marijuana credit union may cash a special purpose check presented by a person or entity that is not a holder of an account in the marijuana limited charter bank or marijuana credit union if:

(a) The marijuana limited charter bank or marijuana credit union previously issued the special purpose check to a holder of an account in the marijuana limited charter bank or marijuana credit union; and

(b) The special purpose check was used for one of the purposes specified in subsection 3.

Sec. 20. *1. A marijuana limited charter bank or marijuana credit union may enter into an agreement with one or more marijuana limited charter banks or marijuana credit unions to form a network for the purposes of assisting each other in providing services to customers and to one another.*

2. An agreement to form a network pursuant to subsection 1 is subject to the approval of the Commissioner.

Sec. 21. *A marijuana limited charter bank or marijuana credit union may, under such rules and regulations as the Commissioner may prescribe, provide banking services to persons*



other than marijuana establishments and medical marijuana establishments.

Sec. 22. *1. A marijuana limited charter bank or marijuana credit union may impose and collect a fee or charge, not to exceed an amount specified in or limited by specific statute, for any banking services it provides to a customer.*

2. Each marijuana limited charter bank or marijuana credit union shall file, within a time to be fixed by the Commissioner, a copy of all schedules of fees that are currently in force for the marijuana limited charter bank or marijuana credit union.

3. The Commissioner shall compile the schedules of fees filed pursuant to subsection 2 and post the compilation on the Internet website of the Division of Financial Institutions of the Department of Business and Industry.

Sec. 23. *1. A marijuana limited charter bank or marijuana credit union shall not conduct any business or activity for which a license is required pursuant to the provisions of this title or title 55 of NRS except as authorized by the provisions of this chapter or as incidental or necessary to provide banking services to a marijuana establishment, medical marijuana establishment or other customer as authorized by this chapter.*

2. A marijuana limited charter bank or marijuana credit union shall not transact business with a financial institution, as defined in NRS 660.045, other than a marijuana limited charter bank or marijuana credit union.

Sec. 24. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who:*

1. Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

2. Violates any provision of this chapter or any regulation adopted pursuant thereto.

Sec. 25. *The Commissioner may adopt any regulations necessary to carry out the purposes and provisions of this chapter.*

Sec. 26. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 27. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2020, for all other purposes.

