

ASSEMBLY BILL NO. 357—ASSEMBLYMAN FRIERSON

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to consumer protection.
(BDR 18-887)

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 consumer protection; creating the Consumer Protection Legal Fund in the Office of the Attorney General and prescribing the use of money in the Fund; creating the Consumer Protection Administrative Fund in the Bureau of Consumer Protection within the Office of the Attorney General and prescribing the use of money in the Fund; revising provisions relating to the distribution of money received from certain settlements and litigation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) creates the Bureau of Consumer Protection within the Office of the Attorney General; and (2) provides that the executive head of the Bureau of Consumer Protection is the Consumer's Advocate, who may generally exercise the power of the Attorney General in areas of consumer protection and enforcement. (NRS 228.310, 228.380) Existing law also creates the Attorney General's Special Fund, a special revenue fund which may be used in part for certain litigation expenses. (NRS 228.096, 598A.260) Existing law additionally provides that: (1) in certain actions brought by the Attorney General involving deceptive trade practices or unfair trade practices, any fees, civil penalties and any other money collected must be deposited in the State Treasury, in either the State General Fund or the Attorney General's Special Fund; and (2) any balance above certain dollar amounts must revert from the Attorney General's Special Fund to the State General Fund. (NRS 598.0975, 598A.260) This bill creates two new funds to be used for consumer protection and the prevention of fraud.

Section 2 of this bill creates the Consumer Protection Legal Fund in the Office of the Attorney General. **Section 3** provides that the money in the Fund must be allocated to: (1) the Office of the Attorney General or the Consumer's Advocate to be used for consumer protection and efforts to prevent fraud including, without limitation, to pay for necessary staff to carry out such consumer protection and



efforts to prevent fraud; and (2) to certain legal aid organizations, in certain percentages, to be used for consumer protection and efforts to prevent fraud. Under **section 3**: (1) the money allocated to the Office of the Attorney General or the Consumer's Advocate must be used to pay for necessary staff to carry out consumer protection and efforts to prevent fraud before the money is used for any other purpose; and (2) if there is insufficient money allocated from the Fund to pay for necessary staff to carry out such consumer protection and efforts to prevent fraud, the Attorney General is authorized to submit a request to the Interim Finance Committee for an allocation from the Contingency Account to cover such costs. Under **section 3**, each legal aid organization receiving money from the Fund is required to: (1) submit semiannual reports to the Office of the Attorney General that summarize activities undertaken by the legal aid organization and include certain information; and (2) submit an audited statement regarding the use of money received from the Fund during the previous calendar year.

Section 4 of the bill creates the Consumer Protection Administrative Fund in the Bureau of Consumer Protection. **Section 4**: (1) requires the deposit of certain money from settlements and litigation into the Fund; and (2) provides that any balance in excess of \$500,000 in the Fund at the end of a fiscal year reverts to the Consumer Protection Legal Fund. **Section 5** of this bill makes conforming changes to indicate the placement of **sections 2, 3 and 4** within the Nevada Revised Statutes.

Sections 6 and 7 of this bill reallocate money collected in certain actions brought by the Attorney General involving deceptive trade practices or unfair trade practices and provide that such money must be deposited in the Consumer Protection Administrative Fund rather than the State General Fund or the Attorney General's Special Fund.

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

Section 1. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The Consumer Protection Legal Fund is hereby created in the Office of the Attorney General.*

2. *Money to be deposited in the Fund must be placed into an interest-bearing account in a bank or credit union qualified to receive deposits of public money. All interest earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.*

3. *Money that remains in the Fund at the end of the fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward to the next fiscal year.*

Sec. 3. 1. *On January 1 and July 1 of each year, the Attorney General shall allocate the money in the Consumer Protection Legal Fund as follows:*

(a) *Fifty percent to the Office of the Attorney General or the Consumer's Advocate to be used for consumer protection and efforts to prevent fraud, including, without limitation, education, investigation, enforcement and litigation. Money allocated*



pursuant to this paragraph may be used to pay for necessary staff to carry out such consumer protection and efforts to prevent fraud. Before making any other use of money allocated pursuant to this paragraph, the Office of the Attorney General or the Consumer's Advocate, as applicable, shall use such money to pay for necessary staff to carry out such consumer protection and efforts to prevent fraud. If there is insufficient money allocated pursuant to this paragraph to pay for necessary staff to carry out such consumer protection and efforts to prevent fraud, the Attorney General may submit a request to the Interim Finance Committee for an allocation from the Contingency Account pursuant to NRS 353.266, to cover such costs.

(b) Fifty percent to the following legal aid organizations, or their successors, in the following percentages:

(1) Seventy percent to Legal Aid Center of Southern Nevada;

(2) Nineteen percent to Nevada Legal Services; and

(3) Eleven percent to Washoe Legal Services.

2. Each legal aid organization listed in paragraph (b) of subsection 1 shall:

(a) Use the money received from the Fund for consumer protection and efforts to prevent fraud, including, without limitation, education and litigation; and

(b) On or before January 1 and July 1 of each year, submit a report to the Office of the Attorney General that includes a detailed summary of all activities undertaken by the legal aid organization during the previous 6-month period with the money received from the Fund, including, without limitation:

(1) Activities relating to consumer protection and the prevention of fraud;

(2) Litigation;

(3) Educational activities;

(4) Statistical information on the number of persons served; and

(5) An accounting of the use of the money, including, without limitation, the specific amount of money used for salaries, costs and expenses.

3. On or before July 1 of each year, each legal aid organization listed in paragraph (b) of subsection 1 shall submit to the Office of the Attorney General an audited statement regarding the use of money received from the Fund during the previous calendar year.

4. The Office of the Attorney General is entitled to audit, examine or inspect the books and records of each legal aid



organization listed in paragraph (b) of subsection 1 at any time regarding the use of money received from the Fund.

Sec. 4. 1. The Consumer Protection Administrative Fund is hereby created in the Bureau of Consumer Protection.

2. Except as otherwise provided in this section, all money collected from attorney's fees and costs, after reimbursement to retained attorneys or law firms in any matter including attorney's fees and costs in a matter that is the subject of a contingent fee contract pursuant to NRS 228.1116, and from all recoveries, except recoveries of restitution, recoveries made with the use of retained attorneys or law firms in any matter that is the subject of a contingent fee contract pursuant to NRS 228.1116, or otherwise directed by a court order from the administration and enforcement of chapters 598 and 598A of NRS, must be deposited into the Fund.

3. On June 30 of each year, any amount in excess of \$500,000 in the Fund reverts to the Consumer Protection Legal Fund created by section 2 of this act.

Sec. 5. NRS 228.300 is hereby amended to read as follows:

228.300 As used in NRS 228.300 to 228.390, inclusive, **and sections 2, 3 and 4 of this act**, unless the context otherwise requires, the words and terms defined in NRS 228.302 to 228.308, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive:

(a) In an action brought by the Attorney General, must be deposited in the ~~[State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive, by the Attorney General, or for any other purpose authorized by the Legislature.]~~ **Consumer Protection Administrative Fund pursuant to section 4 of this act.**

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.



3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive; or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 7. NRS 598A.260 is hereby amended to read as follows:

598A.260 ~~[(H)]~~ All money obtained as awards, damages or civil penalties for the State of Nevada and its agencies by the Attorney General as a result of enforcement of statutes pertaining to unfair trade practices, whether by final judgment, settlement or otherwise, must be deposited in the ~~[State Treasury as follows:~~

~~—(a) All attorney's fees and costs and 50 percent of all recoveries for credit to the Attorney General's Special Fund;~~

~~—(b) The balance of the recoveries for credit to the State General Fund;~~

~~—2. Money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 must be used for payment of the expenses of enforcing the statutes pertaining to unfair trade practices and NRS 228.500 to 228.640, inclusive. Those expenses which are in excess of the amount available in the Fund must be paid out of the legislative appropriation for the support of the Office of Attorney General.~~

~~—3. On June 30 of each fiscal year, any amount in excess of \$450,000 in the Attorney General's Special Fund of the money collected pursuant to subsection 1 reverts to the State General Fund.~~

~~—4. The balance of the money in the Attorney General's Special Fund that is collected pursuant to subsection 1 must not exceed \$500,000. If money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 would cause that balance to exceed \$500,000 if credited to the Fund, the amount of the deposit which would cause the balance to exceed \$500,000 immediately reverts to the State General Fund.]~~

Consumer Protection Administrative Fund pursuant to section 4 of this act.

