

Amendment No. 492

Assembly Amendment to Assembly Bill No. 61 First Reprint	(BDR 52-424)
Proposed by: Assembly Committee on Ways and Means	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAS/AAK



Date: 4/28/2021

A.B. No. 61—Revises provisions relating to trade practices. (BDR 52-424)



ASSEMBLY BILL NO. 61—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to trade practices. (BDR 52-424)

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 trade practices; increasing penalties for certain offenses relating to the use of a device for automatic dialing and announcing; establishing certain practices as deceptive trade practices; authorizing the imposition of additional civil penalties for certain deceptive trade practices in certain actions and proceedings under certain circumstances; revising provisions relating to certain administrative hearings; revising the penalties for willfully and knowingly engaging in a deceptive trade practice; ~~revising provisions relating to credit service organizations;~~ eliminating the statute of limitations for certain civil actions involving deceptive trade practices which are brought by the Attorney General; authorizing the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to have access to certain records; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS) **Sections 1, 3, 6.5, 7 and 19** of this bill establish certain additional activities as deceptive trade practices.

Existing law makes it a misdemeanor to use a device for automatic dialing and announcing to disseminate a prerecorded message in a telephone call under certain circumstances. (NRS 597.814, 597.818) **Section 1** of this bill revises the punishment for such action to make: (1) the first offense a misdemeanor; (2) the second offense a gross misdemeanor; and (3) the third or subsequent offense a category E felony. Additionally, **section 1** provides that such action constitutes a deceptive trade practice and provides for a civil penalty of not more than \$10,000.

Section 3 of this bill makes it a deceptive trade practice to sell, rent or offer to sell or rent certain goods and services during a state of emergency or declaration of disaster that has been in effect for 75 days or less for a price that is grossly in excess of the usual price for that good or service. **Section 3** sets forth certain criteria for determining whether a price for a good or service is grossly in excess of its usual price. **Section 3.5** of this bill requires the Attorney General to prepare a report for each state of emergency or declaration of disaster concerning complaints received by the Attorney General of deceptive trade practices of the type described in **section 3**.

Existing law makes it a deceptive trade practice to engage in certain actions during a solicitation by telephone or sales presentation. (NRS 598.0918) **Section 6.5** of this bill: (1) expands the circumstances under which such actions constitute a deceptive trade practice to include a solicitation by text message; and (2) makes it a deceptive trade practice to engage in certain additional actions during a solicitation by telephone or text message or during a sales presentation. **Section 7** of this bill makes it a deceptive trade practice to use an "unconscionable practice" in a transaction. **Sections 32-35** of this bill make conforming changes to reflect the addition of the provisions of **section 7**.

Existing law imposes certain requirements on certain entities that handle personal nonpublic information relating to the security of such information. (NRS 603A.010-603A.290) **Section 19** of this bill makes it a deceptive trade practice to violate any of these requirements.

Existing law authorizes the Director of the Department of Business and Industry to impose certain penalties upon a person who has engaged in a deceptive trade practice after a hearing that is initiated by the Commissioner of Consumer Affairs serving an order upon the person. (NRS 598.0971) **Section 12** of this bill authorizes the Attorney General to also initiate such a hearing before the Director and provides additional means for serving an order upon a person. If a person fails to comply with an order issued by the Director or his or her designee, existing law authorizes the Commissioner or the Director, through the Attorney General, to bring an action requesting a court to enforce the order and requires the court to issue an order enforcing the order of the Director or his or her designee if the court makes certain findings. (NRS 598.0971) **Section 12**: (1) additionally authorizes the Attorney General to bring an action requesting a court to enforce an order issued by the Director or his or her designee; and (2) requires the court to issue an order enforcing the order of the Director or his or her designee if the court finds that the person has failed to comply with the order.

Existing law authorizes a court, in certain actions relating to the enforcement of the provisions prohibiting deceptive trade practices, to impose an additional maximum civil penalty of \$12,500 if the court finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability. (NRS 598.0973) **Section 13** of this bill authorizes such a civil penalty to be imposed by the Director or his or her designee in a proceeding before the Director or his or her designee. **Section 5** of this bill similarly authorizes the imposition of an additional maximum civil penalty in certain actions or proceedings if the court or the Director or his or her designee finds that a person has engaged in a deceptive trade practice directed toward a person who is 17 years of age or younger.

Section 17 of this bill revises the criminal penalties imposed for engaging in a deceptive trade practice. Under **section 17**, knowingly and willfully engaging in a deceptive trade practice is a misdemeanor, except if the offense involves a loss of property or services of at least \$1,200. For those offenses, **section 17** establishes a tier of penalties based on the value of the property or services which generally mirror the penalties for theft. (NRS 205.0835, 598.0999)

~~[—Sections 17.3-17.9 of this bill transfer authority for the registration and regulation of credit service organizations from the Division of Mortgage Lending of the Department of Business and Industry and the Commissioner of Mortgage Lending to the Consumer Affairs Division of the Department of Business and Industry and the Commissioner of Consumer Affairs, respectively.]~~

Existing law requires, in general, a civil action against a person alleged to have committed a deceptive trade practice to be commenced within 4 years. (NRS 11.190) **Sections 25 and 26** of this bill create an exception to this requirement for actions brought by the Attorney General. **Section 25** provides that there is no limitation on the time in which a civil action brought by the Attorney General against a person alleged to have committed a deceptive trade practice is required to be commenced.

Section 31 of this bill authorizes the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to have access to all records in the possession of any agency, board or commission of this State that he or she determines are necessary to exercise his or her powers relating to consumer protection.

Sections 6, 8-11, 14-16, 21, 22 and 27 of this bill make conforming changes to indicate the proper placement of language added to the Nevada Revised Statutes by this bill.

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

Section 1. NRS 597.818 is hereby amended to read as follows:

597.818 1. A person who violates any provision of NRS 597.814 is guilty of

(a) *For a first offense*, a misdemeanor.

(b) *For a second offense*, a gross misdemeanor.

(c) *For a third and any subsequent offense*, a category E felony and shall be punished as provided in NRS 193.130.

2. If a person is found guilty or guilty but mentally ill of, or has pleaded guilty, guilty but mentally ill or nolo contendere to, violating any provision of NRS 597.814, his or her telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

3. *In addition to any other penalty, a person who violates any provision of NRS 597.814 is subject to a civil penalty of not more than \$10,000 for each violation.*

4. *A violation of any provision of NRS 597.814 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive, and sections 3, 3.5 and 5 of this act.*

Sec. 2. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 3.5 and 5 of this act.

Sec. 3. 1. *A person engages in a "deceptive trade practice" when, during a state of emergency or declaration of disaster proclaimed pursuant to NRS 414.070 that has been in effect for 75 days or less, the person sells, rents or offers to sell or rent any of the following goods or services in an emergency or disaster area for a price that is grossly in excess of the usual price for that good or service:*

(a) *Consumer goods and services used, bought or rendered primarily for personal, family or household purposes;*

(b) *Medical supplies and services used for the care, cure, mitigation, treatment or prevention of any illness or disease;*

(c) *Services related to the repair or reconstruction of property; or*

(d) *Any other goods or services that are commonly used in responding to the type of emergency or disaster for which the state of emergency or declaration of disaster was proclaimed.*

2. *Whether a price for a good or service is grossly in excess of the usual price for that good or service for the purposes of subsection 1 is a question of law to be determined by considering all relevant circumstances, including, without limitation, the price of the good or service prevailing in the emergency or disaster area in the 30 days before the state of emergency or declaration of disaster was proclaimed.*

3. *A price for a good or service is not grossly in excess of the usual price for that good or service for the purposes of subsection 1 if the price is:*

1 (a) *Related to an additional or increased cost imposed by a supplier of a good*
2 *or other costs of providing the good or service, including, without limitation, an*
3 *additional or increased cost for labor or materials used to provide a service;*

4 (b) *For a good or service which is sold, rented or offered to be sold or rented*
5 *for a price that:*

6 (1) *Does not exceed \$250, 15 percent or less above the usual price for the*
7 *good or service;*

8 (2) *Exceeds \$250 but does not exceed \$750, 10 percent or less above the*
9 *usual price for the good or service; or*

10 (3) *Exceeds \$750, 5 percent or less above the usual price of the good or*
11 *service;*

12 (c) *Ten percent or less above the sum of the costs to the person and the*
13 *normal markup for a good or service;*

14 (d) *Generally consistent with seasonal fluctuations or fluctuations in*
15 *applicable commodity, regional, national or international markets; or*

16 (e) *A contract price, or the result of a price formula, established before the*
17 *state of emergency or declaration of disaster was proclaimed.*

18 4. *A person who offers to sell or rent a good or service for a price that*
19 *would otherwise violate subsection 1 does not commit a “deceptive trade practice”*
20 *if the offer states that the good or service is not offered for sale or rent in the*
21 *emergency or disaster area.*

22 5. *The provisions of this section do not apply to:*

23 (a) *A transaction for the sale or rental of a good or service which occurs*
24 *wholly outside the State; or*

25 (b) *A person who does not control the location or price at which a good or*
26 *service is sold or rented.*

27 6. *As used in this section:*

28 (a) *“Emergency or disaster area” means a particular geographic area that is*
29 *described in a proclamation of a state of emergency or declaration of disaster by*
30 *the Governor or Legislature pursuant to NRS 414.070.*

31 (b) *“Usual price” means:*

32 (1) *If a person sold, rented or offered to sell or rent a good or service at a*
33 *price other than as described in subparagraph (2) in an emergency or disaster*
34 *area within the 30 days before the state of emergency or declaration of disaster*
35 *was proclaimed pursuant to NRS 414.070, the price at which the person sold,*
36 *rented or offered to sell or rent the good or service.*

37 (2) *If a person sold, rented or offered to sell or rent a good or service at a*
38 *reduced price in an emergency or disaster area within the 30 days before the state*
39 *of emergency or declaration of disaster was proclaimed pursuant to NRS*
40 *414.070, the price at which the person usually sells, rents or offers to sell or rent*
41 *the good or service in the emergency or disaster area.*

42 (3) *If a person did not sell, rent or offer to sell or rent a good or service*
43 *in an emergency or disaster area within the 30 days before the state of emergency*
44 *or declaration of disaster was proclaimed pursuant to NRS 414.070, the price at*
45 *which the good or service was generally available in the emergency or disaster*
46 *area in the 30 days before the state of emergency or declaration of disaster was*
47 *proclaimed.*

48 **Sec. 3.5.** *For each state of emergency or declaration of disaster proclaimed*
49 *pursuant to NRS 414.070, the Attorney General shall prepare a report containing*
50 *aggregate data or information concerning the number and type of complaints*
51 *received by the Attorney General during the emergency or disaster that relate to*
52 *the commission of a deceptive trade practice of the type described in section 3 of*

1 *this act. The Attorney General shall cause the report to be posted on the Internet*
2 *website of the Attorney General not later than 30 days after the earlier of:*

3 *1. The termination of the state of emergency or declaration of disaster by*
4 *the Governor or the Legislature pursuant to NRS 414.070; or*

5 *2. The 75th day that the state of emergency or declaration of disaster is in*
6 *effect.*

7 **Sec. 4.** (Deleted by amendment.)

8 **Sec. 5.** *1. Except as otherwise provided in NRS 598.0974, in any action or*
9 *proceeding brought pursuant to this section and NRS 598.0903 to 598.0999,*
10 *inclusive, and sections 3 and 3.5 of this act, if the court or the Director or his or*
11 *her designee finds that a person has engaged in a deceptive trade practice*
12 *directed toward a minor person, the court or the Director or his or her designee*
13 *may, in addition to any other civil or criminal penalty, impose a civil penalty of*
14 *not more than \$12,500 for each violation.*

15 *2. In determining whether to impose a civil penalty pursuant to subsection*
16 *1, the court or the Director or his or her designee shall consider whether:*

17 *(a) The conduct of the person was in disregard of the rights of the minor*
18 *person;*

19 *(b) The person knew or should have known that his or her conduct was*
20 *directed toward a minor person;*

21 *(c) The minor person was more vulnerable to the conduct of the person*
22 *because of the age of the minor person;*

23 *(d) The conduct of the person caused the minor person to suffer actual and*
24 *substantial physical, emotional or economic damage;*

25 *(e) The conduct of the person caused the minor person to suffer:*

26 *(1) Mental or emotional anguish;*

27 *(2) The loss of money or financial support received from any source;*

28 *(3) The loss of property that had been set aside for education or for*
29 *personal or family care and maintenance;*

30 *(4) The loss of assets which are essential to the health and welfare of the*
31 *minor person; or*

32 *(5) Any other interference with the economic well-being of the minor*
33 *person; or*

34 *(f) Any other factors that the court or the Director or his or her designee*
35 *deems to be appropriate.*

36 *3. As used in this section, "minor person" means a person who is 17 years*
37 *of age or younger.*

38 **Sec. 6.** NRS 598.0903 is hereby amended to read as follows:

39 598.0903 As used in NRS 598.0903 to 598.0999, inclusive, *and sections 3,*
40 *3.5 and 5 of this act*, unless the context otherwise requires, the words and terms
41 defined in NRS 598.0905 to 598.0947, inclusive, *and section 3 of this act* have the
42 meanings ascribed to them in those sections.

43 **Sec. 6.5.** NRS 598.0918 is hereby amended to read as follows:

44 598.0918 A person engages in a "deceptive trade practice" if, during a
45 solicitation by telephone *or text message* or *during a* sales presentation, he or she:

46 *1. Uses threatening, intimidating, profane or obscene language;*

47 *2. Repeatedly or continuously conducts the solicitation or presentation in a*
48 *manner that is considered by a reasonable person to be annoying, abusive or*
49 *harassing;*

50 *3. Solicits a person by telephone at his or her residence between 8 p.m. and 9*
51 *a.m.;*

52 *4. Blocks or otherwise intentionally circumvents any service used to identify*
53 *the caller when placing an unsolicited telephone call; ~~for~~*

5. Places an unsolicited telephone call that does not allow a service to identify the caller by the telephone number or name of the business, unless such identification is not technically feasible ~~{};~~ *or*

6. Defrauds a person of any valuable thing, wrongfully obtains from a person any valuable thing or otherwise causes harm to a person by knowingly causing, directly or indirectly, any service used in connection with a voice service or text messaging service to identify the caller or sender of the text message to display inaccurate or misleading information.

Sec. 7. NRS 598.0923 is hereby amended to read as follows:

598.0923 *1.* A person engages in a “deceptive trade practice” when in the course of his or her business or occupation he or she knowingly:

~~{} (a)~~ Conducts the business or occupation without all required state, county or city licenses.

~~{} (b)~~ Fails to disclose a material fact in connection with the sale or lease of goods or services.

~~{} (c)~~ Violates a state or federal statute or regulation relating to the sale or lease of goods or services.

~~{} (d)~~ Uses coercion, duress or intimidation in a transaction.

~~{} (e)~~ *Uses an unconscionable practice in a transaction.*

(f) As the seller in a land sale installment contract, fails to:

~~{} (1)~~ Disclose in writing to the buyer:

~~{} (I)~~ Any encumbrance or other legal interest in the real property subject to such contract; or

~~{} (II)~~ Any condition known to the seller that would affect the buyer’s use of such property.

~~{} (2)~~ Disclose the nature and extent of legal access to the real property subject to such agreement.

~~{} (3)~~ Record the land sale installment contract pursuant to NRS 111.315 within 30 calendar days after the date upon which the seller accepts the first payment from the buyer under such a contract.

~~{} (4)~~ Pay the tax imposed on the land sale installment contract pursuant to chapter 375 of NRS.

~~{} (5)~~ Include terms in the land sale installment contract providing rights and protections to the buyer that are substantially the same as those under a foreclosure pursuant to chapter 40 of NRS.

~~{} 2.~~ As used in this ~~subsection, “land~~ *section:*

(a) “Land sale installment contract” has the meaning ascribed to it in paragraph (d) of subsection 1 of NRS 375.010.

(b) “Unconscionable practice” means an act or practice which, to the detriment of a consumer:

(1) Takes advantage of the lack of knowledge, ability, experience or capacity of the consumer to a grossly unfair degree;

(2) Results in a gross disparity between the value received and the consideration paid, in a transaction involving transfer of consideration; or

(3) Arbitrarily or unfairly excludes the access of a consumer to a good or service.

Sec. 8. NRS 598.0953 is hereby amended to read as follows:

598.0953 *1.* Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and section 3 of this act* are in addition to and do not limit the types of

1 unfair trade practices actionable at common law or defined as such in other statutes
2 of this State.

3 **Sec. 9.** NRS 598.0955 is hereby amended to read as follows:

4 598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, *and*
5 *sections 3, 3.5 and 5 of this act* do not apply to:

6 (a) Conduct in compliance with the orders or rules of, or a statute administered
7 by, a federal, state or local governmental agency.

8 (b) Publishers, including outdoor advertising media, advertising agencies,
9 broadcasters or printers engaged in the dissemination of information or
10 reproduction of printed or pictorial matter who publish, broadcast or reproduce
11 material without knowledge of its deceptive character.

12 (c) Actions or appeals pending on July 1, 1973.

13 2. The provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 3,*
14 *3.5 and 5 of this act* do not apply to the use by a person of any service mark,
15 trademark, certification mark, collective mark, trade name or other trade
16 identification which was used and not abandoned prior to July 1, 1973, if the use
17 was in good faith and is otherwise lawful except for the provisions of NRS
18 598.0903 to 598.0999, inclusive ~~H~~, *and sections 3, 3.5 and 5 of this act.*

19 **Sec. 10.** NRS 598.0963 is hereby amended to read as follows:

20 598.0963 1. Whenever the Attorney General is requested in writing by the
21 Commissioner or the Director to represent him or her in instituting a legal
22 proceeding against a person who has engaged or is engaging in a deceptive trade
23 practice, the Attorney General may bring an action in the name of the State of
24 Nevada against that person on behalf of the Commissioner or Director.

25 2. The Attorney General may institute criminal proceedings to enforce the
26 provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~, *and sections 3, 3.5 and 5*
27 *of this act.* The Attorney General is not required to obtain leave of the court before
28 instituting criminal proceedings pursuant to this subsection.

29 3. If the Attorney General has reason to believe that a person has engaged or
30 is engaging in a deceptive trade practice, the Attorney General may bring an action
31 in the name of the State of Nevada against that person to obtain a temporary
32 restraining order, a preliminary or permanent injunction, or other appropriate relief.

33 4. If the Attorney General has cause to believe that a person has engaged or is
34 engaging in a deceptive trade practice, the Attorney General may issue a subpoena
35 to require the testimony of any person or the production of any documents, and may
36 administer an oath or affirmation to any person providing such testimony. The
37 subpoena must be served upon the person in the manner required for service of
38 process in this State or by certified mail with return receipt requested. An employee
39 of the Attorney General may personally serve the subpoena.

40 **Sec. 11.** NRS 598.0967 is hereby amended to read as follows:

41 598.0967 1. The Commissioner and the Director, in addition to other
42 powers conferred upon them by NRS 598.0903 to 598.0999, inclusive, *and sections*
43 *3, 3.5 and 5 of this act*, may issue subpoenas to require the attendance of witnesses
44 or the production of documents, conduct hearings in aid of any investigation or
45 inquiry and prescribe such forms and adopt such regulations as may be necessary to
46 administer the provisions of NRS 598.0903 to 598.0999, inclusive ~~H~~, *and sections*
47 *3, 3.5 and 5 of this act.* Such regulations may include, without limitation,
48 provisions concerning the applicability of the provisions of NRS 598.0903 to
49 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act* to particular persons or
50 circumstances.

51 2. Except as otherwise provided in this subsection, service of any notice or
52 subpoena must be made by certified mail with return receipt or as otherwise
53 allowed by law. An employee of the Consumer Affairs Division of the Department

of Business and Industry may personally serve a subpoena issued pursuant to this section.

Sec. 12. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner *or Attorney General* has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act*, the Commissioner *or Attorney General* may issue an order directed to the person to show cause why the Director should not order the person to cease and desist from engaging in the practice and to pay an administrative fine. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly, ~~to~~ by certified or registered mail, return receipt requested ~~to~~, *or in any other manner permitted by the Nevada Rules of Civil Procedure for the service of process in civil actions.*

2. An administrative hearing on any action brought by the Commissioner *or Attorney General* must be conducted before the Director or his or her designee.

3. If, after conducting a hearing pursuant to the provisions of subsection 2, the Director or his or her designee determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act* or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Director or his or her designee shall issue an order setting forth his or her findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Director or his or her designee determines in the report that such a violation has occurred, he or she may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses, charges for the rental of a hearing room if such a room is not available to the Director or his or her designee free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~to~~, *and sections 3, 3.5 and 5 of this act;*

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation; and

(d) Impose an administrative fine of \$1,000 or treble the amount of restitution ordered, whichever is greater.

➤ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

4. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 3 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

5. If a person fails to comply with any provision of an order issued *by the Director or his or her designee* pursuant to subsection 3, the *Attorney General, or the Commissioner or* ~~the~~ Director ~~may~~, through the Attorney General, *may*, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his or her principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

6. If the court finds that ~~[-~~:

- ~~—(a) The violation complained of is a deceptive trade practice;~~
- ~~—(b) The proceedings by the Director or his or her designee concerning the written report and any] the person has failed to comply with an order issued by the Director or his or her designee pursuant to subsection 3, [are in the interest of the public; and~~
- ~~—(c) The findings of the Director or his or her designee are supported by the weight of the evidence,~~

~~→] the court shall issue an order enforcing the provisions of the order of the Director or his or her designee.~~

7. An order issued pursuant to subsection 6 may include:

(a) A provision requiring the payment to the Consumer Affairs Division of the Department of Business and Industry of a penalty of not more than \$5,000 for each act amounting to a failure to comply with the Director's or designee's order;

(b) An order that the person cease doing business within this State; and

(c) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

8. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

9. Upon the violation of any judgment, order or decree issued pursuant to subsection 6 or 7, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 13. NRS 598.0973 is hereby amended to read as follows:

598.0973 1. Except as otherwise provided in NRS 598.0974, in any action *or proceeding* brought pursuant to NRS ~~[598.0979]~~ *598.0903* to ~~[598.099,]~~ *598.0999*, inclusive, *and sections 3, 3.5 and 5 of this act*, if the court *or the Director or his or her designee* finds that a person has engaged in a deceptive trade practice directed toward an elderly person or a person with a disability, the court *or the Director or his or her designee* may, in addition to any other civil or criminal penalty, impose a civil penalty of not more than \$12,500 for each violation.

2. In determining whether to impose a civil penalty pursuant to subsection 1, the court *or the Director or his or her designee* shall consider whether:

(a) The conduct of the person was in disregard of the rights of the elderly person or person with a disability;

(b) The person knew or should have known that his or her conduct was directed toward an elderly person or a person with a disability;

(c) The elderly person or person with a disability was more vulnerable to the conduct of the person because of the age, health, infirmity, impaired understanding, restricted mobility or disability of the elderly person or person with a disability;

(d) The conduct of the person caused the elderly person or person with a disability to suffer actual and substantial physical, emotional or economic damage;

(e) The conduct of the person caused the elderly person or person with a disability to suffer:

(1) Mental or emotional anguish;

(2) The loss of the primary residence of the elderly person or person with a disability;

(3) The loss of the principal employment or source of income of the elderly person or person with a disability;

(4) The loss of money received from a pension, retirement plan or governmental program;

(5) The loss of property that had been set aside for retirement or for personal or family care and maintenance;

(6) The loss of assets which are essential to the health and welfare of the elderly person or person with a disability; or

(7) Any other interference with the economic well-being of the elderly person or person with a disability, including the encumbrance of his or her primary residence or principal source of income; or

(f) Any other factors that the court *or the Director or his or her designee* deems to be appropriate.

Sec. 14. NRS 598.0974 is hereby amended to read as follows:

598.0974 A civil penalty must not be imposed against any person who engages in a deceptive trade practice pursuant to NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act* in a civil proceeding brought by the Commissioner, Director or Attorney General if a fine has previously been imposed against that person by the Department of Motor Vehicles pursuant to NRS 482.554 for the same act.

Sec. 15. NRS 598.0985 is hereby amended to read as follows:

598.0985 Notwithstanding the requirement of knowledge as an element of a deceptive trade practice, and notwithstanding the enforcement powers granted to the Commissioner or Director pursuant to NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act*, whenever the district attorney of any county has reason to believe that any person is using, has used or is about to use any deceptive trade practice, knowingly or otherwise, he or she may bring an action in the name of the State of Nevada against that person to obtain a temporary or permanent injunction against the deceptive trade practice.

Sec. 16. NRS 598.0993 is hereby amended to read as follows:

598.0993 The court in which an action is brought pursuant to NRS 598.0979 and 598.0985 to 598.099, inclusive, may make such additional orders or judgments as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any deceptive trade practice which violates any of the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act* but such additional orders or judgments may be entered only after a final determination has been made that a deceptive trade practice has occurred.

Sec. 17. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act* upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than \$10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive *§, and sections 3, 3.5 and 5 of this act.*

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act*, if the court finds that a person has willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed \$5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

1 (a) For ~~the first~~ an offense ~~involving a loss of property or services valued~~
2 ~~at \$1,200 or more but less than \$5,000~~, is guilty of a ~~misdemeanor~~ category D
3 ~~felony and shall be punished as provided in NRS 193.130.~~

4 (b) For ~~the second~~ an offense ~~involving a loss of property or services~~
5 ~~valued at \$5,000 or more but less than \$25,000~~, is guilty of a ~~gross misdemeanor~~
6 ~~category C felony and shall be punished as provided in NRS 193.130.~~

7 (c) For ~~the third and all subsequent offenses~~ an offense involving a loss of
8 ~~property or services valued at \$25,000 or more but less than \$100,000~~, is guilty of
9 a category ~~D~~ B felony and shall be punished ~~as provided in NRS 193.130~~ by
10 ~~imprisonment in the state prison for a minimum term of not less than 1 year and~~
11 ~~a maximum term of not more than 10 years, and by a fine of not more than~~
12 ~~\$10,000.~~

13 (d) For an offense involving a loss of property or services valued at \$100,000
14 or more, is guilty of a category B felony and shall be punished by imprisonment
15 in the state prison for a minimum term of not less than 1 year and a maximum
16 term of not more than 20 years, and by a fine of not more than \$15,000.

17 (e) For any offense other than an offense described in paragraphs (a) to (d),
18 inclusive, is guilty of a misdemeanor.

19 ➤ The court may require the natural person, firm, or officer or managing agent of
20 the corporation or association to pay to the aggrieved party damages on all profits
21 derived from the knowing and willful engagement in a deceptive trade practice and
22 treble damages on all damages suffered by reason of the deceptive trade practice.

23 4. ~~Any offense which occurred within 10 years immediately preceding the~~
24 ~~date of the principal offense or after the principal offense constitutes a prior offense~~
25 ~~for the purposes of subsection 3 when evidenced by a conviction, without regard to~~
26 ~~the sequence of the offenses and convictions.~~

27 —5— If a person violates any provision of NRS 598.0903 to 598.0999,
28 inclusive, *and sections 3, 3.5 and 5 of this act*, 598.100 to 598.2801, inclusive,
29 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, 598.840 to 598.966,
30 inclusive, or 598.9701 to 598.9718, inclusive, fails to comply with a judgment or
31 order of any court in this State concerning a violation of such a provision, or fails to
32 comply with an assurance of discontinuance or other agreement concerning an
33 alleged violation of such a provision, the Commissioner or the district attorney of
34 any county may bring an action in the name of the State of Nevada seeking:

35 (a) The suspension of the person's privilege to conduct business within this
36 State; or

37 (b) If the defendant is a corporation, dissolution of the corporation.

38 ➤ The court may grant or deny the relief sought or may order other appropriate
39 relief.

40 ~~6.~~ 5. If a person violates any provision of NRS 228.500 to 228.640,
41 inclusive, fails to comply with a judgment or order of any court in this State
42 concerning a violation of such a provision, or fails to comply with an assurance of
43 discontinuance or other agreement concerning an alleged violation of such a
44 provision, the Attorney General may bring an action in the name of the State of
45 Nevada seeking:

46 (a) The suspension of the person's privilege to conduct business within this
47 State; or

48 (b) If the defendant is a corporation, dissolution of the corporation.

49 ➤ The court may grant or deny the relief sought or may order other appropriate
50 relief.

51 6. In an action brought by the Commissioner or the Attorney General
52 pursuant to subsection 4 or 5, process may be served by an employee of the

Consumer Affairs Division of the Department of Business and Industry or an employee of the Attorney General.

7. As used in this section:

(a) "Property" has the meaning ascribed to it in NRS 193.0225.

(b) "Services" has the meaning ascribed to it in NRS 205.0829.

(c) "Value" means the fair market value of the property or services at the time the deceptive trade practice occurred. The value of a written instrument which does not have a readily ascertainable market value is the greater of the face amount of the instrument less the portion satisfied or the amount of economic loss to the owner of the instrument resulting from the deprivation of the instrument. The trier of fact shall determine the value of all other property whose value is not readily ascertainable, and may, in making that determination, consider all relevant evidence, including evidence of the value of the property to its owner.

Sec. 17.3. ~~NRS 598.706 is hereby amended to read as follows:~~

~~598.706 "Commissioner" means the Commissioner of [Mortgage Lending of the Department of Business and Industry.] Consumer Affairs.] (Deleted by amendment.)~~

Sec. 17.6. ~~NRS 598.711 is hereby amended to read as follows:~~

~~598.711 "Division" means the Consumer Affairs Division [of Mortgage Lending] of the Department of Business and Industry.] (Deleted by amendment.)~~

Sec. 17.9. ~~NRS 598.741 is hereby amended to read as follows:~~

~~598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:~~

~~1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.~~

~~2. "Commissioner" means the Commissioner [of Mortgage Lending.] of Consumer Affairs.~~

~~3. "Division" means the Consumer Affairs Division [of Mortgage Lending] of the Department of Business and Industry.~~

~~4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.~~

~~5. "Organization":~~

~~(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he or she can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:~~

~~(1) Improving a buyer's credit record, history or rating;~~

~~(2) Obtaining an extension of credit for a buyer.~~

~~(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his or her indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a provider of debt management services registered pursuant to chapter 676A of NRS.~~

~~(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).~~

~~(b) Does not include:~~

~~(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.~~

~~(2) A bank, credit union, savings and loan institution or savings bank whose deposits or accounts are eligible for insurance by the Federal Deposit~~

~~Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 672.755.~~

~~(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.~~

~~(4) A person licensed to practice law in this state where the person renders services within the course and scope of his or her practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.~~

~~(5) A broker dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker dealer is acting within the course and scope of such regulation.~~

~~(6) A person registered as a provider of debt management services pursuant to chapter 676A of NRS.~~

~~(7) A reporting agency.~~

~~6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:~~

~~(a) A person solely for the reason that he or she conveys a decision regarding whether to guarantee a check in response to a request by a third party;~~

~~(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or~~

~~(c) A person licensed pursuant to chapter 463 of NRS.] (Deleted by amendment.)~~

Sec. 18. (Deleted by amendment.)

Sec. 19. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

A violation of the provisions of this section and NRS 603A.010 to 603A.290, inclusive, constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive, and sections 3, 3.5 and 5 of this act.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 603A.010 is hereby amended to read as follows:

603A.010 As used in NRS 603A.010 to 603A.290, inclusive, *and section 19 of this act*, unless the context otherwise requires, the words and terms defined in NRS 603A.020, 603A.030 and 603A.040 have the meanings ascribed to them in those sections.

Sec. 22. NRS 603A.100 is hereby amended to read as follows:

603A.100 1. The provisions of NRS 603A.010 to 603A.290, inclusive, *and section 19 of this act* do not apply to the maintenance or transmittal of information in accordance with NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto.

2. A data collector who is also an operator, as defined in NRS 603A.330, shall comply with the provisions of NRS 603A.300 to 603A.360, inclusive.

3. Any waiver of the provisions of NRS 603A.010 to 603A.290, inclusive, *and section 19 of this act* is contrary to public policy, void and unenforceable.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

1 **Sec. 25.** Chapter 11 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 *There is no limitation on the time in which an action brought by the Attorney*
4 *General against a person alleged to have committed a deceptive trade practice in*
5 *violation of NRS 598.0903 to 598.0999, inclusive, and sections 3, 3.5 and 5 of this*
6 *act may be commenced.*

7 **Sec. 26.** NRS 11.190 is hereby amended to read as follows:

8 11.190 Except as otherwise provided in NRS 40.4639, 125B.050 and
9 217.007, actions other than those for the recovery of real property, unless further
10 limited by specific statute, may only be commenced as follows:

11 1. Within 6 years:

12 (a) Except as otherwise provided in NRS 62B.420 and 176.275, an action upon
13 a judgment or decree of any court of the United States, or of any state or territory
14 within the United States, or the renewal thereof.

15 (b) An action upon a contract, obligation or liability founded upon an
16 instrument in writing, except those mentioned in the preceding sections of this
17 chapter.

18 2. Within 4 years:

19 (a) An action on an open account for goods, wares and merchandise sold and
20 delivered.

21 (b) An action for any article charged on an account in a store.

22 (c) An action upon a contract, obligation or liability not founded upon an
23 instrument in writing.

24 (d) ~~Except as otherwise provided in section 25 of this act, an~~ action
25 against a person alleged to have committed a deceptive trade practice in violation of
26 NRS 598.0903 to 598.0999, inclusive, *and sections 3, 3.5 and 5 of this act*, but the
27 cause of action shall be deemed to accrue when the aggrieved party discovers, or by
28 the exercise of due diligence should have discovered, the facts constituting the
29 deceptive trade practice.

30 3. Within 3 years:

31 (a) An action upon a liability created by statute, other than a penalty or
32 forfeiture.

33 (b) An action for waste or trespass of real property, but when the waste or
34 trespass is committed by means of underground works upon any mining claim, the
35 cause of action shall be deemed to accrue upon the discovery by the aggrieved party
36 of the facts constituting the waste or trespass.

37 (c) An action for taking, detaining or injuring personal property, including
38 actions for specific recovery thereof, but in all cases where the subject of the action
39 is a domestic animal usually included in the term "livestock," which has a recorded
40 mark or brand upon it at the time of its loss, and which strays or is stolen from the
41 true owner without the owner's fault, the statute does not begin to run against an
42 action for the recovery of the animal until the owner has actual knowledge of such
43 facts as would put a reasonable person upon inquiry as to the possession thereof by
44 the defendant.

45 (d) Except as otherwise provided in NRS 112.230 and 166.170, an action for
46 relief on the ground of fraud or mistake, but the cause of action in such a case shall
47 be deemed to accrue upon the discovery by the aggrieved party of the facts
48 constituting the fraud or mistake.

49 (e) An action pursuant to NRS 40.750 for damages sustained by a financial
50 institution or other lender because of its reliance on certain fraudulent conduct of a
51 borrower, but the cause of action in such a case shall be deemed to accrue upon the
52 discovery by the financial institution or other lender of the facts constituting the
53 concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 27. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive **H**, **and section 3 of this act.**

3. If the claimant is the prevailing party, the court shall award the claimant:

(a) Any damages that the claimant has sustained;

(b) Any equitable relief that the court deems appropriate; and

(c) The claimant's costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. NRS 228.380 is hereby amended to read as follows:

228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C, 599B and 711 of NRS.

2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:

(a) Chapter 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or

(b) Chapter 711 of NRS.

3. The Consumer's Advocate may have access to all records in the possession of any agency, board or commission of this State that he or she determines are necessary for the exercise of the powers set forth in subsection 1.

4. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.

~~4.4~~ 5. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.

Sec. 32. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,
➤ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,
➤ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive;

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; and

(k) The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of *paragraph (f) of subsection ~~1~~ 1* of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of *paragraph (f) of subsection ~~1~~ 1* of NRS 598.0923, if applicable, by the subdivider or any successor in interest. Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 33. NRS 278.461 is hereby amended to read as follows:

278.461 1. Except as otherwise provided in this section, a person who proposes to divide any land for transfer or development into four lots or less shall:

(a) Prepare a parcel map and file the number of copies, as required by local ordinance, of the parcel map with the planning commission or its designated representative or, if there is no planning commission, with the clerk of the governing body; and

(b) Pay a filing fee in an amount determined by the governing body, unless those requirements are waived or the provisions of NRS 278.471 to 278.4725, inclusive, apply. The map must be accompanied by a written statement signed by the treasurer of the county in which the land to be divided is located indicating that all property taxes on the land for the fiscal year have been paid, and by the affidavit of the person who proposes to divide the land stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of *paragraph (f) of subsection ~~1~~ 1* of NRS 598.0923, if applicable, by the person who proposes to divide the land or any successor in interest.

2. In addition to any other requirement set forth in this section, a person who is required to prepare a parcel map pursuant to subsection 1 shall provide a copy of the parcel map to the Division of Water Resources of the State Department of Conservation and Natural Resources and obtain a certificate from the Division indicating that the parcel map is approved as to the quantity of water available for use if:

(a) Any parcel included in the parcel map:

(1) Is within or partially within a basin designated by the State Engineer pursuant to NRS 534.120 for which the State Engineer has issued an order requiring the approval of the parcel map by the State Engineer; and

(2) Will be served by a domestic well; and

(b) The dedication of a right to appropriate water to ensure a sufficient supply of water is not required by an applicable local ordinance.

3. If the parcel map is submitted to the clerk of the governing body, the clerk shall submit the parcel map to the governing body at its next regular meeting.

4. A common-interest community consisting of four units or less shall be deemed to be a division of land within the meaning of this section, but need only comply with this section and NRS 278.371, 278.373 to 278.378, inclusive, 278.462, 278.464 and 278.466.

1 5. A parcel map is not required when the division is for the express purpose
2 of:

3 (a) The creation or realignment of a public right-of-way by a public agency.

4 (b) The creation or realignment of an easement.

5 (c) An adjustment of the boundary line between two abutting parcels or the
6 transfer of land between two owners of abutting parcels, which does not result in
7 the creation of any additional parcels, if such an adjustment is approved pursuant to
8 NRS 278.5692 and is made in compliance with the provisions of NRS 278.5693.

9 (d) The purchase, transfer or development of space within an apartment
10 building or an industrial or commercial building.

11 (e) Carrying out an order of any court or dividing land as a result of an
12 operation of law.

13 6. A parcel map is not required for any of the following transactions involving
14 land:

15 (a) The creation of a lien, mortgage, deed of trust or any other security
16 instrument.

17 (b) The creation of a security or unit of interest in any investment trust
18 regulated under the laws of this State or any other interest in an investment entity.

19 (c) Conveying an interest in oil, gas, minerals or building materials, which is
20 severed from the surface ownership of real property.

21 (d) Conveying an interest in land acquired by the Department of Transportation
22 pursuant to chapter 408 of NRS.

23 (e) Filing a certificate of amendment pursuant to NRS 278.473.

24 7. When two or more separate lots, parcels, sites, units or plots of land are
25 purchased, they remain separate for the purposes of this section and NRS 278.468,
26 278.590 and 278.630. When the lots, parcels, sites, units or plots are resold or
27 conveyed they are exempt from the provisions of NRS 278.010 to 278.630,
28 inclusive, until further divided.

29 8. Unless a method of dividing land is adopted for the purpose or would have
30 the effect of evading this chapter, the provisions for the division of land by a parcel
31 map do not apply to a transaction exempted by paragraph (c) of subsection 1 of
32 NRS 278.320.

33 9. As used in this section, "domestic well" has the meaning ascribed to it in
34 NRS 534.350.

35 **Sec. 34.** NRS 278.464 is hereby amended to read as follows:

36 278.464 1. Except as otherwise provided in subsection 2, if there is a
37 planning commission, it shall:

38 (a) In a county whose population is 700,000 or more, within 45 days; or

39 (b) In a county whose population is less than 700,000, within 60 days,
40 ➤ after accepting as a complete application a parcel map, recommend approval,
41 conditional approval or disapproval of the map in a written report. The planning
42 commission shall submit the parcel map and the written report to the governing
43 body.

44 2. If the governing body has authorized the planning commission to take final
45 action on a parcel map, the planning commission shall:

46 (a) In a county whose population is 700,000 or more, within 45 days; or

47 (b) In a county whose population is less than 700,000, within 60 days,
48 ➤ after accepting as a complete application the parcel map, approve, conditionally
49 approve or disapprove the map. The planning commission shall file its written
50 decision with the governing body. Unless the time is extended by mutual
51 agreement, if the planning commission is authorized to take final action and it fails
52 to take action within the period specified in this subsection, the parcel map shall be
53 deemed approved.

3. If there is no planning commission or if the governing body has not authorized the planning commission to take final action, the governing body or, by authorization of the governing body, the director of planning or other authorized person or agency shall:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days, after acceptance of the parcel map as a complete application by the governing body pursuant to subsection 1 or pursuant to subsection 3 of NRS 278.461, review and approve, conditionally approve or disapprove the parcel map. Unless the time is extended by mutual agreement, if the governing body, the director of planning or other authorized person or agency fails to take action within the period specified in this subsection, the parcel map shall be deemed approved.

4. The planning commission and the governing body or director of planning or other authorized person or agency shall not approve the parcel map unless the person proposing to divide the land has submitted an affidavit stating that the person will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of **paragraph (f) of subsection 1** of NRS 598.0923, if applicable, by the person proposing to divide the land or any successor in interest.

5. Except as otherwise provided in NRS 278.463, if unusual circumstances exist, a governing body or, if authorized by the governing body, the planning commission may waive the requirement for a parcel map. Before waiving the requirement for a parcel map, a determination must be made by the county surveyor, city surveyor or professional land surveyor appointed by the governing body that a survey is not required. Unless the time is extended by mutual agreement, a request for a waiver must be acted upon:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days, after the date of the request for the waiver or, in the absence of action, the waiver shall be deemed approved.

6. A governing body may consider or may, by ordinance, authorize the consideration of the criteria set forth in subsection 3 of NRS 278.349 in determining whether to approve, conditionally approve or disapprove a second or subsequent parcel map for land that has been divided by a parcel map which was recorded within the 5 years immediately preceding the acceptance of the second or subsequent parcel map as a complete application.

7. An applicant or other person aggrieved by a decision of the governing body's authorized representative or by a final act of the planning commission may appeal the decision in accordance with the ordinance adopted pursuant to NRS 278.3195.

8. If a parcel map and the associated division of land are approved or deemed approved pursuant to this section, the approval must be noted on the map in the form of a certificate attached thereto and executed by the clerk of the governing body, the governing body's designated representative or the chair of the planning commission. A certificate attached to a parcel map pursuant to this subsection must indicate, if applicable, that the governing body or planning commission determined that a public street, easement or utility easement which will not remain in effect after a merger and resubdivision of parcels conducted pursuant to NRS 278.4925 has been vacated or abandoned in accordance with NRS 278.480.

Sec. 35. NRS 278.4713 is hereby amended to read as follows:

278.4713 1. Unless the filing of a tentative map is waived, a person who proposes to make a division of land pursuant to NRS 278.471 to 278.4725, inclusive, must first:

1 (a) File a tentative map for the area in which the land is located with the
2 planning commission or its designated representative or with the clerk of the
3 governing body if there is no planning commission;

4 (b) Submit an affidavit stating that the person will make provision for the
5 payment of the tax imposed by chapter 375 of NRS and for compliance with the
6 disclosure and recording requirements of *paragraph (f) of* subsection ~~§ 1~~ 1 of NRS
7 598.0923, if applicable, by the person who proposes to make a division of land or
8 any successor in interest; and

9 (c) Pay a filing fee of no more than \$750 set by the governing body.

10 2. This map must be:

11 (a) Entitled "Tentative Map of Division into Large Parcels"; and

12 (b) Prepared and certified by a professional land surveyor.

13 3. This map must show:

14 (a) The approximate, calculated or actual acreage of each lot and the total
15 acreage of the land to be divided.

16 (b) Any roads or easements of access which exist, are proposed in the
17 applicable master plan or are proposed by the person who intends to divide the
18 land.

19 (c) Except as otherwise provided in NRS 278.329, an easement for public
20 utilities that provide gas, electric and telecommunications services and for any
21 video service providers that are authorized pursuant to chapter 711 of NRS to
22 operate a video service network in that area.

23 (d) Except as otherwise provided in NRS 278.329, an easement for public
24 utilities that provide water and sewer services.

25 (e) Any existing easements for irrigation or drainage, and any normally
26 continuously flowing watercourses.

27 (f) An indication of any existing road or easement which the owner does not
28 intend to dedicate.

29 (g) The name and address of the owner of the land.

30 4. The planning commission and the governing body or its authorized
31 representative shall not approve the tentative map unless the person proposing to
32 divide the land has submitted an affidavit stating that the person will make
33 provision for the payment of the tax imposed by chapter 375 of NRS and for
34 compliance with the disclosure and recording requirements of *paragraph (f) of*
35 subsection ~~§ 1~~ 1 of NRS 598.0923, if applicable, by the person proposing to divide
36 the land or any successor in interest.

37 **Sec. 35.5.** ~~1. Any administrative regulations adopted by an officer or an~~
38 ~~agency whose name has been changed or whose responsibilities have been~~
39 ~~transferred pursuant to the provisions of this act to another officer or agency remain~~
40 ~~in force until amended by the officer or agency to which the responsibility for the~~
41 ~~adoption of the regulations has been transferred.~~

42 ~~2. Any contracts or other agreements entered into by an officer or agency~~
43 ~~whose name has been changed or whose responsibilities have been transferred~~
44 ~~pursuant to the provisions of this act to another officer or agency are binding upon~~
45 ~~the officer or agency to which the responsibility for the administration of the~~
46 ~~provisions of the contract or other agreement has been transferred. Such contracts~~
47 ~~and other agreements may be enforced by the officer or agency to which the~~
48 ~~responsibility for the enforcement of the provisions of the contract or other~~
49 ~~agreement has been transferred.~~

50 ~~3. Any action taken by an officer or agency whose name has been changed or~~
51 ~~whose responsibilities have been transferred pursuant to the provisions of this act to~~
52 ~~another officer or agency remains in effect as if taken by the officer or agency to~~

1 ~~which the responsibility for the enforcement of such actions has been transferred.]~~
2 (Deleted by amendment.)

3 **Sec. 35.7.** ~~[(The Legislative Counsel shall:~~

4 ~~1. In preparing the reprint and supplements to the Nevada Revised Statutes,~~
5 ~~appropriately change any references to an officer, agency or other entity whose~~
6 ~~name is changed or whose responsibilities are transferred pursuant to the provisions~~
7 ~~of this act to refer to the appropriate officer, agency or other entity.~~

8 ~~2. In preparing supplements to the Nevada Administrative Code,~~
9 ~~appropriately change any references to an officer, agency or other entity whose~~
10 ~~name is changed or whose responsibilities are transferred pursuant to the provisions~~
11 ~~of this act to refer to the appropriate officer, agency or other entity.] (Deleted by~~
12 amendment.)