

ASSEMBLY BILL NO. 67—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

SUMMARY—Creates the Fund for the Compensation of Victims of Securities Fraud. (BDR 7-415)

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 securities; creating the Fund for the Compensation of Victims of Securities Fraud and prescribing the use of money in the Fund; authorizing certain persons to whom a court orders restitution to apply for compensation from the Fund; requiring the Administrator of the Securities Division of the Office of the Secretary of State to review applications for and award compensation from the Fund; making confidential certain information; requiring the Division to adopt regulations relating to the administration of the Fund; requiring the Administrator to submit to the Legislature a biennial report concerning the Fund; requiring a person who receives compensation from the Fund to reimburse the State for such compensation under certain circumstances; revising provisions governing the deposit of certain money received by the Administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law establishes the Uniform Securities Act, which sets forth provisions
- 2 governing the sale and purchase of securities in this State in a manner consistent
- 3 with federal laws and regulations. In general, the Act prohibits a person from
- 4 engaging in certain deceptive acts, practices or courses of business in connection
- 5 with the offer, sale or purchase of a security. (NRS 90.570-90.610) The Act also
- 6 authorizes certain sanctions against a person who violates these prohibitions,
- 7 including civil penalties, criminal fines and payment of restitution. (NRS 90.630,



90.640, 90.650) The Nevada Constitution entitles a victim of a crime to full and timely restitution and requires all monetary payments, money and property collected from any person ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim. (Nev. Const. Art. 1, § 8A)

Section 6 of this bill creates the Fund for the Compensation of Victims of Securities Fraud and requires that the money in the Fund be used for the compensation of certain victims to whom restitution is owed. **Section 2** of this bill defines the term "Fund" to mean the Fund for the Compensation of Victims of Securities Fraud. **Section 3** of this bill: (1) establishes the process by which certain persons to whom a court orders restitution may apply for and receive compensation from the Fund; (2) authorizes an applicant to appeal a determination made concerning an award of compensation from the Fund; and (3) makes confidential certain information and documentation submitted in connection with such an application. **Section 9** of this bill makes a conforming change relating to the information made confidential pursuant to **section 3**.

Section 4 of this bill requires the Securities Division of the Office of the Secretary of State to adopt certain regulations relating to the Fund, including regulations: (1) establishing eligibility requirements for an award of compensation from the Fund; (2) prescribing certain other requirements relating to the award of compensation from the Fund; and (3) establishing a procedure to appeal a determination made concerning an award of compensation from the Fund. **Section 5** of this bill requires the Administrator of the Division to prepare and submit a biennial report to the Legislature that includes certain information relating to the Fund. **Section 6** requires the Division to prepare certain quarterly estimates concerning the Fund and requires any money remaining in the Fund at the end of each fiscal year to be carried over to the next fiscal year. **Section 7** of this bill: (1) requires an applicant, as a condition of accepting an award of compensation from the Fund, to take certain action if the applicant recovers unpaid restitution after receiving such compensation; and (2) prescribes certain other conditions of accepting an award of compensation from the Fund.

Existing law requires all money received by the Division or the Administrator pursuant to the Act to be deposited in the State General Fund. (NRS 90.630, 90.650, 90.710) **Section 8** of this bill requires all money received by the Administrator as a result of an enforcement action relating to securities to be deposited with the State Treasurer for credit to the Fund.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, "Fund" means the Fund for the Compensation of Victims of Securities Fraud created by section 6 of this act.*

Sec. 3. 1. *Except as otherwise provided in this subsection, a person to whom a court orders restitution pursuant to NRS 90.640 may, not later than 12 months after the date on which such restitution is ordered, apply to the Administrator for compensation*



1 *from the Fund. The Administrator may waive the time limit*
2 *prescribed by this subsection for good cause shown.*

3 2. *The Administrator or his or her designee shall review all*
4 *applications submitted pursuant to subsection 1 and award*
5 *compensation to applicants in accordance with the regulations*
6 *adopted pursuant to section 4 of this act.*

7 3. *An applicant aggrieved by a determination of the*
8 *Administrator or his or her designee made pursuant to subsection*
9 *2 may appeal the determination in accordance with the*
10 *regulations adopted pursuant to section 4 of this act.*

11 4. *The Administrator or his or her designee may request that*
12 *an applicant submit to the Division any additional information or*
13 *documentation necessary to enable the Administrator or his or her*
14 *designee to make the determination required by subsection 2. As*
15 *soon as practicable after receiving such a request, the applicant*
16 *shall submit to the Division any information or documentation*
17 *requested.*

18 5. *Any information or documentation contained in an*
19 *application submitted to the Administrator pursuant to subsection*
20 *1 or to the Division pursuant to subsection 4 is confidential and,*
21 *unless the disclosure is otherwise prohibited by law, must not be*
22 *disclosed except:*

23 (a) *Upon the request of the applicant or the attorney of the*
24 *applicant;*

25 (b) *In the necessary administration of this chapter; or*

26 (c) *Upon the lawful order of a court of competent jurisdiction.*

27 **Sec. 4.** *The Division shall adopt any regulations necessary to*
28 *carry out the provisions of sections 2 to 7, inclusive, of this act,*
29 *including, without limitation, regulations:*

30 1. *Establishing eligibility requirements for an award of*
31 *compensation from the Fund.*

32 2. *Establishing a form and procedure for applying for an*
33 *award of compensation from the Fund. The form must include,*
34 *without limitation, an indication of the amount of money the*
35 *applicant has received or is likely to receive as restitution for the*
36 *financial harm suffered as a result of the commission of a*
37 *violation of this chapter, or a regulation or order of the*
38 *Administrator under this chapter, pursuant to NRS 90.640.*

39 3. *Establishing the order of priority in which the*
40 *Administrator or his or her designee must:*

41 (a) *Review applications submitted pursuant to section 3 of this*
42 *act; and*

43 (b) *Award compensation to an applicant, if applicable.*

44 4. *Prescribing standards for the amount of compensation the*
45 *Administrator or his or her designee may award from the Fund.*



1 *Such standards must include, without limitation, a requirement*
2 *that such compensation must not exceed the lesser of \$25,000 or*
3 *an amount equal to 25 percent of the amount of unpaid restitution*
4 *awarded by a court.*

5 *5. Establishing a procedure to appeal a determination made*
6 *by the Administrator or his or her designee pursuant to section 3*
7 *of this act.*

8 **Sec. 5.** *On or before January 1 of each odd-numbered year,*
9 *the Administrator shall prepare and submit to the Director of the*
10 *Legislative Counsel Bureau for transmittal to the Legislature a*
11 *report relating to the Fund. The report must include, without*
12 *limitation:*

13 *1. The total amount of compensation awarded from the*
14 *Fund;*

15 *2. The number of applicants who applied for compensation*
16 *from the Fund;*

17 *3. The number of applicants who were denied compensation*
18 *from the Fund; and*

19 *4. The average length of time taken to award compensation*
20 *from the Fund, from the date of receipt of the application to the*
21 *date of the payment of compensation.*

22 **Sec. 6.** *1. Money for payment of compensation as awarded*
23 *by the Administrator pursuant to section 3 of this act must be paid*
24 *from the Fund for the Compensation of Victims of Securities*
25 *Fraud, which is hereby created. Money in the Fund must be*
26 *disbursed by the Division in the same manner as other claims*
27 *against the State are paid, in accordance with the regulations*
28 *adopted pursuant to section 4 of this act.*

29 *2. The Division shall prepare quarterly estimates of:*

30 *(a) The revenue in the Fund which is available for the*
31 *payment of compensation; and*

32 *(b) The anticipated expenses of the Fund for the next fiscal*
33 *quarter.*

34 *3. The interest and income earned on the money in the Fund,*
35 *after deducting any applicable charges, must be credited to the*
36 *Fund.*

37 *4. The Division may apply for and accept gifts, grants and*
38 *donations from any source for deposit in the Fund.*

39 *5. Any money remaining in the Fund at the end of each fiscal*
40 *year does not revert to the State General Fund and must be carried*
41 *over into the next fiscal year.*

42 **Sec. 7.** *An applicant who accepts an award of compensation*
43 *from the Fund does so under the following conditions:*

44 *1. The State of Nevada is immediately subrogated in the*
45 *amount of the award to any right of action to recover any unpaid*



1 *restitution, and that right of subrogation may be diminished for*
2 *attorney's fees and other costs of litigation in obtaining such*
3 *recovery; and*

4 2. *If recovery is obtained for unpaid restitution, the applicant*
5 *shall promptly notify the Administrator or his or her designee, and*
6 *shall promptly pay to the Division the lesser of the amount of the*
7 *award made from the Fund or the amount recovered less*
8 *attorney's fees and costs. The duty of notice and payment*
9 *pursuant to this subsection continues until the amount of the*
10 *award has been repaid to the State of Nevada.*

11 **Sec. 8.** NRS 90.710 is hereby amended to read as follows:

12 90.710 1. This chapter must be administered by the Secretary
13 of State and the Administrator. The Secretary of State may employ
14 personnel necessary to administer the provisions of this chapter.

15 2. All money received by ~~the~~ :

16 (a) ~~The~~ Division ~~for the Administrator~~ pursuant to this chapter
17 must be deposited with the ~~state~~ State Treasurer for credit to the
18 State General Fund.

19 (b) *The Administrator, as a result of an action for the*
20 *enforcement of the provisions of this chapter, must be deposited*
21 *with the State Treasurer for credit to the Fund for the*
22 *Compensation of Victims of Securities Fraud created by section 6*
23 *of this act.*

24 **Sec. 9.** NRS 239.010 is hereby amended to read as follows:

25 239.010 1. Except as otherwise provided in this section and
26 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095,
27 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030,
28 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152,
29 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
30 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
31 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
32 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
33 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640,
34 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730,
35 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312,
36 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,
37 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
38 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
39 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
40 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
41 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
42 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
43 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570,
44 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105,
45 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050,



1 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420,
2 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
3 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,
4 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,
5 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
6 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,
7 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
8 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,
9 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
10 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
11 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
12 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
13 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
14 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
15 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
16 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
17 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
18 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
19 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
20 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
21 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
22 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
23 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,
24 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
25 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
26 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
27 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
28 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
29 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
30 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
31 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
32 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
33 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
34 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
35 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
36 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
37 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
38 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
39 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
40 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,
41 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
42 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
43 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
44 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
45 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,



1 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
2 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
3 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,
4 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
5 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,
6 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
7 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
8 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
9 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
10 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
11 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
12 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
13 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
14 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
15 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
16 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
17 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
18 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
19 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
20 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
21 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
22 711.600, *and section 3 of this act*, sections 35, 38 and 41 of chapter
23 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes
24 of Nevada 2013 and unless otherwise declared by law to be
25 confidential, all public books and public records of a governmental
26 entity must be open at all times during office hours to inspection by
27 any person, and may be fully copied or an abstract or memorandum
28 may be prepared from those public books and public records. Any
29 such copies, abstracts or memoranda may be used to supply the
30 general public with copies, abstracts or memoranda of the records or
31 may be used in any other way to the advantage of the governmental
32 entity or of the general public. This section does not supersede or in
33 any manner affect the federal laws governing copyrights or enlarge,
34 diminish or affect in any other manner the rights of a person in any
35 written book or record which is copyrighted pursuant to federal law.

36 2. A governmental entity may not reject a book or record
37 which is copyrighted solely because it is copyrighted.

38 3. A governmental entity that has legal custody or control of a
39 public book or record shall not deny a request made pursuant to
40 subsection 1 to inspect or copy or receive a copy of a public book or
41 record on the basis that the requested public book or record contains
42 information that is confidential if the governmental entity can
43 redact, delete, conceal or separate, including, without limitation,
44 electronically, the confidential information from the information



1 included in the public book or record that is not otherwise
2 confidential.

3 4. If requested, a governmental entity shall provide a copy of a
4 public record in an electronic format by means of an electronic
5 medium. Nothing in this subsection requires a governmental entity
6 to provide a copy of a public record in an electronic format or by
7 means of an electronic medium if:

8 (a) The public record:

9 (1) Was not created or prepared in an electronic format; and

10 (2) Is not available in an electronic format; or

11 (b) Providing the public record in an electronic format or by
12 means of an electronic medium would:

13 (1) Give access to proprietary software; or

14 (2) Require the production of information that is confidential
15 and that cannot be redacted, deleted, concealed or separated from
16 information that is not otherwise confidential.

17 5. An officer, employee or agent of a governmental entity who
18 has legal custody or control of a public record:

19 (a) Shall not refuse to provide a copy of that public record in the
20 medium that is requested because the officer, employee or agent has
21 already prepared or would prefer to provide the copy in a different
22 medium.

23 (b) Except as otherwise provided in NRS 239.030, shall, upon
24 request, prepare the copy of the public record and shall not require
25 the person who has requested the copy to prepare the copy himself
26 or herself.

27 **Sec. 10.** The provisions of subsection 1 of NRS 218D.380 do
28 not apply to any provision of this act which adds or revises a
29 requirement to submit a report to the Legislature.

30 **Sec. 11.** 1. This section becomes effective upon passage and
31 approval.

32 2. Sections 1 to 10, inclusive, of this act become effective:

33 (a) Upon passage and approval for the purpose of adopting any
34 regulations and performing any other preparatory administrative
35 tasks that are necessary to carry out the provisions of this act; and

36 (b) On October 1, 2023, for all other purposes.

