

Amendment No. 58

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|--|-------------|
| Assembly Amendment to Assembly Bill No. 67   | (BDR 7-415) |
| <b>Proposed by:</b> Assembly Committee on Judiciary                                |             |
| <b>Amends:</b> Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No |             |

| 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.

VDW/BAW



Date: 3/31/2023

A.B. No. 67—Creates the Fund for the Compensation of Victims of Securities Fraud. (BDR 7-415)





## 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:**

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

16 compensation from the Fund; (2) authorizes an applicant to appeal a determination made  
17 concerning an award of compensation from the Fund; and (3) makes confidential certain  
18 information and documentation submitted in connection with such an application. **Section 9**  
19 of this bill makes a conforming change relating to the information made confidential pursuant  
20 to **section 3**.

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

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

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

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

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

6 **Sec. 3.** 1. *Except as otherwise provided in this subsection, a person to*  
7 *whom a court orders restitution pursuant to NRS 90.640 may, not later than 12*  
8 *months after the date on which such restitution is ordered, apply to the*  
9 *Administrator for compensation from the Fund. The Administrator may waive*  
10 *the time limit prescribed by this subsection for good cause shown.*

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

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

17 4. *The Administrator or his or her designee may request that an applicant*  
18 *submit to the Division any additional information or documentation necessary to*  
19 *enable the Administrator or his or her designee to make the determination*  
20 *required by subsection 2. As soon as practicable after receiving such a request,*  
21 *the applicant shall submit to the Division any information or documentation*  
22 *requested.*

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

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

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

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

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

6 1. Establishing eligibility requirements for an award of compensation from  
7 the Fund.

8 2. Establishing a form and procedure for applying for an award of  
9 compensation from the Fund. The form must include, without limitation, an  
10 indication of the amount of money the applicant has received or is likely to  
11 receive as restitution for the financial harm suffered as a result of the  
12 commission of a violation of this chapter, or a regulation or order of the  
13 Administrator under this chapter, pursuant to NRS 90.640.

14 3. Establishing the order of priority in which the Administrator or his or  
15 her designee must:

16 (a) Review applications submitted pursuant to section 3 of this act; and

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

18 4. Prescribing standards for the amount of compensation the Administrator  
19 or his or her designee may award from the Fund. Such standards must include,  
20 without limitation, a requirement that such compensation must not exceed the  
21 lesser of \$25,000 or an amount equal to 25 percent of the amount of unpaid  
22 restitution awarded by a court.

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

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

29 1. The total amount of compensation awarded from the Fund;

30 2. The number of applicants who applied for compensation from the Fund;

31 3. The number of applicants who were denied compensation from the  
32 Fund; and

33 4. The average length of time taken to award compensation from the Fund,  
34 from the date of receipt of the application to the date of the payment of  
35 compensation.

36 **Sec. 6.** 1. Money for payment of compensation as awarded by the  
37 Administrator pursuant to section 3 of this act must be paid from the Fund for  
38 the Compensation of Victims of Securities Fraud, which is hereby created.  
39 Money in the Fund must be disbursed by the Division in the same manner as  
40 other claims against the State are paid, in accordance with the regulations  
41 adopted pursuant to section 4 of this act.

42 2. The Division shall prepare quarterly estimates of:

43 (a) The revenue in the Fund which is available for the payment of  
44 compensation; and

45 (b) The anticipated expenses of the Fund for the next fiscal quarter.

46 3. The interest and income earned on the money in the Fund, after  
47 deducting any applicable charges, must be credited to the Fund.

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

50 5. Any money remaining in the Fund at the end of each fiscal year does not  
51 revert to the State General Fund and must be carried over into the next fiscal  
52 year.

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

*1. The State of Nevada is immediately subrogated in the amount of the award to any right of action to recover any unpaid restitution, and that right of subrogation may be diminished for attorney's fees and other costs of litigation in obtaining such recovery; and*

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

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

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

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

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

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

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

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,

385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513,  
388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925,  
392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,  
392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,  
396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535,  
396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280,  
416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,  
432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,  
432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360,  
439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754,  
439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,  
442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245,  
449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055,  
458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,  
463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935,  
480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,  
483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.853, 484E.070,  
485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,  
587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210,  
604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,  
618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,  
624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,  
630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327,  
630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405,  
633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303,  
634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085,  
637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570,  
640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580,  
640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225,  
640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262,  
641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320,  
642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,  
645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,  
645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,  
652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,  
669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340,  
676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124,  
679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440,  
681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170,  
686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,  
688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,  
692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196,  
704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 3 of this act*,  
sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of  
chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be  
confidential, all public books and public records of a governmental entity must be  
open at all times during office hours to inspection by any person, and may be fully  
copied or an abstract or memorandum may be prepared from those public books  
and public records. Any such copies, abstracts or memoranda may be used to  
supply the general public with copies, abstracts or memoranda of the records or  
may be used in any other way to the advantage of the governmental entity or of the  
general public. This section does not supersede or in any manner affect the federal  
laws governing copyrights or enlarge, diminish or affect in any other manner the

1 rights of a person in any written book or record which is copyrighted pursuant to  
2 federal law.

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

5 3. A governmental entity that has legal custody or control of a public book or  
6 record shall not deny a request made pursuant to subsection 1 to inspect or copy or  
7 receive a copy of a public book or record on the basis that the requested public  
8 book or record contains information that is confidential if the governmental entity  
9 can redact, delete, conceal or separate, including, without limitation, electronically,  
10 the confidential information from the information included in the public book or  
11 record that is not otherwise confidential.

12 4. If requested, a governmental entity shall provide a copy of a public record  
13 in an electronic format by means of an electronic medium. Nothing in this  
14 subsection requires a governmental entity to provide a copy of a public record in an  
15 electronic format or by means of an electronic medium if:

16 (a) The public record:

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

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

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

21 (1) Give access to proprietary software; or

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

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

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

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

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

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

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

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

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