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S.B. 444

- SENATE BILL 444(R1)—Requires the Nevada Gaming Commission to adopt regulations authorizing a gaming licensee to charge a fee for admission to an area in which gaming is conducted under certain circumstances. (BDR 41-1295)**

Sponsored by: Senate Committee on Judiciary

Date Heard: May 13, 2005

Summary of the Bill – First Reprint

Senate Bill 444 requires the Nevada Gaming Commission to adopt regulations authorizing a gaming licensee to charge a fee for admission to an area where gaming is conducted. The regulations must grant the Chairman of the State Gaming Control Board sole discretion to grant, deny, limit, condition, restrict, revoke, or suspend a request by a gaming licensee to charge a fee, but, in considering such a request the Chairman shall consider all relevant factors.

Discussion

Testimony in favor of S.B. 444 was presented from representatives of the gaming industry who explained each section of the bill. Representatives of the State Gaming Control Board testified in a neutral position on the bill.

Proposed Conceptual Amendments

Clarify the Existing Sections of the Bill – Attached are amendments submitted by representatives of the Nevada Resort Association to clarify the bill. A summary follows:

- 1. Add the following new sections to subsection 2(c) (suggested at page 2, line 39) to state that gaming licensees who charge a fee pursuant to Section 1 of the bill:**
 - a. Shall, at all times that a fee is charged for admission to an area in a restricted establishment pursuant to this section, post a sign of a suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons they do not need to pay an admission fee or cover charge to engage in gaming.
 - b. Shall not be allowed to utilize a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a non-gaming activity, attraction or facility in conformity with the policy set forth in NRS 463.0129(1)(e).

In addition, amend subsections 2(c)(3) and 2(d) to clarify the application to nonrestricted establishments and licensees. (Suggested language in attachments.)

- 2. Revise the language under subsection 2(c)(4) prohibiting restriction on admission on certain basis (page 2, lines 40-41) to mirror existing law under NRS 651.070 – A copy of the referenced statute follows:**

NRS 651.070 All persons entitled to equal enjoyment of places of public accommodation. All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any place of public accommodation, without discrimination or segregation on the ground of race, color, religion, national origin or disability. (Added to NRS by 1965, 689; A 1969, 587; 1991, 1028)

Amendments to S.B. 444 (First Reprint)
May 5, 2005

Amend section 1, page 2, line 36, by inserting "in a nonrestricted establishment" following "an area".

Amend section 1, page 2, line 39, by adding a new subsection (c)(4) to read as follows:

"(4) Shall, at all times that a fee is charged for admission to an area in a restricted establishment pursuant to this section, post a sign of suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons they do not need to pay an admission fee or cover charge to engage in gaming."

Amend section 1, page 2, line 39, by deleting "4" and inserting "5".

Amend section 1, page 2, lines 40 - 41, by conforming the language to that of NRS 651.070.

Amend section 1, page 3, line 3, by inserting "nonrestricted" before "gaming licensee".

Amendment to S.B. 444 (First Reprint)
May 12, 2005

Amend section 1, page 2, line 39, by creating a new subsection (c)(4) to read as follows:

“(4) Shall not be allowed to utilize a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a non-gaming activity, attraction or facility in conformity with the policy set forth in NRS 463.0129(1)(e).”

Amends section 1, page 2, line 39, by deleting “4” and inserting “5”.

S.B. 450

- SENATE BILL 450(R1)—Makes various changes to provisions governing temporary and extended orders for protection against stalking, aggravated stalking, harassment and domestic violence and for protection of children. (BDR 15-1407)**

Sponsored by: Senate Committee on Judiciary

Date Heard: May 11, 2005

Summary of the Bill – First Reprint

Senate Bill 450 authorizes a court imposing a temporary or extended order for protection against stalking, aggravated stalking, harassment, domestic violence, and for the protection of children to direct the person who has allegedly committed the crime to comply with any restriction the court deems necessary to protect the victim or to protect any other person named in the order including a member of the family or the household of the victim. The bill also provides that an extended order may be granted only after notice of the petition for the order and hearing has been served upon the adverse party and a hearing is held on the petition. Further, Senate Bill 450 authorizes the court to impose certain penalties if a violation of an order for protection against domestic violence is accompanied by a violent physical act.

Discussion

Testimony in favor of the bill from representatives of the Administrative Office of the Courts and the Las Vegas Justice Court explained the bill was designed to make the four different types of temporary protective orders consistent under state law.

Proposed Conceptual Amendments

- **Penalties** – During the hearing, a concern was raised by Assemblyman Carpenter regarding Section 3 of the bill and the new language regarding violent physical acts.

In response to these concerns, an amendment has been submitted on behalf of the Las Vegas Justice Court and the District Attorneys Association to bring these provisions into conformity with a measure passed in 2003 that provided an enhanced penalty for these violations and deleted references to violent physical acts. (Assembly Bill 107, Chapter 290, *Statutes of Nevada*)

In summary, the proposed amendment (attached) includes the following changes:

1. Delete the language concerning violent physical acts from Sections 3 (new language) and 5 (existing language).
2. Add a new section amending NRS 193.166, which was created by A.B. 107 in 2003 to provide a felony penalty for more serious acts. The amendment includes violations of temporary or extended orders issued under NRS 33.400 (protective orders issued at the request of a parent for the protection of a child).

PROPOSED CHANGES TO SB 450

1. Section 3 of the Bill

Delete subsections (2) and (3) of this portion. Thus, Section 3 would merely state the following:

Sec. 3. NRS 33.100 is hereby amended to read as follows:

1. A person who *intentionally* violates a temporary or extended order is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.

2. Section 5 of the Bill

Delete all the language after the first sentence. Thus, Section 5 would merely state the following:

Sec. 5. NRS 33.350 is hereby amended to read as follows:

1. A person who *intentionally* violates a temporary or extended order for protection against harassment in the workplace is guilty of a misdemeanor, unless a more severe penalty is prescribed by law for the act that constitutes the violation of the order.

3. New Language to Be Added at Section 8:

NRS 193.166 is hereby amended to read as follows:

NRS 193.166. Additional penalty: Felony committed in violation of order for protection or order to restrict conduct.

1. Except as otherwise provided in NRS 193.169, a person who commits a crime that is punishable as a felony, other than a crime that is punishable as a felony pursuant to subsection 5 of NRS 200.591, in violation of:

- (a) A temporary or extended order for protection against domestic violence issued pursuant to NRS 33.020;
- (b) An order for protection against harassment in the workplace issued pursuant to NRS 33.270;
- (c) An order for protection against domestic violence issued in an action or proceeding brought pursuant to title 11 of NRS; ~~or~~
- (d) A temporary or extended order issued pursuant to NRS 200.591[;] *or*
- (e) *A temporary or extended order issued pursuant to NRS 33.400,*

shall be punished by imprisonment in the state prison, except as otherwise provided in this subsection, for a term equal to and in addition to the term of imprisonment prescribed by statute for that crime. If the crime committed by the person is punishable as a category A felony or category B felony, in addition to the term of imprisonment prescribed by statute for that crime, the person shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not

more than 5 years. The sentence prescribed by this section runs concurrently or consecutively with the sentence prescribed by statute for the crime, as ordered by the court.

2. The court shall not grant probation to or suspend the sentence of any person convicted of attempted murder, battery which involves the use of a deadly weapon, or battery which results in substantial bodily harm if an additional term of imprisonment may be imposed for that primary offense pursuant to this section.

3. This section does not create a separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

4. Section 8 would be renumbered to Section 9.

“This act becomes effective on July 1, 2005.”

S.B. 64

- SENATE BILL 64 (R1)—Makes various changes to provisions concerning the conveyance of real property by deed which becomes effective upon the death of the grantor. (BDR 10-539)**

Sponsored by: Senator Dean A. Rhoads

Date Heard: May 10, 2005

May 11, 2005 (work session)

Summary of Bill – First Reprint

Senate Bill 64 authorizes an owner of real property to convey his interest to a grantee or multiple grantees, without the necessity of having the spouse of any grantee file a quitclaim deed or disclaimer. Additionally, the bill provides that the last recorded deed before the death of the owner is the effective deed, and that the deed must be executed and recorded in the office of the county recorder where the property is located. Finally, the measure exempts a deed that becomes effective upon the death of the grantor from the real property transfer tax.

Discussion

Representatives of county recorders, the Nevada Association of Realtors, and Nevada Land Title Association testified in favor of the measure. According to testimony, the bill is designed to help people avoid probate. Testimony also indicated the bill “cleans up” 2003 legislation creating the new deed that allows an owner of an interest in real property to convey his interest during his lifetime to one or more grantees, which then becomes effective upon his death.

Proposed Conceptual Amendments

- **Exemptions to Real Property Transfer Taxes** – Revise the exemptions under subsection 9 of the bill (amends NRS 375.090) as follows:

9. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of consanguinity *or affinity*.

(Proposed by the Nevada Association of Realtors. The proposed amendment is attached.)

Amendment to Senate Bill 64
On Behalf of the Nevada Association of Realtors
Contact: Jim Nadeau, 775.336.7521
May 17, 2005

Amend section 2, subsection 9 line 26 by adding additional language "or affinity".

9. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of consanguinity *or affinity*.

Consanguinity: Relationship by blood or by a common ancestor
Affinity: Relationship by marriage.

S.B. 338

- **SENATE BILL 338(R1)—Makes various changes concerning business associations. (BDR 7-728)**

Sponsored by: Senate Committee on Judiciary

Date Heard: May 5, 2005

Summary of the Bill- First Reprint

Senate Bill 338 makes various technical revisions related to business associations. The bill enacts provisions that acknowledge and facilitate the formation of real estate investment trusts. The bill also revises provisions governing voting rights and the use of proxies to clarify that a proxy governs unless revoked at the shareholder meeting or a notice of extinguishment is provided to the corporation.

The measure further clarifies the rules governing treatment of fractional shares of stock, and defines procedures pertaining to dissenters' rights. The bill also authorizes a limited liability company to create series of members' interests with separate rights, powers, and duties. Finally, the measure restricts the adoption of certain fictitious names by business associations and natural persons.

Discussion

Testimony from the a representative of the Business Law Section of the State Bar of Nevada indicated this measure is the annual omnibus business law bill brought forward to ensure Nevada's laws are up to date.

Proposed Conceptual Amendments

The following amendments are proposed by Assemblywoman Buckley:

1. Requirement for Disclosure when Conducting Business with the Government:

- a. Provide that all business entities, including limited liability companies (LLC), that:
 - i. Buy land from a state or local government (including purchases at auction),
 - ii. Win a bid on a government project,
 - iii. Apply for a zoning change, or
 - iv. Otherwise transacting business with the governmental entity

Must reveal all persons with a one percent or more ownership interest in the business entity. Specify that this information must be made available to the public. (Include this prohibition in governmental chapters of NRS, not Title 7.)

- b. Require business entities that donate to the campaign of a person running for public office to disclose persons with a one percent or more ownership interest in the business entity. The person receiving the donation must include that information in the campaign report submitted to the Secretary of State.

2. **Fictitious Names** – Delete **Section 58** of the bill, which removes from existing law the requirement for certain business entities to qualify to do business in the State of Nevada prior to filing a fictitious name certificate.

S.B. 453

- SENATE BILL 453(R2)—Makes various changes concerning business entities.
(BDR 7-576)**

**Sponsored by: Senate Committee on Judiciary (On behalf of the
Secretary of State)**

Date Heard: May 5, 2005

Summary of the Bill – Second Reprint

Senate Bill 453 allows a court, in certain circumstances, to charge a stockholder's stock with payment of the unsatisfied amount of a judgment. The measure also revises provisions concerning the timing, form, and contents of various filings by certain business entities. The bill also clarifies that unit-owners' or homeowners' associations must comply with certain requirements before the Secretary of State may accept for filing any articles of incorporation or any certificate of amendment of articles of incorporation.

Additionally, S.B. 453 provides that a person who knowingly files a forged or false record may be subject to civil liability. The measure defines "record" as an inscribed or tangible medium that is filed pursuant to any provision of Title 7 of the *Nevada Revised Statutes* or Article 9 of the Uniform Commercial Code. Finally, the measure establishes certain fees, including an expedited one-hour service fee, charged by the Office of the Secretary of State for services provided to business entities.

Discussion

Testimony in favor of the measure was presented by the Secretary of State's Office, which explained the bill contained "housekeeping" provisions, and standardized the requirements and processes for documents filed with the Secretary of State's office.

Proposed Conceptual Amendments

1. **Notaries Public** – Insert new provisions relating to notaries public to address issues relating to fraud. The attached language was submitted and explained by *Rene Parker, Chief Deputy Secretary of State*, at the hearing.
2. **Definition of "Record" under Section 41** – Clarify the definition of "record" means any information that is filed with the Secretary of State.

Section 41 adds provisions to Chapter 225 of NRS (Secretary of State) for filing forged or fraudulent documents, or knowingly filing false documents in the Office of Secretary of State. Currently, this section defines a "record" to include certain information that filed or offered for filing pursuant to any provision of title 7 of NRS or article 9 of the Uniform Commercial Code. (See page 42, lines 1 to 3.)

3. **Charging Orders** – Sections 1 and 37 to 40 were proposed by the Nevada Resident Agents Association to authorizing charging orders. Concerns were raised regarding these sections, but no formal amendments have been submitted.

AMENDMENTS TO SB 453 (to add Notary Provisions)

Amend the bill as a whole by adding new sections 1 through 6 to amend NRS Chapter 240 and renumbering Section 1 as Section 7 as follows [material in blue bold is new material, material in red brackets is deleted material]:

Sec. 1. 1. A notary public who is appointed pursuant to this chapter who willfully notarizes the signature of a person who is:

(a) Not in the presence of the notary public; or

(b) Unknown to the notary public, if the person does not provide documentary evidence of identification to the notary public, is guilty of a gross misdemeanor, and shall be punished as provided in NRS 193.140.

2. Any person who aids and abets a notary public to commit a violation of subsection 1 is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

Sec. 2. 1. Except as otherwise provided in subsection 2, the Secretary of State shall, upon request and payment of a fee of \$20, issue an authentication in one of the following forms to verify that the signature of a notarial officer on a document is genuine and that the notarial officer holds the indicated office:

(a) If the document is intended for use in a foreign country that is a participant in the Hague Convention of October 5, 1961, the Secretary of State must issue an apostille in the form prescribed by the Hague Convention of October 5, 1961; or

(b) If the document is intended for use in the United States or a foreign country that is not a participant in the Hague Convention of October 5, 1961, the Secretary of State must issue a certification.

2. The Secretary of State shall not issue an authentication pursuant to subsection 1 if:

(a) The document has not been notarized in accordance with the provisions of this chapter; or

(b) The Secretary of State has information that the document may be used to accomplish any fraudulent, criminal or other unlawful purpose.

Sec. 3. NRS 240.001 is hereby amended to read as follows:

240.001 As used in NRS 240.001 to 240.169, inclusive, and sections 1 and 2, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 240.002 to 240.005, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who has been convicted of a crime involving moral turpitude, if the Secretary of State is aware of such a conviction before he makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

3. A notary public may cancel his appointment by submitting a written notice to the Secretary of State.

4. It is unlawful for a person to:

(a) Represent himself as a notary public appointed pursuant to this section if he has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

5. *The Secretary of State may request that the Attorney General bring an action to enjoin a person from violating the provisions of paragraph (a) of subsection 4.*

Sec. 5. NRS 240.161 is hereby amended to read as follows:

240.161 1. NRS 240.161 to 240.169, inclusive, ***and section 2 of this act*** may be cited as the Uniform Law on Notarial Acts. These sections must be applied and construed to effectuate their general purpose to make uniform the law with respect to the subject of these sections among states enacting them.

Sec. 6. NRS 240.165 is hereby amended to read as follows:

240.165 1. A notarial act has the same effect under the law of this State as if performed by a notarial officer of this State if performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by the following persons:

(a) A notary public;

(b) A judge, clerk or deputy clerk of a court of record; or

(c) A person authorized by the law of that jurisdiction to perform notarial acts.

2. [An "apostille" in the form prescribed by the Hague Convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office. The Secretary of State shall, upon request and payment of a fee of \$20, issue an apostille to verify a signature of a notarial officer on a document that is kept in the records of the Secretary of State unless the document had not been notarized in accordance with the provisions of this chapter.]

[3.] A certificate by an officer of the foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by an officer of the foreign service or consular officer of that nation stationed in the United States, conclusively establishes a matter relating to the authenticity or validity of the notarial act set forth in the certificate.

[4.] 3. An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

[5.] 4. An official stamp or seal of an officer listed in paragraph (a) or (b) of subsection 1 is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

[6.] 5. If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority

of an officer with that title to perform notarial acts is conclusively established.

S.B. 343

- SENATE BILL 343(R1)—Makes various changes to provisions related to mechanics' and materialmen's liens. (BDR 9-787)**

Sponsored by: Senator Warren Hardy

Date Heard: May 13, 2005

Summary of Bill - First Reprint

Senate Bill 343 requires a lessee to record a notice of posted security before the lessee may improve, alter, or repair the property that he is leasing and either establish a construction disbursement account and obtain the services of a construction control or record a surety bond for the prime contract. The bill further establishes requirements for administering a construction disbursement account and for the notice of posted security. In addition, a lien claimant has a lien against a construction disbursement account if established pursuant to these provisions. The measure also revises the form for a notice of lien to reflect these changes.

Further, a notice of nonresponsibility must be served upon each person who has served the owner of the property with a notice of right to lien by personal delivery not later than ten days after the notice of nonresponsibility is recorded or the disinterested owner receives the notice of the lien, whichever occurs later. The bill also provides that when calculating interest related to an award of a lienable amount, the interest is payable from the date on which payment is found.

Senate Bill 343 also provides that to obtain a release from a lien for which a notice has been recorded against the property, the principal and surety must execute a surety bond in an amount equal to one and one-half times the lienable amount in the notice of the lien. The bill further revises the form of a surety bond posted to release a notice of lien to reflect these changes. Finally, the bill revises the requirements for a lien claimant to bring an action against a principal and surety.

Discussion

Testimony indicated the bill is a consensus attempt to address issues arising after passage of the 2003 legislation. Amendments will be proposed during the work session to further refine the provisions of the bill.