

Amendment No. CA11

Conference Committee Amendment to (BDR 55-737)
Senate Bill No. 136 Third Reprint

Proposed by: Conference Committee

Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed 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 that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SLP/MSN



Date: 6/5/2011

S.B. No. 136—Revises certain provisions governing financial institutions.

(BDR 55-737)



SENATE BILL NO. 136—SENATOR RHOADS (BY REQUEST)

FEBRUARY 8, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises certain provisions governing financial ~~institutions~~
organizations. (BDR 55-737)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to financial ~~institutions~~ organizations; revising provisions governing the period that a bank may hold certain real property; removing provisions requiring a bank annually to charge off a certain percentage of the value of certain real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing certain persons to appeal certain decisions of the Commissioner; revising the period after which certain property is presumed to be abandoned; requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to the State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for up to 10 years, and **section 1** of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of not more than 5 years. Existing law also requires a bank to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner. (NRS 662.015) **Section 1** removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

Existing law charges the Commissioner with certain duties and responsibilities related to retail trust companies, including investigating companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090, 669.130, 669.150, 669.160, 669.281) **Section 3** of this bill requires the Commissioner to consider certain criteria related to the

15 potential long-term success of a trust company before approving the company's application
16 for licensure to operate as a retail trust company. **Section 4** of this bill requires a person who
17 intends to obtain control of a retail trust company to submit an application for licensure to the
18 Commissioner. **Section 7** of this bill requires the Commissioner to provide to an applicant for
19 licensure as a retail trust company written notice of any grounds for denial of an application
20 and authorizes the applicant to cure any defect or deficiency in the application and resubmit
21 the application within a certain period. **Section 8** of this bill provides that a person who is
22 removed from office by the Commissioner may appeal his or her removal from office within a
23 certain period.

24 Existing law requires a retail trust company to maintain at least 50 percent of its required
25 stockholders' equity in cash, unless the Commissioner approves a different amount, with the
26 remaining amount to be held in the form of readily marketable securities or certain other
27 assets that may be approved by the Commissioner. Existing law also requires a noncustodial
28 trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100)
29 **Section 6** of this bill requires a retail trust company to maintain a certain amount of its
30 required stockholders' equity in the form of cash or certain cash equivalents and authorizes a
31 retail trust company to hold the remaining amount of the required stockholders' equity in the
32 form of readily marketable securities or certain other assets upon the approval of the
33 Commissioner. **Section 6** further requires that bonds or other evidence of indebtedness held
34 by a retail trust company as part of its required stockholders' equity meet certain investment
35 standards. **Section 6** also requires a noncustodial trust company to maintain 25 percent of its
36 required minimum capital in the form of cash.

37 Section 8.5 of this bill reduces from 3 years to 2 years the period after which
38 unclaimed property is presumed to be abandoned property if the holder of the property
39 reported holding more than \$10 million in property presumed abandoned on the most
40 recent report filed by the holder.

41 **Section 10** of this bill requires the State Controller to develop and operate a system for
42 matching data to collect outstanding debts owed to the State. Financial institutions in this
43 State must provide to the State Controller information on persons who maintain accounts at
44 the financial institution and are identified by the State Controller as owing outstanding debts
45 to the State. Financial institutions are then required to encumber certain assets held in the
46 financial institution by the debtors to pay their debts.

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

1 **Section 1.** NRS 662.015 is hereby amended to read as follows:

2 662.015 1. In addition to the powers conferred by law upon private
3 corporations and limited-liability companies, a bank may:

4 (a) Exercise by its board of directors, managers or authorized officers and
5 agents, subject to law, all powers necessary to carry on the business of banking by:

6 (1) Discounting and negotiating promissory notes, drafts, bills of exchange
7 and other evidences of indebtedness;

8 (2) Receiving deposits;

9 (3) Buying and selling exchange, coin and bullion; and

10 (4) Loaning money on personal security or real and personal property.

11 ➤ At the time of making loans, banks may take and receive interest or discounts in
12 advance.

13 (b) Adopt regulations for its own government not inconsistent with the
14 Constitution and laws of this State.

15 (c) Issue, advise and confirm letters of credit authorizing the beneficiaries to
16 draw upon the bank or its correspondents.

17 (d) Receive money for transmission.

1 (e) Establish and become a member of a clearinghouse association and pledge
2 assets required for its qualification.

3 (f) Exercise any authority and perform all acts that a national bank may
4 exercise or perform, with the consent and written approval of the Commissioner.
5 The Commissioner may, by regulation, waive or modify a requirement of Nevada
6 law if the corresponding requirement for national banks is eliminated or modified.

7 (g) Provide for the performance of the services of a bank service corporation,
8 such as data processing and bookkeeping, subject to any regulations adopted by the
9 Commissioner.

10 (h) Unless otherwise specifically prohibited by federal law, sell annuities if
11 licensed by the Commissioner of Insurance.

12 2. A bank may purchase, hold and convey real property:

13 (a) As is necessary for the convenient transaction of its business, including
14 furniture and fixtures, with its banking offices and for future site expansion. This
15 investment must not exceed, except as otherwise provided in this section, 60
16 percent of its stockholders' or members' equity, plus subordinated capital notes and
17 debentures. The Commissioner may authorize any bank located in a city whose
18 population is more than 10,000 to invest more than 60 percent of its stockholders'
19 or members' equity, plus subordinated capital notes and debentures, in its banking
20 offices, furniture and fixtures.

21 (b) As is mortgaged to it in good faith by way of security for loans made or
22 money due to the bank.

23 (c) As is permitted by NRS 662.103.

24 3. This section does not prohibit any bank from holding, developing or
25 disposing of any real property it may acquire through the collection of debts due it.
26 ~~Any~~ *Except as otherwise provided in subsection 4*, real property acquired
27 through the collection of debts due it may not be held for longer than ~~10~~ 5 years.
28 It must be sold at private or public sale within 30 days thereafter. ~~During the time~~
29 ~~that the bank holds the real property, the bank shall charge off the real property on a~~
30 ~~schedule of not less than 10 percent per year, or at a greater percentage per year as~~
31 ~~the Commissioner may require.~~

32 *4. A bank may request and the Commissioner may grant an extension of the*
33 *period described in subsection 3 of not more than 5 years. The Commissioner*
34 *shall not grant a bank more than one extension of the period prescribed in*
35 *subsection 3 for any real property held by the bank.*

36 **Sec. 2.** NRS 669.083 is hereby amended to read as follows:

37 669.083 1. A retail trust company licensed in this State shall maintain its
38 principal office in this State.

39 2. The conditions for a retail trust company to fulfill the requirements of
40 subsection 1 include, but are not limited to:

41 (a) A verifiable physical office in this State that conducts such business
42 operations in this State as are necessary to administer trusts in this State;

43 (b) The presence of an employee that is a resident of Nevada in the principal
44 office who has experience that is satisfactory to the Commissioner in accepting and
45 administering trusts;

46 (c) Maintenance of originals or true copies of all material business records and
47 accounts of the retail trust company which may be accessed and are readily
48 available for examination by the Division of Financial Institutions;

49 (d) Maintenance of *any cash as a portion of* the required ~~cash portion of the~~
50 stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks
51 or other financial institutions located in this State;

1 (e) The provision of services to residents of this State consistent with the
2 business plan provided by the trust company with its license application; and

3 (f) Such other conditions that the Commissioner may *reasonably* require to
4 protect the public interest.

5 **Sec. 3.** NRS 669.085 is hereby amended to read as follows:

6 669.085 1. ~~[(The Commissioner may conduct a pre-opening examination of~~
7 ~~a retail trust company and, in] In rendering a decision on an application for a~~
8 license as a retail trust company, *the Commissioner shall* consider:

9 (a) The proposed market or markets to be served and, if they extend outside of
10 this State, any exceptional risk, examination or supervision concerns associated
11 with such markets;

12 (b) Whether the proposed organizational and capital structure and the amount
13 of initial capital appear adequate in relation to the proposed business and market or
14 markets, including, without limitation, the average level of assets under
15 management and administration projected for each of the first 3 years of operation;

16 (c) ~~[(Whether the anticipated volume and nature of business indicate a~~
17 ~~reasonable probability of success and profitability based on the market or markets~~
18 ~~proposed to be served;~~

19 ~~—(d)]~~ Whether the proposed officers and directors or managers of the proposed
20 retail trust company, as a group, have sufficient experience, ability, standing and
21 competence and whether each individually has sufficient trustworthiness and
22 integrity to justify a belief that the proposed retail trust company will be free from
23 improper or unlawful influence and otherwise will operate in compliance with the
24 law and applicable fiduciary duties and that success of the proposed retail trust
25 company is reasonably probable;

26 ~~[(e)]~~ (d) Whether any investment services to trusts, estates, charities, employee
27 benefit plans and other fiduciary accounts or to natural persons, partnerships,
28 limited-liability companies and other entities, including, without limitation,
29 providing investment advice with or without discretion or selling investments in or
30 investment products of affiliated or nonaffiliated persons, will be conducted in
31 compliance with all applicable fiduciary standards, including, without limitation,
32 NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material
33 information;

34 ~~[(f)]~~ (e) Whether the proposed retail trust company will be exempt from
35 registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq.,
36 and any similar state laws in each state where it would otherwise be required to
37 register and, if not, whether it will comply with such registration requirements
38 before commencing business and thereafter will comply with all federal and state
39 laws and regulations applicable to it, its employees and representatives as a
40 registrant under such laws;

41 ~~[(g)]~~ (f) Whether the proposed retail trust company will obtain suitable annual
42 audits by qualified outside auditors of its books and records and its fiduciary
43 activities under applicable account rules and standards as well as suitable internal
44 audits; and

45 ~~[(h)]~~ (g) Any other factors that the Commissioner may *reasonably* require.

46 2. The Commissioner may require a retail trust company to maintain capital
47 in excess of the minimum required either initially or at any subsequent time based
48 on the Commissioner's assessment of the risks associated with the retail trust
49 company's business plan or any other circumstances revealed in the application, the
50 Commissioner's investigation of the application or any examination of or filing by
51 the retail trust company thereafter, including any examination before the opening of

1 the retail trust company for business. In making such a determination, the
2 Commissioner may consider:

3 (a) The nature and type of business proposed to be conducted by the retail trust
4 company;

5 (b) The nature and liquidity of assets proposed to be held in its own account;

6 (c) The amount of fiduciary assets projected to be under management or under
7 administration of the retail trust company;

8 (d) The type of fiduciary assets proposed to be held and any proposed
9 depository of such assets;

10 (e) The complexity of fiduciary duties and degree of discretion proposed to be
11 undertaken by the retail trust company;

12 (f) The competence and experience of proposed management of the retail trust
13 company;

14 (g) The extent and adequacy of proposed internal controls;

15 (h) The proposed presence or absence of annual audits by an independent
16 certified public accountant, and the scope and frequency of such audits, whether
17 they result in an opinion of the accountant and any qualifications to the opinion;

18 (i) The reasonableness of business plans for retaining or acquiring additional
19 equity capital;

20 (j) The existence and adequacy of insurance proposed to be obtained by the
21 retail trust company for the purpose of protecting its fiduciary assets;

22 (k) The success of the retail trust company in achieving the financial
23 projections submitted with its licensing application;

24 (l) The fulfillment by the retail trust company of its representations and its
25 descriptions of its business structures and methods and management set forth in its
26 licensing application; and

27 (m) Any other factor that the Commissioner may require.

28 **Sec. 4.** NRS 669.087 is hereby amended to read as follows:

29 669.087 1. A license issued pursuant to this chapter is not transferable or
30 assignable ~~[-Upon]~~, *but upon* approval of the Commissioner, a licensee may
31 merge or consolidate with, or transfer its assets and control to, another entity that
32 has been issued a license under this chapter. In making a determination regarding
33 whether to grant such approval, the Commissioner may consider the factors set
34 forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

35 2. If there is a change in control of any retail trust company, the chief
36 executive officer or managing member of the retail trust company shall report the
37 fact and the person obtaining control to the Commissioner within 5 business days
38 after obtaining knowledge of the change.

39 3. A retail trust company shall, within 5 business days after there is a change
40 in the chief executive officer, managing member or a majority of the directors or
41 managing directors of the retail trust company, report the change to the
42 Commissioner. The retail trust company shall include in its report a statement of the
43 past and current business and professional affiliations of each new chief executive
44 officer, managing member, director or managing director. A new chief executive
45 officer, managing member, director or managing director shall furnish to the
46 Commissioner a complete financial statement on a form prescribed by the
47 Commissioner.

48 4. A person who ~~acquires~~ *intends to acquire* control ~~as a result of a change~~
49 ~~of control~~ of a retail trust company shall submit an application to the
50 Commissioner. The application must be submitted on a form prescribed by the
51 Commissioner. The Commissioner shall conduct an investigation *pursuant to NRS*
52 *669.160* to determine whether the person has a good reputation for honesty,

1 trustworthiness and integrity and is competent to ~~transact the business of a~~ *control*
2 *the* trust company in a manner which protects the interests of the general public.

3 5. The retail trust company with which the applicant described in subsection 4
4 is affiliated shall pay the nonrefundable cost of the investigation as the
5 Commissioner requires. If the Commissioner denies the application, the
6 Commissioner may forbid or limit the applicant's participation in the business of
7 the trust company.

8 6. As used in this section, "control" means the possession, directly or
9 indirectly, of the power to direct or cause the direction of the management and
10 policy of a retail trust company, or a change in the ownership of at least 25 percent
11 of the outstanding voting stock of, or participating members' interest in, a retail
12 trust company.

13 **Sec. 5.** NRS 669.092 is hereby amended to read as follows:

14 669.092 1. It is unlawful for any retail trust company licensed in this State
15 to engage in trust company business at any office outside this State without the
16 prior approval of the Commissioner.

17 2. Before the Commissioner will approve a branch to be located in another
18 state, the retail trust company must:

19 (a) Obtain from that state a license as a trust company; or

20 (b) ~~Meet~~ *Provide proof satisfactory to the Commissioner that the retail trust*
21 *company has met* all the requirements to do business as a trust company at an
22 office in that state ~~and~~ *including, without limitation, written documentation from*
23 *the appropriate state agency that the retail trust company is authorized to do*
24 *business in that state.*

25 **Sec. 6.** NRS 669.100 is hereby amended to read as follows:

26 669.100 1. No retail trust company may be organized or operated with a
27 stockholders' equity of less than \$1,000,000, or in such greater amount as may be
28 required by the Commissioner. The full amount of the initial stockholders' equity
29 must be paid in cash, exclusive of all organization expenses, before the trust
30 company is authorized to commence business.

31 2. A retail trust company shall maintain at least ~~50~~ *25* percent of its required
32 stockholders' equity in cash ~~unless the Commissioner approves a smaller amount.~~
33 *and at least an additional 25 percent of its required stockholders' equity in cash*
34 *or cash equivalents comprising certificates of deposit, money market funds or*
35 *other insured deposits. Cash equivalents held by a retail trust company pursuant*
36 *to this subsection may, upon prior approval by the Commissioner, comprise*
37 *investments in treasury bills, government obligations or commercial paper which,*
38 *if acquired after October 1, 2011, must mature not later than 3 months after the*
39 *date of acquisition by the retail trust company. Any certificate of deposit, money*
40 *market fund, insured deposit, commercial paper, treasury bill or government*
41 *obligation, other than an obligation of the United States or an obligation*
42 *guaranteed by the United States, that is held as a cash equivalent by a retail trust*
43 *company pursuant to this subsection must not exceed 10 percent of the total*
44 *required stockholders' equity at the time the cash equivalent is purchased. The*
45 *remaining* ~~50 percent~~ *amount of* ~~its~~ *the retail trust company's* required
46 stockholders' equity may be a different form of readily marketable securities, or
47 with prior approval by the Commissioner, other liquid, secure asset, bond, surety
48 or insurance, or some combination of the foregoing. *Any bond or other evidence of*
49 *indebtedness held by a retail trust company pursuant to this subsection must have*
50 *an investment grade credit rating and must have received a rating within one of*
51 *the top three rating categories of Moody's Investors Service, Inc. or Standard and*
52 *Poor's Ratings Services.*

1 3. Any grandfathered trust company other than a noncustodial trust company
2 that does not have the minimum capital required by this section as of October 1,
3 2009, shall:

4 (a) Except as otherwise determined by the Commissioner, increase its capital to
5 a minimum of:

- 6 (1) By October 1, 2010, \$500,000;
- 7 (2) By October 1, 2011, \$750,000; and
- 8 (3) By October 1, 2012, \$1,000,000; and

9 (b) Maintain ~~§500,000~~ **25 percent** of such minimum capital in cash on and
10 after October 1, 2010.

11 4. Any noncustodial trust company that does not have the minimum capital
12 required by this section as of October 1, 2009, shall:

13 (a) Except as otherwise determined by the Commissioner, increase its capital to
14 a minimum of:

- 15 (1) By October 1, 2010, \$350,000;
- 16 (2) By October 1, 2011, \$400,000; and
- 17 (3) By October 1, 2012, \$500,000; and

18 (b) Maintain ~~§50~~ **25 percent** of such minimum capital in cash on and after
19 October 1, 2010.

20 5. As used in this section, “in cash” means in depository accounts with one or
21 more banks in this State.

22 **Sec. 7.** NRS 669.160 is hereby amended to read as follows:

23 669.160 1. Within 90 days after the application for a license is filed, the
24 Commissioner shall investigate the facts of the application and the other
25 requirements of this chapter to determine:

26 (a) That the persons who will serve as directors or officers of the corporation,
27 or the managers or members acting in a managerial capacity of the limited-liability
28 company, as applicable:

29 (1) Have a good reputation for honesty, trustworthiness and integrity and
30 display competence to transact the business of a trust company in a manner which
31 safeguards the interests of the general public. The applicant must submit
32 satisfactory proof of these qualifications to the Commissioner.

33 (2) Have not been convicted of, or entered a plea of nolo contendere to, a
34 felony or any crime involving fraud, misrepresentation or moral turpitude.

35 (3) Have not made a false statement of material fact on the application.

36 (4) Have not been an officer or member of the board of directors for an
37 entity which had a license issued pursuant to the provisions of this chapter that was
38 suspended or revoked within the 10 years immediately preceding the date of the
39 application, and in the reasonable judgment of the Commissioner, there is evidence
40 that the officer or member of the board of directors materially contributed to the
41 actions resulting in the license suspension or revocation.

42 (5) Have not been an officer or member of the board of directors for a
43 company which had a license as a trust company which was issued in any other
44 state, district or territory of the United States or any foreign country suspended or
45 revoked within the 10 years immediately preceding the date of the application, and
46 in the reasonable judgment of the Commissioner, there is evidence that the officer
47 or member of the board of directors materially contributed to the actions resulting
48 in the license suspension or revocation.

49 (6) Have not violated any of the provisions of this chapter or any
50 regulation adopted pursuant to the provisions of this chapter.

1 (b) That the financial status of the directors and officers of the corporation or
2 the managers or members acting in a managerial capacity of the limited-liability
3 company is consistent with their responsibilities and duties.

4 (c) That the name of the proposed company complies with the provisions of
5 NRS 657.200.

6 (d) That the initial stockholders' equity is not less than the required minimum.

7 (e) That the applicant has retained the employee required by paragraph (b) of
8 subsection 2 of NRS 669.083.

9 2. ~~Notice~~ *After an investigation by the Commissioner pursuant to
10 subsection 1, if the Commissioner finds any defect or deficiency in an application
11 for licensure which would constitute grounds for denial of the application,
12 written notice of such grounds for denial must be served personally or sent by
13 certified mail to the applicant. The Commissioner shall allow the applicant an
14 opportunity to cure any defect or deficiency in the application and, not later than
15 30 days after receipt of the notice of denial, to resubmit the application for
16 approval.*

17 3. *If a defect or deficiency in an application is not cured pursuant to
18 subsection 2, written notice* of the entry of an order refusing a license to a trust
19 company must be ~~given in writing,~~ served personally or sent by certified mail to
20 the company affected. The company, upon application, is entitled to a hearing
21 before the Commissioner, but if no such application is made within 30 days after
22 the entry of an order refusing a license to any company, the Commissioner shall
23 enter a final order.

24 ~~3.~~ 4. The order of the Commissioner is final for the purposes of judicial
25 review.

26 **Sec. 8.** NRS 669.281 is hereby amended to read as follows:

27 669.281 1. The Commissioner may require the immediate removal from
28 office of any officer, director, manager or employee of any retail trust company
29 doing business under this chapter who is found to be dishonest, incompetent or
30 reckless in the management of the affairs of the retail trust company, or who
31 persistently violates the laws of this State or the lawful orders, instructions and
32 regulations issued by the Commissioner.

33 2. *An officer, director, manager or employee of a retail trust company who
34 is removed from office pursuant to subsection 1 may appeal his or her removal by
35 filing a written request for a hearing with the Commissioner within 10 days after
36 the effective date of his or her removal. The Commissioner shall conduct the
37 hearing after providing at least 5 days' written notice to the retail trust company
38 and the officer, director, manager or employee who is removed from office.
39 Within 5 days after the hearing, the Commissioner shall enter an order affirming
40 or disaffirming the removal of the person from office. An order of the
41 Commissioner entered pursuant to this subsection is final for the purposes of
42 judicial review.*

43 **Sec. 8.5. NRS 120A.500 is hereby amended to read as follows:**

44 120A.500 1. Except as otherwise provided in ~~subsection 6,~~ *subsections 6*
45 *and 7,* property is presumed abandoned if it is unclaimed by the apparent owner
46 during the time set forth below for the particular property:

47 (a) A traveler's check, 15 years after issuance;

48 (b) A money order, 7 years after issuance;

49 (c) Any stock or other equity interest in a business association or financial
50 organization, including a security entitlement under NRS 104.8101 to 104.8511,
51 inclusive, 3 years after the earlier of the date of the most recent dividend, stock split
52 or other distribution unclaimed by the apparent owner, or the date of the second

1 mailing of a statement of account or other notification or communication that was
2 returned as undeliverable or after the holder discontinued mailings, notifications or
3 communications to the apparent owner;

4 (d) Any debt of a business association or financial organization, other than a
5 bearer bond or an original issue discount bond, 3 years after the date of the most
6 recent interest payment unclaimed by the apparent owner;

7 (e) A demand, savings or time deposit, including a deposit that is automatically
8 renewable, 3 years after the earlier of maturity or the date of the last indication by
9 the owner of interest in the property, but a deposit that is automatically renewable is
10 deemed matured for purposes of this section upon its initial date of maturity, unless
11 the owner has consented to a renewal at or about the time of the renewal and the
12 consent is in writing or is evidenced by a memorandum or other record on file with
13 the holder;

14 (f) Except as otherwise provided in NRS 120A.520, any money or credits owed to
15 a customer as a result of a retail business transaction, 3 years after the obligation
16 accrued;

17 (g) Any amount owed by an insurer on a life or endowment insurance policy or
18 an annuity that has matured or terminated, 3 years after the obligation to pay arose
19 or, in the case of a policy or annuity payable upon proof of death, 3 years after the
20 insured has attained, or would have attained if living, the limiting age under the
21 mortality table on which the reserve is based;

22 (h) Any property distributable by a business association or financial
23 organization in a course of dissolution, 1 year after the property becomes
24 distributable;

25 (i) Any property received by a court as proceeds of a class action and not
26 distributed pursuant to the judgment, 1 year after the distribution date;

27 (j) Except as otherwise provided in NRS 607.170 and 703.375, any property
28 held by a court, government, governmental subdivision, agency or instrumentality,
29 1 year after the property becomes distributable;

30 (k) Any wages or other compensation for personal services, 1 year after the
31 compensation becomes payable;

32 (l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit
33 or refund becomes payable;

34 (m) Any property in an individual retirement account, defined benefit plan or
35 other account or plan that is qualified for tax deferral under the income tax laws of
36 the United States, 3 years after the earliest of the date of the distribution or
37 attempted distribution of the property, the date of the required distribution as stated
38 in the plan or trust agreement governing the plan or the date, if determinable by the
39 holder, specified in the income tax laws of the United States by which distribution
40 of the property must begin in order to avoid a tax penalty; and

41 (n) All other property, 3 years after the owner's right to demand the property or
42 after the obligation to pay or distribute the property arises, whichever first occurs.

43 2. At the time that an interest is presumed abandoned under subsection 1, any
44 other property right accrued or accruing to the owner as a result of the interest, and
45 not previously presumed abandoned, is also presumed abandoned.

46 3. Property is unclaimed if, for the applicable period set forth in subsection 1
47 **or 7, as applicable**, the apparent owner has not communicated, in writing or by
48 other means reflected in a contemporaneous record prepared by or on behalf of the
49 holder, with the holder concerning the property or the account in which the property
50 is held and has not otherwise indicated an interest in the property. A
51 communication with an owner by a person other than the holder or its

1 representative who has not in writing identified the property to the owner is not an
2 indication of interest in the property by the owner.

3 4. An indication of an owner's interest in property includes:

4 (a) The presentment of a check or other instrument of payment of a dividend or
5 other distribution made with respect to an account or underlying stock or other
6 interest in a business association or financial organization or, in the case of a
7 distribution made by electronic or similar means, evidence that the distribution has
8 been received;

9 (b) Owner-directed activity in the account in which the property is held,
10 including a direction by the owner to increase, decrease or change the amount or
11 type of property held in the account;

12 (c) The making of a deposit to or withdrawal from a bank account; and

13 (d) The payment of a premium with respect to a property interest in an
14 insurance policy, but the application of an automatic premium loan provision or
15 other nonforfeiture provision contained in an insurance policy does not prevent a
16 policy from maturing or terminating if the insured has died or the insured or the
17 beneficiary of the policy has otherwise become entitled to the proceeds before the
18 depletion of the cash surrender value of a policy by the application of those
19 provisions.

20 5. Property is payable or distributable for purposes of this chapter
21 notwithstanding the owner's failure to make demand or present an instrument or
22 document otherwise required to obtain payment.

23 6. The following property clearly designated as such must not be presumed
24 abandoned because of inactivity or failure to make a demand:

25 (a) An account or asset managed through a guardianship;

26 (b) An account blocked at the direction of a court;

27 (c) A trust account established to address a special need;

28 (d) A qualified income trust account;

29 (e) A trust account established for tuition purposes;

30 (f) A trust account established on behalf of a client; and

31 (g) An account or fund established to meet the costs of burial.

32 7. For property described in paragraphs (c) to (f), inclusive, and (n) of
33 subsection 1, the 3-year period described in each of those paragraphs must be
34 reduced to a 2-year period if the holder of the property reported more than \$10
35 million in property presumed abandoned on the holder's most recent report of
36 abandoned property made pursuant to NRS 120A.560.

37 **Sec. 9.** NRS 239A.070 is hereby amended to read as follows:

38 239A.070 This chapter does not apply to any subpoena issued pursuant to title
39 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

40 1. Dissemination of any financial information which is not identified with or
41 identifiable as being derived from the financial records of a particular customer.

42 2. The Attorney General, *State Controller*, district attorney, Department of
43 Taxation, Director of the Department of Health and Human Services, Administrator
44 of the Securities Division of the Office of the Secretary of State, public
45 administrator, sheriff or a police department from requesting of a financial
46 institution, and the institution from responding to the request, as to whether a
47 person has an account or accounts with that financial institution and, if so, any
48 identifying numbers of the account or accounts.

49 3. A financial institution, in its discretion, from initiating contact with and
50 thereafter communicating with and disclosing the financial records of a customer to
51 appropriate governmental agencies concerning a suspected violation of any law.

1 4. Disclosure of the financial records of a customer incidental to a transaction
2 in the normal course of business of the financial institution if the director, officer,
3 employee or agent of the financial institution who makes or authorizes the
4 disclosure has no reasonable cause to believe that such records will be used by a
5 governmental agency in connection with an investigation of the customer.

6 5. A financial institution from notifying a customer of the receipt of a
7 subpoena or a search warrant to obtain the customer's financial records, except
8 when ordered by a court to withhold such notification.

9 6. The examination by or disclosure to any governmental regulatory agency
10 of financial records which relate solely to the exercise of its regulatory function if
11 the agency is specifically authorized by law to examine, audit or require reports of
12 financial records of financial institutions.

13 7. The disclosure to any governmental agency of any financial information or
14 records whose disclosure to that particular agency is required by the tax laws of this
15 State.

16 8. The disclosure of any information pursuant to NRS 425.393, 425.400 or
17 425.460 ~~or~~ *or section 10 of this act.*

18 9. A governmental agency from obtaining a credit report or consumer credit
19 report from anyone other than a financial institution.

20 **Sec. 10.** Chapter 353C of NRS is hereby amended by adding thereto a new
21 section to read as follows:

22 *1. The State Controller shall enter into agreements with financial*
23 *institutions doing business in this State to coordinate the development and*
24 *operation of a system for matching data, using automated exchanges of data to*
25 *the maximum extent feasible.*

26 *2. In addition to any other remedy provided for in this chapter, the State*
27 *Controller may use the system for matching data developed and operated*
28 *pursuant to subsection 1 to collect a debt, plus any applicable penalties and*
29 *interest.*

30 *3. A financial institution in this State shall:*

31 *(a) Cooperate with the State Controller in carrying out the provisions of*
32 *subsection 1.*

33 *(b) Use the system to provide to the State Controller for each calendar*
34 *quarter the name, address of record, social security number or other number*
35 *assigned for taxpayer identification of each person who maintains an account at*
36 *the financial institution, as identified by the State Controller by name and social*
37 *security number or other number assigned for taxpayer identification.*

38 *(c) In response to the receipt from the State Controller of notification of debt*
39 *that a person owes the State, encumber ~~all assets of the person held by the~~*
40 *~~financial institution~~ on behalf of the State Controller a portion of the assets of*
41 *the person held by the financial institution sufficient to cover the debt and*
42 *surrender those assets to the State Controller. A financial institution is not*
43 *required to encumber or surrender any assets received by the financial institution*
44 *on behalf of the person after the financial institution received the notice of the*
45 *debt from the State Controller.*

46 *4. A financial institution may not be held liable in any civil or criminal*
47 *action for:*

48 *(a) Any disclosure of information to the State Controller pursuant to this*
49 *section.*

50 *(b) Encumbering or surrendering any assets held by the financial institution*
51 *pursuant to this section.*

1 (c) *Any other action taken in good faith to comply with the requirements of*
2 *this section.*

3 5. *If a court issues an order to return to a person any assets surrendered by*
4 *a financial institution pursuant to subsection 3, the State Controller is not liable*
5 *to the person for any of those assets that have been provided to the State*
6 *Controller in accordance with the order for the payment of a debt.*

7 6. *All information provided to the State Controller by a financial institution*
8 *pursuant to this section is confidential and may only be used by the State*
9 *Controller for use in the collection of a debt owed to the State.*

10 7. *As used in this section, "financial institution" has the meaning ascribed*
11 *to it in NRS 239A.030.*

12 **Sec. 11.** This act becomes effective upon passage and approval.