

STATE OF NEVADA



STEVE SISOLAK
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

TERRY REYNOLDS
Director

SANDY O'LAUGHLIN
Commissioner

DATE: February 4, 2020
TO: Whom It May Concern
FROM: Mary Young
Deputy Commissioner

SUBJECT: Notice of Workshop to Solicit Comments on Proposed Regulations Pertaining to Senate Bill 432 (S.B.432)- Consumer Litigation Funding Company

The regulation included in this memorandum is being proposed for permanent adoption. In order to review the proposed regulation and solicit comments from interested persons, a workshop will be held 9:00 a.m. – 1:00 p.m. on February 21, 2020, at the Grant Sawyer Office Building in Hearing Room 4412, 555 Washington Avenue, Las Vegas, Nevada 89101 and by video conference at the Legislative Counsel Bureau Office in Suite 2135, 401 South Carson Street, Carson City, Nevada 89701.

Enclosures:

Notice of Workshop and Workshop Agenda
Proposed Regulations
Small Business Impact Statement
Enrolled Version S.B.432

NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS PERTAINING TO
SENATE BILL 432 (S.B.432)
THE REGULATION OF CONSUMER LITIGATION FUNDING COMPANIES
AND WORKSHOP AGENDA

The State of Nevada, Financial Institutions Division (“Division”), 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120 is proposing the adoption of regulations to Chapter 604C of the Nevada Administrative Code (“NAC”). The proposed regulations are required as a result of the passage of Senate Bill 432 (S.B.432) during the 80th Session of the Nevada Legislature adjourned sine die on June 3, 2019. This workshop will be conducted subject to the Open Meeting Law (NRS 241.020) and the purpose is to solicit comments from interested persons on the proposed regulations to be held at the following locations through simultaneous videoconference:

Date: Friday, February 21, 2020

Time: 9:00 a.m. – 1:00 p.m.

In Las Vegas: Grant Sawyer Building
555 E. Washington Avenue
Hearing Room 4412
Las Vegas, NV 89101

In Carson City: Legislative Counsel Bureau
401 South Carson Street
Hearing Room 2135
Carson City, NV 89701

Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda at the discretion of the Commissioner. Items may also be combined for consideration or pulled or removed from the agenda at any time. Persons who may be subject to the provisions of the new law regarding consumer litigation funding should attend. At the discretion of the Commissioner, public comment may be limited to three minutes per person. Members of the public are encouraged to submit written comments for the record. The Commissioner may only take action on those items denoted as potential action items.

Members of the public are encouraged submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify Mary Young, Deputy Commissioner, in writing at 3300 W. Sahara Ave., Suite 250, Las Vegas, Nevada 89102, no later than five (5) working days prior to the workshop. Any questions should be directed to Mary Young, at (702) 486-4120 or via e-mail fidmaster@fid.state.nv.us

A copy of all materials relating to the proposal may be obtained at the workshop or by visiting the Division's website at: <http://fid.nv.gov> or by contacting the Division, 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, (702) 486-4120. A reasonable fee for copying may be charged. Members of the public who would like additional information about a proposed regulation may contact Mary Young, Deputy Commissioner, at (702) 486-4120, or via e-mail to fidmaster@fid.state.nv.us

WORKSHOP AGENDA:

1. Open Workshop.
2. Public comment.
3. Presentation and discussion of proposed regulation (for possible action).
4. Public comment.
5. Close Workshop.

PROPOSED REGULATIONS:

See attached Exhibit A

This Notice has been e-mailed to all persons on the Division's mailing list for notice of proposed rulemaking, posted on the Division's web site at <http://www.fid.nv.gov>, and posted at the following public locations for inspection by members of the public:

Nevada Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, Nevada 89102

Nevada State Business Center
3300 W. Sahara Avenue
Las Vegas, Nevada 89102

Nevada Financial Institutions Division
1755 East Plumb Lane, Suite 243
Reno, Nevada 89502

Attn: Public Posting
Nevada Dept. of Business & Industry
1830 College Parkway, Suite 100
Carson City, Nevada 89706

Attn: Public Posting
Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Grant Sawyer Building
555 E. Washington Avenue
Las Vegas, Nevada 89101

Attn: Public Posting
Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Attn: Public Posting
Nevada DETR
2800 E. St. Louis Avenue
Las Vegas, Nevada 89104

Attn: Public Posting
Capital Building, Main Floor
101 North Carson Street
Carson City, Nevada 89701

Attn: Public Posting
Churchill County Library
553 S. Maine Street
Fallon, Nevada 89406

Attn: Public Posting
Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Attn: Public Posting
Douglas County Public Library
1625 Library Lane
P.O. BOX 337
Minden, Nevada 89423

Attn: Public Posting
Churchill County Library
553 S. Maine Street
Fallon, Nevada 89406

Attn: Public Posting
Tonopah Public Library
167 S. Central Street
P.O. Box 449
Tonopah, Nevada 89049

Attn: Public Posting
Las Vegas – Clark County Library
7060 W. Windmill Lane
Las Vegas, Nevada 89113

Attn: Public Posting
Pershing County Library
1125 Central Avenue
P.O. Box 781
Lovelock, Nevada 89419

Attn: Public Posting
Elko County Library
720 Court Street
Elko, Nevada 89801

Attn: Public Posting
Storey County Clerk
26 S. B Street, Drawer D
Virginia City, Nevada 89440

Attn: Public Posting
Goldfield Public Library
Corner of Crook Ave. & Fourth St
P.O. Box 430
Goldfield, Nevada 89013

Attn: Public Posting
Downtown Reno Library/Washoe County
301 S. Center Street
P.O. Box 2151
Reno, Nevada 89501

Attn: Public Posting
Eureka Branch Library
80 S. Monroe Street
P.O. Box 293
Eureka, Nevada 89316

Attn: Public Posting
White Pine County Library
950 Campton St.
Ely, Nevada 89301

Attn: Public Posting
Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Attn: Public Posting
Lander County
625 South Broad Street
P.O. Box 141
Battle Mountain, Nevada 89820

Attn: Public Posting
Lincoln County Library
63 Main Street
P.O. Box 330
Pioche, Nevada 89043

Attn: Public Posting
Carson City Library
900 N. Roop Street
Carson City, Nevada 89701

Attn: Public Posting
Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Attn: Public Posting
Mineral County Public Library
110 1st Street
Hawthorne, Nevada 89415

Attn: Public Posting
Pershing County Library
1125 Central Avenue
P.O. BOX 781
Lovelock, Nevada 89419

“EXHIBIT A”

**PROPOSED REGULATION OF THE
COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION (“Division”)**

The following document is the initial draft regulation proposed by the Division. The Division solicited comments from the industry on the proposed regulations pursuant to NRS 233B.0608(1) to determine whether the regulations would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The Division considered all comments and removed language and/or requirements that were confusing or would cause unnecessary efforts on the part of the consumer litigation funding company, if it did not impact the consumer protection responsibility of the Division.

The revisions and/or omissions are in the following proposed regulations.

**DRAFT PROPOSED REGULATION OF THE COMMISSIONER OF
THE FINANCIAL INSTITUTIONS DIVISION**

(Consumer Litigation Funding)

Purpose: To adopt regulations under the Nevada Administrative Code, as provided by Senate Bill No. 432 (2019), requiring the Commissioner of Financial Institutions to license and regulate consumer litigation funding in Nevada to customers in this State; and providing other matters properly relating thereto.

Authority: Senate Bill No. 432, Chapter 378, Statutes of Nevada 2019, sections 2 through 41. Chapter 604C

Explanation: All comments received from the small business impact notice were considered but not all could be addressed. The matters addressed are referenced in this draft as *italics* for revised and matters in brackets ~~omitted material~~ is material to be omitted.

Cites are highlighted for ease of reference in review and revision. Statutory cites to be determined once bill is codified.

Section 1. [S.B. 432, §2-§41] Title 52/Chapter 604C of NAC is hereby created by adding thereto the provisions set forth as sections 2 to 38, inclusive, of this regulation.

Sec. 2. [S.B. 432, §3-§16] Unless the context otherwise requires, the words and terms used in this chapter have the meanings ascribed to them in sections 3 through 16 of Senate Bill No. 432 and section 3 of this chapter.

Sec. 3. [S.B. 432, §18-§19.7] “Promptly” means the action must occur within one business day.

Sec. 4. [S.B. 432, §4] For the purpose of section 4 of Senate Bill No. 432 and this chapter, denominated means any amount over the funded amount to include, without limitations, interest, fees or charges. Denominated does not include the one-time document preparation fee.

Sec. 5. [S.B. 432, §7- §10] A license is required for any person who solicits or engages in consumer litigation funding or provides funds to a consumer based upon a legal claim, regardless if the transaction is a nonrecourse or recourse transaction.

Sec. 6. [S.B. 432, §8.1(b) and (d)] For the purpose of section 8.1(b) and (d) of Senate Bill No. 432, the chapter does not apply to an attorney who is in compliance with Model Rule 1.8, an accountant, or medical factoring company that provides services to a client in the usual course of the practice of their profession. If an attorney, an accountant; or medical factoring company engages in the business of consumer litigation funding, regardless of how often the funding is provided or the funded amount provided to a consumer shall be considered a consumer litigation funding company as defined in Senate Bill No. 432, and shall require licensing accordingly.

Sec. 7. [S.B. 432, §10] The funded amount cannot exceed \$500,000 per consumer, per legal claim, regardless of the number of draws the consumer may seek, or regardless if the transaction is rolled over, refinanced, extended, or consolidated.

Sec. 8. [S.B. 432, §10.5] Only one document preparation fee may be charged per consumer, per legal claim, regardless of the number of draws the consumer may seek, or regardless if the transaction is rolled over, refinanced, extended, or consolidated.

Sec. 9. [S.B. 432, §11, §19, and §21] Under no circumstances may a consumer litigation funding company refinance, rollover, extend, or consolidate, a consumer litigation funding transaction at the end of the 180 day period, which would have the effect, impact, or result of compounding interest, charges, fees, or any of the like on the transaction. The funded amount plus charges, however denominated, of each transaction must not exceed a rate of 40 percent of the funded amount annually, regardless of how many transactions are provided each year.

Sec. 10. [S.B. 432, §18-§19.7 and §30] All required notices from the consumer litigation funding company to the consumer's attorney must occur promptly.

Sec. 11. [S.B. 432, §18 and §19.3] All consumer litigation funding contracts, notices, or any of the like that require a signed acknowledgement must have the consumer, the consumer's attorney and licensee's signature.

Sec. 12. [S.B. 432, §19(4)] For the purpose of section 19(4) of Senate Bill No. 432, the consumer will not owe the consumer litigation funding company anything if there are no proceeds ~~for~~ ~~inadequate proceeds~~ from the legal claim, *nor will the consumer owe a deficiency should the amount funded plus allowable charges exceed the proceeds from the legal claim.*

Sec. 13. [S.B. 432, §19.7] *If a consumer chooses to cancel a consumer litigation funding contract, the consumer must provide a licensee notice of cancellation along with repayment of any funds received.* Upon notice of cancellation of a consumer litigation funding contract and *upon receipt of funds owed to a licensee*, a licensee shall promptly notify the attorney representing the consumer in the legal claim.

Sec. 14. [S.B. 432, §20(1)(c)] For the purpose of section 20(1)(c) of Senate Bill No. 432, intentionally advertise includes advertising false or deceptive statements, results, testimonials, or any of the like.

Sec. 15. [S.B. 432, §3 and §20(1)(c)]1. No licensee may advertise in any manner that may tend to confuse the identity of the licensee with any other unrelated licensee.

2. No licensee may advertise in any manner that a loan or transaction of a prospective consumer with another licensee will be paid or increased if the loan or transaction is transferred to the advertising licensee. This includes a license holder of any chapter regulated by the Division.

3. No unethical advertising by licensees will be permitted and the Commissioner of Financial Institutions reserves the right to require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio or television.

Sec. 16. [S.B. 432, §20(5)] For the purpose of section 20(5) of Senate Bill No. 432, a consumer litigation funding company must file its consumer litigation funding contract with the Commissioner upon application for licensure, during an examination or investigation, when any changes are made to the contract, or at the request of the Commissioner or his or her authorized

representatives. Filing of a consumer litigation funding contract does not deem it to be approved or endorsed by the Division. It is the responsibility of a licensee to comply with statutes and regulations. The contract is subject to the examination process and will be reviewed for compliance during that time.

Sec. 17. [S.B. 432, §22] For the purpose of section 22 of Senate Bill No. 432, a court of competent jurisdiction includes an administrative law hearing.

Sec. 18. [S.B. 432, §22 and §38.6] The Commissioner or designee of the Commissioner may bring suit to any licensee that violates the provisions of this chapter or Senate Bill No. 432. The district court or any judicial district may grant injunctions to prevent and restrain such practices or transactions in violation of this chapter or Senate Bill No. 432.

Sec. 19. [S.B. 432, §24] Any claimed attorney-client privilege or work-product doctrine shall not apply to the Commissioner or his or her authorized representatives, as it pertains to activities licensed under Senate Bill No. 432 and this chapter. The Division shall have and be given full and complete access to any office and place of business, to any and all documents, files, and any of the like, relating to consumer funding transactions and the consumer funding transaction company.

Sec. 20. [S.B. 432, §24] Electronic communication is acceptable if *the consumer consents to electronic delivery set forth in the contract.* ~~[it's agreed upon, in writing, by the consumer and the consumer's attorney, and at least two email addresses are provided by the retained attorney. The consumer litigation funding company must email all email addresses provided by the consumer's attorney and copy the consumer via email on all communications.]~~

Sec. 21. [S.B. 432, §26 and §30] An application submitted pursuant to this chapter must be accompanied by:

1. A nonrefundable application fee of \$1,000;

2. A nonrefundable investigation fee of \$50 for each individual Owner, Partner, Officer, Director and Manager; and
3. An initial licensing fee of \$1,000

Sec. 22. [S.B. 432, §26 and §36] If the Commissioner approves the application, a license will be issued. Each licensee shall prominently display the license at the location where the licensee is authorized to operate. A license will be issued for each location in which the Commissioner grants the authority to a licensee to operate.

Sec. 23. [S.B. 432, §26-§28 and §31-§33] A licensee shall ~~promptly~~ notify the Commissioner *in writing* of any change of control, ownership, officer, director, address or name of the licensee, or any other material change. Such changes require prior approval from the Division.

Sec. 24. [S.B. 432, §26-§28 and §31-§33]1. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be satisfied, he or she may deny the application and prohibit the applicant from participating in the business of the licensee.

2. As used in this section, “change of control” means:

(a) A transfer of voting stock, partnership or member interests which results in giving a person, directly or indirectly, the power to direct the management and policy of a licensee; or

(b) A transfer of at least 25 percent of the outstanding voting stock, partnership or member interests of the licensee.

Sec. 25. [S.B. 432, §26-§28 and §31-§33] If an application for a license is submitted by a business entity, the Commissioner will not issue a license to the applicant unless each partner, principal

officer, member, manager, director and trustee, whichever are applicable to the business entity, satisfies the requirements of section 27 of Senate Bill No. 432.

Sec. 26. [S.B. 432, §26, §36 and §36.2]Books, records, and accounts of each consumer must be kept and maintained separately and in compliance with section 36 of Senate Bill No. 432.

Sec. 27. [S.B. 432, §26-§28 and §31-§33]A person shall not engage in the business of consumer litigation funding in this State unless:

1. The person possesses each license, certificate and permit required by this chapter, Senate Bill No. 432 and a local governmental entity; and

2. The location of the business complies with any applicable planning and zoning ordinances.

Sec. 28. [S.B. 432, §30 and §38.6] 1. A licensee shall pay annually to the Division a fee of \$1,000 for the renewal of a license on or before the license expiration date of January 31 of each year.

2. If a licensee does not submit a complete application for renewal of its license and the required fee by the expiration date, the company cannot operate until such time the license is reinstated. If not reinstated, a new initial application for licensure must be submitted and approved by the Division and a new license issued prior to operating.

3. The Commissioner may reinstate an expired license if the licensee notifies the Division within 10 days after the expiration of the license of its intent to reinstate its license, submits the renewal application, and pays a reinstatement fee of \$400 in addition to the renewal fee prescribed in subsection 1.

4. It is the responsibility of the licensee to renew a license issued pursuant to this chapter and Senate Bill No. 432 on or before the expiration of the license. A lack of notice from the Division to any person concerning the expiration of a license or the renewal of a license is not justification for the failure of a person to renew a license in a timely manner and does not constitute grounds for the waiver of any of the requirements of this chapter or Senate Bill No. 432.

Sec. 29. [S.B. 432, §36.2] 1. The Commissioner of the Financial Institutions Division will charge and collect a fee of \$75 per hour, or as determined by NRS 658.101, from a consumer litigation funding company for any supervision, examination, audit, investigation or hearing conducted pursuant to Senate Bill No. 432.

2. The Commissioner will bill each consumer litigation funding company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a consumer litigation funding company to pay the fee required by subsection 1 as provided in this section constitutes grounds for revocation of its license.

Sec. 30. [S.B. 432, §36.4] Annual assessments to cover costs related to performance of audits and examinations.

1. Except as otherwise provided in NAC 658.030, each licensee shall pay to the Division of Financial Institutions an annual assessment of \$300 to cover the costs related to the employment of a certified public accountant and the performance of audits and examinations conducted by the Division.

2. The Division will bill each licensee for the assessment. The assessment must be paid within 30 days after the date the bill is received.

3. A charge of 10 percent of the assessment will be imposed on any licensee whose assessment is received by the Division after the date on which the assessment is due.

Sec. 31. [S.B. 432, §38.95] 1. Annual assessments to cover the cost of legal services provided by the Attorney General to the Commissioner and to the Division as determined in section 38.95 of Senate Bill No. 432, shall be paid to the Division within 30 days after the date the bill is received.

2. A charge of 10 percent of the assessment will be imposed on any licensee whose assessment is received by the Division after the date on which the assessment is due.

Sec. 32. [S.B. 432, §38(3)] Except as otherwise provided in section 38(3) of Senate Bill No. 432, an application for a license and financial records submitted by an applicant pursuant to the provisions of this chapter and Senate Bill No. 432, financial records or other documents submitted by a licensee pursuant to an audit, examination, or investigation conducted by the Division and any report of examination made by the Division are confidential and may be disclosed only to ~~†~~

~~1. The Division,~~ an authorized employee of the Division or an agency of this State, any other state or the Federal Government that is investigating the activities of an applicant or a licensee, *or a court order subpoena.* ~~†; or~~

~~2. Any person if the Commissioner determines, in the Commissioner's sole discretion, that the public interest in disclosure of the information outweighs the interest of the applicant or licensee.]~~

Sec. 33. [S.B. 432, §38.9] 1. If a licensee, or an authorized representative of that licensee, fails to respond to the Commissioner of Financial Institutions Division within 10 business days after receipt of a written notice that a complaint has been filed against the licensee, the licensee is deemed to have admitted to the allegations contained in the complaint.

2. Subject to the discretion of the Commissioner of Financial Institutions Division, a complaint filed with the Division, any documents filed with the complaint, and any report or information resulting from an investigation of the complaint are confidential.

Sec. 34. [S.B. 432, §38.9] For the purpose of section 38.9 of Senate Bill No. 432, a licensee shall post the following notice in substantially the following form, *on its website, at the licensed location and as a disclosure in the contract:*

NOTICE OF RIGHT TO FILE A WRITTEN COMPLAINT TO THE
COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION

You may file a written complaint with the Commissioner of the Financial Institutions Division by submitting a signed complaint form to the Office of the Commissioner. The required complaint form can be found on the homepage of the Financial Institution's website: www.fid.nv.gov, or you may request a complaint form via telephone by calling the toll-free telephone number: 1 (866) 858-8951.

- If printed, the notice must be in boldface type. Information that must be printed in all upper case letters must be printed in at least 18-point type. All other information must be printed in at least 16-point type.
- If handwritten or displayed digitally or by other electronic means, the notice must be in characters that are equivalent in intensity, legibility and size to the characters required for printed notice.
- A licensee who uses a form or contract written in a language other than English should also post this notice in that language. The notice must be translated by an interpreter who is certified by the Court Administrator in accordance with NRS 1.510, and comply with section 20 of this chapter.

Sec. 35. [S.B. 432, §18-§23] 1. A licensee who uses a form or contract written in a language other than English shall cause the document to be translated into English and maintain together a copy of the document and its English translation.

2. A document translated pursuant to this section must be:

(a) Translated by an interpreter who is:

(1) Certified by the Court Administrator in accordance with the provisions of [NRS 1.510](#) and regulations adopted pursuant thereto; or

(2) Approved in writing by the Division.

(b) Accompanied by a certificate issued by the interpreter. The certificate must:

(1) Declare that the translated document is a true and complete translation of the document written in the language other than English;

(2) Identify the document written in a language other than English and its English translation;

(3) Include the date of translation; and

(4) Include the name, address, telephone number and electronic mail address, if any, of the interpreter.

3. The Commissioner may require a licensee to provide a translation of any nonstandard document that is written in a language other than English.

4. The Commissioner may assess a licensee for all costs incurred by the Commissioner to verify the licensee's compliance with this section.

Sec. 36. [S.B. 432, §36-§36.6] If the Commissioner finds that a licensee's records are not maintained in compliance with this chapter or Senate Bill No. 432, the Commissioner may require the licensee to deliver an audited, compiled, or reviewed financial statement prepared from his or her records by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The statement must be submitted within 60 days after the Commissioner requests it. The Commissioner may grant a reasonable extension for the submission of the financial statement if an extension is requested before the statement is due.

Sec. 37. [S.B. 432, §38] For the purpose of section 38 of Senate Bill No. 432, the report due on or before January 31 of each year shall:

- (a) Be filed with the Division with the renewal application on a form prescribed by the Commissioner; and
- (b) List each consumer litigation transaction to include:
 - I. Consumer name;
 - II. Amount funded to each consumer;
 - III. The annual percentage charged to each consumer; and
 - IV. A detail of all charges and the document preparation fee charged to the consumer.

Sec. 38. [S.B. 432, §38.6]The Commissioner of Financial Institutions may revoke or suspend a license in accordance with this chapter and Senate Bill No. 432, if a licensee violates any provision of this chapter including, without limitation, a provision that imposes a fee or assessment on a licensee.

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS BY THE FINANCIAL
INSTITUTIONS DIVISION TO SB 432 (Title 52, Chapter 604C)
CONSUMER LITIGATION FUNDING**

February 3, 2020

1. Small Business Impact Statement pursuant to NRS 233B.0609:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(I) Solicitation of affected small businesses.

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to those engaged in or who desire to engage in the business of consumer litigation funding and to ensure that there is established in this State an adequate, efficient and competitive consumer litigation funding service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes (NRS) 675 that offer pre-settlement funding and the Division's regulatory action contact list. In turn, the Division solicited comments on the proposed regulations for SB 432 (Title 52, Chapter 604C) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division's website. The solicited comments were used to formulate this Small Business Impact Statement.

(II) Summary of responses.

See attached spreadsheet.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the Division's website dated February 4, 2020 along with a Notice of Workshop for February 21, 2020. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner
Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, NV 89102
Email: FIDMaster@fid.state.nv.us
Telephone: (702) 486-4120
Fax: (702) 486-4563
Website: <http://fid.nv.gov>**

(b) The manner in which the analysis was conducted.

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known consumer litigation funding businesses for review and invited written comment regarding the impact to the consumer litigation funding community and took all comments submitted into consideration.

Following review and analysis of the authorizing statutory language (Senate Bill 432) and written comment from the industry, the Division has determined that the majority of the regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business. Notwithstanding, the Division considered all comments and removed language and/or requirements that were confusing or would cause unnecessary efforts on the part of the consumer litigation funding company, if it did not impact the consumer protection responsibility of the Division.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

The consumer litigation funding community did not provide adverse comments regarding the fees and costs, imposed by the Division, associated with doing business as a licensed consumer litigation funding company.

(II) BENEFICIAL EFFECTS:

The consumer litigation funding community did not provide beneficial comments regarding the fees and costs, imposed by the Division, associated with doing business as a licensed consumer litigation funding company.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

The Division understands consumer litigation funding small businesses may have financial burdens such as surety bond premiums, payroll, rent, and other costs to do business, as well as fees imposed by the Division. The legislation provided the maximum fee amounts and gives the Division discretion to set the fee amounts. Through internal analysis, the Division has determined the minimum fee amounts to cover the basic costs for the Division to implement and carry out the legislation. The Division set the fees at a reasonable amount in line with other entities the Division regulates.

The Division has determined the most prominent positive direct effect from the passage of S.B. 432 will be the ability to ensure consistency in the consumer litigation funding community as well as reduce any potential harm to the public. Another positive attribute is any concerned party will be able to call the Division and verify the license is current and file a complaint if necessary.

The Division's primary role deals with monitoring the activity a consumer litigation funding company conducts through licensing and examinations.

(II) INDIRECT EFFECTS:

It is noted that a common concern from the consumer litigation funding community is the unknown of how the Division conducts examinations and how disciplinary action is handled. The Division will assist any licensee with questions during an examination to alleviate any concerns. The Division takes a progressive disciplinary approach and will provide ample time to a licensee to correct any violation of law or regulation prior to taking disciplinary action, unless the violation(s) is egregious and harms the public at large. The Division conducts follow-up examinations to ensure the violations have been rectified and that the licensee understands the issue at hand.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The Division has received a total of eleven (11) responses to the solicitation sent to all interested parties. The Division has considered and analyzed all submitted comments and removed language and/or requirements that were confusing or would cause unnecessary efforts on the part of the consumer litigation funding company, if it did not impact the consumer protection responsibility of the Division.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

The estimated cost to the Division for enforcement of the proposed regulation should be covered by the proposed fees to be collected by the Division. It is estimated the Division will not need any additional funding or a budget increase.

(f) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect, and the manner in which the money will be used.

The proposed regulation provides new fees established by the passage of the legislation and the total amount the Division expects to collect based on the number of companies that communicated with the Division (approximately 15 entities):

- 1) **The 1st Year → \$30,000** (Based on the application fee of \$1,000 and initial licensing fee of \$1,000 for 15 entities).
- 2) **The 2nd Year → \$37,500** (Based on Yearly Renewal Fee of \$1,000 and Hourly examination Fee of \$75 with the average exam projected to take approximately 20 hours to complete). It is also expected that the following yearly exams will not take 20 hours to complete thus lowering this cost in future years.

The fees collected will be used by the Division to regulate the industry at the most economical method possible with the Division's established objective to maintain fees at a level to cover agency costs to implement/operate/enforce and not to over burden small business with high and unnecessary fees.

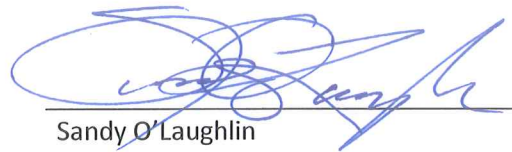
(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

To our knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

This is a result of the passage of new legislation that will require small businesses to pay state mandated yearly application fees, licensing fees, and hourly examination fees. The Division can only indirectly lessen the impact on small business by establishing an equitable fee schedule to moderate the costs to implement this new law and to be proactive in dealing with problems through efficient processes.

To the best of my knowledge, the information contained in this Small Business Impact Statement was prepared properly and accurate.



Sandy O'Laughlin
Commissioner

<u>Consumer Litigation Funding Community Direct or Indirect Impact Item</u>	<u>Number/ and %</u>	<u>Direct or Indirect</u>	<u>Adverse or Beneficial</u>	<u>NFID Answer/Mitigation</u>
Requiring lawyers to provide two email addresses would be extremely cumbersome and discourage lawyers from helping clients get funding.	7 (64%)	Direct	Adverse	NFID removed this language from the proposed regulation
Requiring the client be copied on all electronic communications between the funding company and attorney could create friction between the client and attorney if such communication includes that the attorney feels that it's not in the best interest of the client to get funding because it would make it almost impossible to settle the case. Attorney could be fired by the client	7 (64%)	Direct	Adverse	NFID removed this language from the proposed regulation
Requiring written consent by multiple parties before electronic communication can occur would lead to repeated unintentional violations and slow down the funding process.	5 (45%)	Direct	Adverse	NFID removed this language from the proposed regulation
Concerned that prior approval by the Commissioner of any change in control, or any transfer of interest resulting in a change of control, will slow down the change of control and disrupt business operations.	4 (36%)	Direct	Adverse	This is normal protocol of the Division to require these changes to have prior approval. The Division works with a licensee to lessen any disruption to the business the change may cause. These changes must require prior approval as these changes could affect the qualifications of licensee.
Concern if the contracts need prior approval from the Commissioner's office, it will slow down the legal funding process and burden the Commissioner's office.	3 (27%)	Direct	Adverse	The proposed regulation does not require prior approval of the contract. Changes outside of the consumers name and personal information, case information, funding amount, fees and charges must be filed with the Office of the Commissioner and will be reviewed during an examination or investigation to ensure compliance with law and regulation. This will not slow down the funding process.
Concerned that the proposed language does not extend the attorney-client privilege or work-product doctrine to the Commissioner or his/her authorized representative and destroys the privilege.	3 (27%)	Direct	Adverse	The Division has the authority to review all records, documents, files, etc. that it deems necessary to conduct an examination. As such, the Division does not want to restrict its access to any books and records that will hinder the examination process. The Division is requesting the review of documents as it pertains to the licensee's activities under SB 432, for examination purposes only.
Concerned by the proposed language in section 32, subsection 2 that disclosure of records is at the Commissioner's discretion.	2 (18%)	Direct	Adverse	Currently, public record law requires full disclosure of the records. This language was added to protect these records from public records request. The Division will remove subsection 2 to ease applicants and licensees' concerns.
Consumers owe nothing to the funding company if there are "inadequate" proceeds from the legal claim.	2 (18%)	Direct	Adverse	Removed "inadequate" and added clarifying language

<p>"Prompt" delivery within one business day is not feasible for consumers and attorneys without an email address. Funding companies would incur substantial costs to deliver notice of cancellation within one business day to those attorneys who do not have an email address.</p>	2 (18%)	Direct	Adverse	<p>Prompt delivery is required to prevent delay of any important document. For the few that don't use email, the action of placing the notice in the mail, with proof of mailing, within one business day will comply with the intent of the law.</p>
<p>Suggests section 13 should be more specific, recommends notification should only occur after the consumer litigation company receives notice of cancellation from the consumer and receives back all the funds that were given to the consumer.</p>	2 (18%)	Indirect	Adverse	<p>NFD revised the proposed language, which should address the concerns.</p>
<p>Concerned that disclosing the consumer name on the annual report to the Office of the Commissioner destroys the attorney-client and work product privilege.</p>	2 (18%)	Direct	Adverse	<p>NFD must maintain the confidentiality of the name of each company and consumer. Pursuant to SB 432 section 38 (3) "the Commissioner shall make the information contained in the report available to the public upon request in a manner which maintains the confidentiality of the name of each company and consumer."</p>
<p>Each license must be displayed at the location where the licensee is authorized to operate. How does this apply to out of state licensees?</p>	2 (18%)	Indirect	Adverse	<p>Must be posted at the authorized licensed location, the address on the license, the location that the funding activity is taken place from.</p>
<p>Would like clarification to what location the department is referring to in regards to "the location of the business complies with any applicable planning and zoning ordinance"</p>	1 (9%)	Indirect	Adverse	<p>This is referring to the authorized licensed location, the address on the license, the location that the funding activity is taken place from.</p>
<p>Recommends "promptly" should be defined as two business days</p>	2 (18%)	Indirect	Adverse	<p>Promptly is usually defined as "immediately" without delay. The Division believes the necessary action can occur within one business day.</p>
<p>Concerned that proposed language to maintain books and records of each consumer separately will cause the licensee to retain two databases.</p>	2 (18%)	Indirect	Adverse	<p>This rule is simply stating that each consumer's record must be maintained separately from other consumers. This is not requiring a licensee to operate different databases. The database should be able to segregate the accounts by Nevada and/or consumer name.</p>
<p>The requirement for a licensee to respond to the Office of the Commissioner within 10 business days after receipt of a consumer complaint is concern to the industry because the complaint will not be attached, and more time will be needed.</p>	1 (9%)	Direct	Adverse	<p>The Division will always attach the consumer complaint so the licensee can review the allegations. The Division will work with a licensee if an occasional extension is necessary.</p>

Only one document preparation fee per consumer. Should be each time a consumer signs a contract throughout the course of their legal claim.	1 (9%)	Direct	Adverse	S.B. 432 clearly states "Document preparation fee" means a one-time fee per legal claim, not to exceed \$500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.
Cannot refinance, rollover, extend or consolidate a funding transaction at the end of 180 day period, which would have the effect, impact, or result of compounding interest, charges, fees or the like on the transaction. Concerned this timeframe is no longer since cases take longer to settle than 180 days.	1 (9%)	Direct	Adverse	S.B.432 mandates the contracts to not exceed 180 days at rate of less than 40%
Concerned not all customers will be qualified to receive funding because of certain price constraints allowed by the regulations.	1 (9%)	Indirect	Adverse	S.B. 432 established the price constraints. The Division cannot change the bill as written. The regulation is to further clarify the law.
Recommends to have longer than 10 business days to respond to complaint.	1 (9%)	Indirect	Adverse	This is standard and is ample time for a response. The Division may allow occasional extensions, if needed.
Requesting clarification of section 5, if a license is required for brokers and companies that refer consumers to other companies.	1 (9%)	Indirect	Adverse	If a person and/or entity is soliciting funding transactions, a license is required. If they are simply referring a consumer and not soliciting, advertising, etc., or making the transaction, a license is not required. It is recommended that a person and/or entity contact the Division requesting a licensure determination before conducting business in Nevada and/or with Nevada consumers.
Requesting clarification on how the document preparation fee will apply to loans made prior to October 1, 2019.	1 (9%)	Indirect	Adverse	Any and all pre-settlement/consumer litigation funding transactions, contracts, loans and the like issued with licensed companies under NRS Chapter 675 prior to October 1, 2019, shall be regulated under NRS Chapter 675 unless and until amended, renewed, consolidated, extended, or refinanced by the consumer's choice, at which time, S.B. 432 shall apply to the transactions. Otherwise, the provisions of Chapter 675 shall continue to apply to those outstanding transactions, contracts, loans, and the like. All new, renewed, consolidated, extended, refinanced, etc., transactions (by the consumer's choice) issued after October 1, 2019, shall be subject to the provisions of S.B. 432. Any companies currently licensed under Chapter 675 which desire to issue new consumer litigation funding transactions must surrender its license under NRS Chapter 675 and submit an application for licensure under S.B. 432.
Can all signatures be done electronically?	1 (9%)	Indirect	Adverse	Yes, documents can be signed via DocuSign.
How is "inadequate" defined?	1 (9%)	Indirect	Adverse	"Inadequate" was removed from the proposed regulation

Concerned that the word "loan" is used in section 15 that states "no licensee may advertise in any manner that a loan or transaction of a prospective consumer with another licensee will be paid or increased if the loan or transaction is transferred to the advertising licensee. This includes a license holder or any chapter regulated by the Division."	1 (9%)	Indirect	Adverse	Similar language is used in other lending statutes the Division regulates. This language uses "loan" to capture all lending besides the litigation funding company. This prohibits a S.B. 432 licensee from promising a consumer a better rate or more funding if they bring in their NRS 604A contract and/or NRS 675 contract.
---	--------	----------	---------	--

Where should a licensee post the notice for a consumer to file a complaint with the Division?	1 (9%)	Indirect	Adverse	Needs to be posted at the approved licensed location, on the licensee's website, and as a disclosure in the contract.
---	--------	----------	---------	---

Requesting clarification to what is involved in the administrative law hearing process.	1 (9%)	Direct	Beneficial	NRS 233B governs the administrative law proceedings. The Division will provide direction to a licensee at the time disciplinary action will take place.
---	--------	--------	------------	---

The proposed regulatory framework will eliminate bad actors and authorizing precise regulations to operate under. This law should minimize confusion between the consumers and attorneys, through the removal of uncertainty about funding.	1 (9%)	Direct	Beneficial	This was a comment-no answer is needed.
---	--------	--------	------------	---

SBI Response Summary:

Total Solicited: 16
 Total Responded: 11
 % Responded: 69%

Senate Bill No. 432—Committee on Judiciary

CHAPTER.....

AN ACT relating to financial services; imposing certain requirements on certain transactions in which a person provides money to a consumer who has a pending legal action in exchange for certain proceeds from that legal action; requiring certain persons who engage in such transactions to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-38.9 of this bill establish provisions relating to transactions in which a person provides a consumer who has a pending legal claim in this State with money in an amount that does not exceed \$500,000 and the consumer assigns to that person the right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained as a result of the legal action of the consumer. **Section 10** of this bill designates this type of transaction as a "consumer litigation funding transaction." **Section 8** of this bill designates the provider of money to a consumer in such a transaction as a "consumer litigation funding company."

Sections 18, 19 and 19.3 of this bill generally require a contract to enter into a consumer litigation funding transaction to meet certain requirements and contain certain disclosures relating to the amount of fees the consumer will be charged and the rights of the consumer with regard to the consumer litigation funding transaction.

Section 20 of this bill prohibits a consumer litigation funding company from: (1) paying or accepting certain referral fees or commissions; (2) referring a consumer to engage certain professionals; (3) advertising false information; (4) entering into a consumer litigation funding transaction with a consumer who has already received money from another company, with certain exceptions; (5) making decisions with regard to the legal claim of the consumer; and (6) paying certain legal fees of the consumer with money from the consumer funding transaction.

Section 21 of this bill requires the amount the consumer is required to pay the consumer litigation funding company in exchange for the money received by the consumer to be set as a predetermined amount. **Section 21** prohibits a company from charging fees that exceed a rate of 40 percent annually.

Section 25 of this bill prohibits a person from engaging in business as a consumer litigation funding company without a license issued by the Commissioner of Financial Institutions. **Section 25** provides that a person who engages in such business without a license is guilty of a misdemeanor. **Sections 26-32** of this bill set forth the application process to obtain such a license and set forth certain requirements an applicant must meet.

Sections 35 and 36 of this bill require a person who has obtained a license to engage in business as a consumer litigation funding company to maintain assets of at least \$50,000 and to keep certain records. **Section 36.2** of this bill requires the Commissioner to make an annual examination of a licensee. **Sections 38.3 and 38.6** of this bill authorize the Commissioner to impose fines and suspend or revoke the license of a licensee for certain violations of the provisions of this bill. **Section 38.2** of this bill authorizes the Commissioner to take certain additional actions



against a licensee or certain other persons for violations of the provisions of this bill. **Section 38** of this bill requires each licensee to submit to the Commissioner an annual report with certain information regarding the activities of the licensee in the preceding year and to make the information contained in the report available to the public not later than 1 year after the report is submitted. **Section 38.9** of this bill authorizes: (1) a person to file a complaint against a licensee; and (2) the Commissioner to investigate and hold hearings concerning such a complaint. **Sections 36.4, 36.6 and 38.95** of this bill require a licensee to pay certain assessments.

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

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 38.9, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Advertise” means the commercial use of any medium, including, without limitation, radio, television, the Internet or a similar medium of communication, by a consumer litigation funding company for the purpose of inducing a consumer to enter into a consumer litigation funding transaction.*

Sec. 3.5. *“Applicant” means a person who applies to the Commissioner to obtain a license to engage in the business of a consumer litigation funding company pursuant to the provisions of this chapter. The term does not include a parent company or affiliate of such a person.*

Sec. 4. *“Charges” means the amount of money to be paid to a consumer litigation funding company by a consumer above the funded amount provided by the consumer litigation company to the consumer. The term includes, without limitation, administrative fees, origination fees, underwriting fees or other fees, however denominated. The term does not include a document preparation fee.*

Sec. 5. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 6. *“Consumer” means a natural person who:*

- 1. Resides or is domiciled in this State; and*
- 2. Has a pending legal claim.*



Sec. 7. *“Consumer litigation funding” means the money provided directly or indirectly to a consumer by a consumer litigation funding company in a consumer litigation funding transaction.*

Sec. 8. 1. *“Consumer litigation funding company” or “company” means a person that enters into a consumer litigation funding transaction with a consumer.*

2. *The term does not include:*

(a) *An immediate family member of a consumer;*

(b) *An attorney or accountant who provides services to a consumer;*

(c) *A medical provider that provides medical services on the basis of a lien against any potential litigation recovery;*

(d) *A medical factoring company; or*

(e) *A financial institution or similar entity:*

(1) *That provides financing to a consumer litigation funding company; or*

(2) *To which a consumer litigation funding company grants a security interest or transfers any right or interest in a consumer litigation funding transaction.*

Sec. 9. *“Consumer litigation funding contract” means a written agreement between a consumer and a consumer litigation funding company that provides for a consumer litigation funding transaction.*

Sec. 10. *“Consumer litigation funding transaction” means a nonrecourse transaction in which:*

1. *A consumer litigation funding company provides consumer litigation funding to a consumer in an amount that does not exceed \$500,000; and*

2. *The consumer assigns to the company a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award or verdict obtained in the legal claim of the consumer.*

Sec. 10.5. *“Document preparation fee” means a one-time fee per legal claim, not to exceed \$500, assessed for document preparation services related to the preparation of a consumer litigation funding contract.*

Sec. 11. *“Funded amount” means the amount of consumer litigation funding provided to or on behalf of a consumer in a consumer litigation funding transaction. The term does not include charges.*



Sec. 12. *"Funding date" means the date on which a company transfers to a consumer the funded amount of consumer litigation funding.*

Sec. 13. *"Immediate family member" means a parent, sibling, child by blood, adoption or marriage, spouse, grandparent or grandchild.*

Sec. 14. *"Legal claim" means a bona fide civil claim or cause of action.*

Sec. 15. *"Licensee" means a person who has been issued one or more licenses to engage in the business of a consumer litigation funding company.*

Sec. 16. *"Resolution date" means the date upon which:*

(a) A consumer, or a person on behalf of a consumer, delivers to a consumer litigation company an amount of money equivalent to the funded amount plus any agreed upon charges; or

(b) The legal claim of a consumer is lost or abandoned.

Sec. 17. *The Commissioner may adopt regulations for the administration and enforcement of this chapter, in addition to and not inconsistent with this chapter.*

Sec. 18. *1. A consumer litigation funding contract must:*

(a) Be written in a clear and comprehensible language that is understandable to an ordinary layperson.

(b) Be filled out completely when presented to the consumer for signature.

(c) Contain a provision advising a consumer of the right to cancel the contract. Such a provision must provide that the consumer may cancel the contract without penalty or further obligation if, within 5 business days after the funding date, the consumer:

(1) Delivers in person to the consumer litigation funding company, at the address specified in the contract, the uncashed check issued by the consumer litigation funding company or the full amount of money that was disbursed to the consumer by the consumer litigation funding company; or

(2) Mails, by insured, certified or registered mail, to the address specified in the contract, a notice of cancellation and includes in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to the consumer by the consumer litigation funding company.

(d) Contain the initials of the consumer on each page.



(e) Contain a statement that the consumer is not required to pay any other fees or charges other than what is agreed to and disclosed within the contract.

(f) If the consumer seeks more than one consumer litigation funding contract with the same company, contain a disclosure providing the cumulative amount due from the consumer for all consumer litigation funding transactions, including, without limitation, all fees and charges under all consumer litigation funding contracts if repayment is made any time after the contracts are executed.

(g) Contain a statement of the maximum amount the consumer may be obligated to pay under the consumer litigation funding contract other than in the case of material breach, fraud or misrepresentation by the consumer.

(h) Contain clear, conspicuous and accurate details of how charges, including, without limitation, any applicable fees, are incurred or accrued.

(i) Contain a statement that the consumer litigation funding contract is governed by the laws of the State of Nevada.

2. A consumer litigation contract must contain a written acknowledgment by the attorney retained by the consumer in the legal claim of the consumer attesting to the following:

(a) To the best of the knowledge of the attorney, the funded amount and any charges and applicable fees relating to the consumer litigation funding have been disclosed to the consumer.

(b) The attorney is being paid on a contingency basis pursuant to a written fee agreement.

(c) All proceeds of the legal claim will be disbursed via the trust account of the attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer.

(d) The attorney is following the written irrevocable instructions of the consumer with regard to the consumer litigation funding transaction.

(e) The attorney is obligated to disburse money from the legal claim and take any other steps to ensure that the terms of the consumer litigation funding contract are fulfilled.

(f) The attorney has not received a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding, nor will the attorney receive such fee or other consideration in the future.

(g) The attorney has not provided advice related to taxes, benefits or any other financial matter regarding this transaction.



3. A consumer litigation funding contract that does not contain the written acknowledgment required by paragraph (c) of subsection 2 is void. If the acknowledgment is completed, the contract shall remain valid if the consumer terminates the representation of the initial attorney or retains a new attorney with respect to the legal claim of the consumer.

Sec. 19. A consumer litigation funding contract must contain the disclosures specified in this section, which shall constitute material terms of the contract. Except as otherwise provided in this section, the disclosure shall be typed in at least 12-point bold type or font and be placed clearly and conspicuously within the contract, as follows:

1. On the front page of the contract under appropriate headings, language specifying:

(a) The funded amount to be paid to the consumer by the consumer litigation funding company;

(b) An itemization of one-time charges and fees;

(c) The maximum total amount to be assigned by the consumer to the company, including, without limitation, the funded amount and all charges and fees; and

(d) A payment schedule to include the funded amount, charges and fees, listing all dates and the amount due at the end of each 180-day period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due under the consumer litigation funding contract.

2. Within the body of the contract, substantially the following form:

Consumer's right to cancellation: You may cancel this contract without penalty or further obligation within five (5) business days after the funding date if you either:

1. *Deliver in person to the consumer litigation funding company at the address specified in the contract the uncashed check that was issued by the consumer litigation funding company or the full amount of money that was disbursed to you by the company; or*

2. *Mail, by insured, certified or registered mail, to the consumer litigation funding company at the address specified in the contract a notice of cancellation and include in such mailing the uncashed check issued by the consumer litigation funding company or a return of the full amount of money that was disbursed to you by the company.*



3. *Within the body of the contract, in substantially the following form:*

The consumer litigation funding company shall not have a role in deciding whether, when and how much the legal claim is settled for. The consumer and the attorney of the consumer shall notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The company may seek updated information about the status of the legal claim. The company shall not interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof.

4. *Within the body of the contract, in all capital letters and in at least a 12-point bold type or font contained within a box:*

THE FUNDED AMOUNT AND AGREED UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY) ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM, UNLESS YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS CONTRACT OR YOU HAVE KNOWINGLY PROVIDED FALSE INFORMATION OR COMMITTED FRAUD AGAINST (INSERT NAME OF THE CONSUMER LITIGATION FUNDING COMPANY).

5. *Located immediately above the place on the contract where the signature of the consumer is required, in 12-point bold type or font:*

Do not sign this contract before you read it completely. Do not sign this contract if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract before you sign this contract. You should obtain the advice of an attorney. Depending on the circumstances, you may wish to consult a tax, public or private benefit planning or financial professional. You acknowledge that your attorney



in the legal claim has provided no tax, public or private benefit planning or financial advice regarding this transaction. You further acknowledge that your attorney has explained the terms and conditions of the consumer litigation funding contract.

6. Within the body of the contract, in substantially the following form:

A copy of the executed contract must be promptly delivered to the attorney for the consumer.

Sec. 19.3. 1. A consumer litigation funding contract must include a written disclosure, signed by the consumer that is typed in at least a 12-point font.

2. The disclosure described in subsection 1 must be separate from the consumer litigation funding contract described in section 19 of this act.

3. The disclosure described in subsection 1 must include, without limitation:

(a) A summary of all applicable charges and fees;

(b) The full cost of the consumer litigation funding transaction, written in bold font;

(c) The full amount of the consumer litigation funding;

(d) A statement that the attorney retained by the consumer in the legal claim of the consumer is being retained on a contingency basis pursuant to a written fee agreement;

(e) A statement that the consumer is fully informed and aware that all proceeds of the legal claim of the consumer will be disbursed via the trust account of the retained attorney or a settlement fund established to receive the proceeds of the legal claim on behalf of the consumer;

(f) A statement that the retained attorney has not received and will not receive a referral fee or other consideration from the consumer litigation funding company in connection with the consumer litigation funding transaction; and

(g) An acknowledgment, signed by the consumer, that the consumer was fully informed and aware of the charges and fees and the full cost of the consumer litigation funding transaction at the time of the execution of the consumer litigation funding contract.

Sec. 19.7. If a consumer cancels a consumer litigation funding contract pursuant to section 18 of this act, the consumer litigation funding company shall promptly forward notice of the



cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer.

Sec. 20. 1. A consumer litigation funding company shall not:

(a) Pay or offer to pay a commission, referral fee or other form of consideration to an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person, for referring a consumer to the company.

(b) Accept a commission, referral fee or other form of consideration from an attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person.

(c) Intentionally advertise materially false or misleading information regarding the products or services of the consumer litigation funding company.

(d) Refer a consumer to engage a specific attorney, law firm, medical provider, chiropractor or physical therapist, or any employee of such a person. A company may refer a consumer in search of legal representation to a lawyer referral service operated, sponsored or approved by the State Bar of Nevada or a local bar association.

(e) Except as otherwise provided in subsection 2, knowingly provide consumer litigation funding to a consumer who has previously assigned or sold a portion of the right of the consumer to proceeds from his or her legal claim to another company without first making payment to or purchasing the entire funded amount and charges of that company, unless a lesser amount is otherwise agreed to in writing by the consumer litigation funding companies.

(f) Receive any right to, or make, any decisions with respect to the conduct, settlement or resolution of the legal claim of a consumer.

(g) Knowingly pay or offer to pay for court costs, filing fees or attorney's fees during or after the resolution of the legal claim of a consumer using money from a consumer litigation funding transaction.

2. Two or more consumer litigation funding companies may agree to contemporaneously provide consumer litigation funding to a consumer if the consumer and the attorney of the consumer agree to the arrangement in writing.

3. An attorney or law firm retained by the consumer in connection with his or her legal claim shall not have a financial



interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

4. An attorney who has referred the consumer to his or her retained attorney or law firm shall not have a financial interest in the consumer litigation funding company offering consumer litigation funding to that consumer.

5. A consumer litigation funding company shall not use any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner in accordance with procedures for filing prescribed by the Commissioner.

Sec. 21. 1. A consumer litigation funding company shall require the amount to be paid to the company under a consumer litigation funding contract to be set as a predetermined amount based upon intervals of time from the funding date though the resolution date. The amount must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually.

2. The amount to be paid to a company under a consumer litigation funding contract must not be determined as a percentage of the recovery of the legal claim of a consumer.

Sec. 22. 1. If a court of competent jurisdiction determines that a consumer litigation funding company has willfully committed a deceptive and abusive violation of this chapter with regard to a specific consumer litigation funding transaction, the contract shall be void.

2. Nothing in this chapter shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform by law.

Sec. 23. 1. The contingent right to receive an amount of the potential proceeds of a legal claim is assignable by a consumer.

2. Nothing in this chapter shall be construed to cause any consumer litigation funding transaction conforming to this chapter to be deemed a loan or to be subject to any of the provisions of law governing loans. A consumer litigation funding transaction that complies with this chapter is not subject to any other statutory or regulatory provisions governing loans or investment contracts. If there is a conflict between the provisions of this chapter and any other statute, the provisions of this chapter control.

3. Only a lien imposed by an attorney pursuant to NRS 18.015 that is related to the legal claim of the consumer or a lien imposed by Medicare that is related to the legal claim of a consumer takes priority over any lien imposed by a consumer



litigation funding company. All other liens take priority by normal operation of law.

Sec. 24. Any communication between the attorney of a consumer in a legal claim and a consumer litigation funding company as it pertains to a consumer litigation funding transaction is subject to the attorney-client privilege, including, without limitation, the work-product doctrine.

Sec. 25. 1. A person shall not engage in the business of a consumer litigation funding company in this State without having first obtained a license from the Commissioner pursuant to this chapter.

2. For the purpose of this section, a person is "engaged in the business of a consumer litigation funding company" if the person:

(a) Solicits or engages in consumer litigation funding transactions in this State; or

(b) Is located in this State and solicits or engages in consumer litigation funding transactions outside of this State.

3. Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of this section are guilty of a misdemeanor.

Sec. 25.5. The provisions of section 25 of this act shall apply to any person who seeks to evade its application by any device, subterfuge or pretense whatever, including, but not thereby limiting the generality of the foregoing:

1. The loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods, or things in action.

2. The use of collateral or related sales or purchases of goods or services, or agreements to sell or purchase, whether real or pretended.

3. Receiving or charging compensation for goods or services, whether or not sold, delivered or provided.

4. The real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

Sec. 26. 1. A person who wishes to obtain a license from the Commissioner to engage in the business of a consumer litigation funding company shall submit an application to the Commissioner. The application must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:

(a) If the applicant is a natural person, the name and address of the applicant.



(b) If the applicant is a business entity, the name and address of each:

- (1) Partner;*
- (2) Officer;*
- (3) Director;*
- (4) Manager or member who acts in a managerial capacity;*

and

*(5) Registered agent,
↳ of the business entity.*

(c) Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:

- (1) Partners;*
- (2) Officers;*
- (3) Directors; and*
- (4) Managers or members who act in a managerial capacity.*

(d) The address of each location at which the applicant proposes to do business under the license.

2. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

↳ The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.

3. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws



an application, the Commissioner shall not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 27. 1. In addition to any other requirements set forth in this chapter, each applicant must submit:

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.

(2) Has not made a false statement of material fact on the application for the license.

(3) Has not committed any of the acts specified in subsection 2.

(4) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not been convicted or, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.

(6) If the applicant is a natural person:

(I) Is at least 21 years of age; and

(II) Is a citizen of the United States or lawfully entitled to remain and work in the United States.

(b) A complete set of his or her fingerprints and written permission authorizing the Division of Financial Institutions of the Department of Business and Industry to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:

(a) Has committed or participated in any act for which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.

(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.

(c) Has participated in any act which was a basis for the denial or revocation of a license pursuant to this chapter.

(d) Has falsified any of the information submitted to the Commissioner in support of the application for a license.

Sec. 28. 1. In addition to any other requirements, a natural person who applies for a license pursuant to this chapter shall:



(a) Include the social security number of the applicant in the application submitted to the Commissioner; and

(b) Submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the registration; or

(b) A separate form prescribed by the Commissioner.

3. A license as a consumer litigation funding company may not be issued or renewed by the Commissioner if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 29. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is licensed as a consumer litigation funding company, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.



2. *The Commissioner shall reinstate the license of a licensee that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 30. 1. An application submitted to the Commissioner pursuant to section 26 of this act must be accompanied by:

(a) A nonrefundable fee of not more than \$1,000 for the application and survey;

(b) Any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and

(c) A fee of not less than \$200 and not more than \$1,000.

2. *An applicant shall, at the time of filing an application, file with the Commissioner, a surety bond payable to the State of Nevada and satisfactory to the Commissioner in an amount not to exceed \$50,000. The terms of the bond must run concurrent with the period of time during which the license will be in effect. The bond must provide that the applicant will faithfully conform to and abide by the provisions of this chapter and to all regulations lawfully made by the Commissioner under this chapter and to any such person any and all amounts of money that may become due or owing to this State or to such person from the applicant under this chapter during the period for which the bond is given.*

3. *Each bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services of the consumer litigation funding company.*

4. *A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against the licensee by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.*

5. *The liability of the surety on a bond is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.*



6. *The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after the earlier of:*

(a) The death of the licensee or the dissolution or liquidation of his or her business; or

(b) The termination of the bond.

7. *A licensee or his or her surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.*

8. *The Commissioner shall adopt regulations establishing the amount of the fees and the bond required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account created by NRS 232.545.*

Sec. 31. *1. Upon the filing of the application and the payment of the fees, the Commissioner shall investigate the facts concerning the application and the requirements provided for in this chapter.*

2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as the Commissioner may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other person as the Commissioner may see fit, at least 10 days before the date set for the hearing.

3. The Commissioner shall make his or her order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.

4. An applicant is entitled to a hearing on the question of the qualifications of the applicant for licensure upon written request to the Commissioner if:

(a) The Commissioner has notified the applicant in writing that the application has been denied; or

(b) The Commissioner has not issued a license within 60 days after the application for a license was filed.



5. A request for a hearing may not be made more than 15 days after the Commissioner has mailed a written notice to the applicant that the application has been denied and stating in substance the findings of the Commissioner supporting the denial of the application.

6. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 32. If the Commissioner finds:

1. That the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently, within the purposes of this chapter;

2. That the applicant has complied with the provisions of this chapter; and

3. That the applicant has available for the operation of the business liquid assets of at least \$50,000,

↳ he or she shall thereupon enter an order granting the application, and file his or her findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.

Sec. 33. 1. A licensee who wishes to change the address of an office or other place of business for which he or she has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.

2. Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.

3. If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$1,000.

Sec. 34. A license issued pursuant to this chapter is not transferable or assignable.

Sec. 35. Every licensee shall maintain assets of at least \$50,000 either used or readily available for use in the conduct of the business of each licensed office.

Sec. 35.5. A licensee who has an office or other place of business located outside of this State shall file with the Commissioner the information required pursuant to NRS 77.310 and continuously maintain a registered agent for service of legal process. Such agent must be an attorney who is licensed to



practice law in this State and who has an office located in this State.

Sec. 36. 1. Each licensee shall keep and use in his or her business such books and accounting records as are in accord with sound and accepted accounting practices.

2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.

3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

4. Each licensee who operates an office or other place of business outside this State that is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

Sec. 36.2. 1. At least once each year, the Commissioner or his or her authorized representative shall make an examination of the place of business of each licensee and of the transactions, books, papers and records of each licensee that pertain to the business licensed under this chapter.

2. For each examination conducted pursuant to subsection 1, the Commissioner shall charge and collect from the licensee a fee for conducting the examination and preparing and typing the report of the examination at the rate established and, if applicable, adjusted pursuant to NRS 658.101.

Sec. 36.4. Each licensee shall pay the assessment levied pursuant to NRS 658.055 and cooperate fully with the audits and examinations performed pursuant thereto.

Sec. 36.6. In addition to any other fee provided by this chapter, the Commissioner shall assess and collect from each licensee the reasonable cost of auditing the books and records of a licensee.

Sec. 37. A licensee shall not conduct the business of a consumer litigation funding company under any name or at a



place other than stated in the license. Nothing in this section shall be construed to prohibit:

- 1. Consumer litigation funding transactions by mail; or*
- 2. Accommodations for a consumer when necessitated by hours of employment, sickness or other emergency situations.*

Sec. 38. 1. On or before January 31 of each year, a licensee shall submit a report to the Commissioner containing:

(a) The number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year;

(b) A summation of the total funded amount of the consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year, expressed in dollars; and

(c) The annual percentage charged to each consumer when repayment was made.

2. If a licensee operated more than one office or provides consumer litigation funding to persons outside of the State, the licensee shall submit a composite report of all consumer litigation funding transactions in which the company engaged for the immediately preceding year.

3. The Commissioner shall make the information contained in the report available to the public upon request in a manner which maintains the confidentiality of the name of each company and consumer.

Sec. 38.2. 1. The Commissioner may enforce this chapter and regulations adopted pursuant thereto by taking one or more of the following actions:

(a) Ordering a licensee or a director, employee or other agent of a licensee to cease and desist from any violations;

(b) Ordering a licensee or a director, employee or other agent of a licensee who has caused a violation to correct the violation, including, without limitation, making restitution of money to a person aggrieved by a violation;

(c) Imposing on a licensee or a director, employee or other agent of a licensee who has caused a violation a civil penalty not to exceed \$5,000 for each violation; or

(d) Suspending or revoking the license of a licensee in accordance with section 38.6 of this act.

2. If a person violates or knowingly authorizes, directs or aids in the violation of a final order issued pursuant to paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed \$10,000 for each violation.



3. *The Commissioner may maintain an action to enforce this chapter in any county in this State.*

4. *The Commissioner may recover the reasonable costs of enforcing subsections 1, 2 and 3, including, without limitation, attorney's fees, based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.*

5. *In determining the amount of a civil penalty imposed pursuant to subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator and any other factor the Commissioner considers relevant to the determination of a civil penalty.*

Sec. 38.3. 1. *The Commissioner may impose an administrative fine of not more than \$50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.*

2. *The Commissioner shall afford to any person fined pursuant to subsection 1 reasonable notice and an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

3. *A person fined by the Commissioner pursuant to subsection 1 is entitled to judicial review of the decision of the Commissioner in the manner provided by chapter 233B of NRS.*

Sec. 38.6. 1. *The Commissioner may suspend or revoke a license if:*

(a) *The licensee has failed to pay the annual license fee;*

(b) *The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;*

(c) *The licensee has failed to pay an applicable tax, fee or assessment; or*

(d) *Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter.*

2. *If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

3. *At the conclusion of a hearing, the Commissioner shall:*

(a) *Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior*



temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees of the Commissioner.

4. Unless otherwise provided in an order, the order for the revocation or suspension of a license applies only to the license granted to a person for the particular location for which grounds for revocation or suspension exist.

5. A licensee upon whom a fine has been imposed or whose license was suspended or revoked pursuant to this section is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS.

Sec. 38.8. 1. Except as otherwise provided in this section, if a licensee willfully:

(a) Enters into a consumer litigation funding contract for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

↳ the consumer litigation funding contract is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the consumer litigation funding transaction.

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.



Sec. 38.9. 1. A consumer, an attorney for a consumer or any other person who believes that any provision of this chapter has been violated may file a complaint with the Commissioner. Such a complaint must include:

(a) The full name and address of the person filing the complaint;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred, including, without limitation, the date, time and place of the alleged violation and the name of each person involved in the alleged violation; and

(c) A certification by the person filing the complaint that the facts alleged in the complaint are true to the best knowledge and belief of the person.

2. Upon the receipt of a complaint filed pursuant to subsection 1, the Commissioner may investigate and conduct hearings concerning the complaint.

Sec. 38.95. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company or family trust company that is supervised pursuant to chapter 669 or 669A of NRS;

(e) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(f) Savings and loan association or savings bank that is supervised pursuant to chapter 673 of NRS;

(g) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(h) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(i) Credit union that is supervised pursuant to chapter 678 of NRS.

(j) Consumer litigation funding company that is supervised pursuant to the chapter consisting of sections 2 to 38.9, inclusive, of this act.



2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 39. 1. Notwithstanding the amendatory provisions of this act, a consumer litigation funding company that ~~submits~~:

(a) Holds a license issued pursuant to chapter 675 of NRS on or before October 1, 2019; and

(b) Submits an application for licensure pursuant to section 26 of this act on or before January 1, 2020,

↪ shall be deemed to hold a license to engage in the business of a consumer litigation funding company issued pursuant to section 32 of this act and may continue to conduct consumer litigation funding transactions while the application for licensure is pending approval or denial.

2. The Commissioner of Financial Institutions may adopt regulations for the administration and enforcement of this section.

3. As used in this section:

(a) "Consumer litigation funding company" has the meaning ascribed to it in section 8 of this act.

(b) "Consumer litigation funding transaction" has the meaning ascribed to it in section 10 of this act.



Sec. 40. The amendatory provisions of this act do not apply to any contract entered into before October 1, 2019, until the contract is amended, extended or renewed.

Sec. 41. 1. This act becomes effective:

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

(b) On October 1, 2019, for all other purposes.

2. Sections 28 and 29 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

