

STATE OF NEVADA



STEVE SISOLAK
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

TERRY REYNOLDS
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

DATE: October 2, 2020

TO: Whom It May Concern

FROM: Mary Young
Deputy Commissioner

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

The revised and approved draft of the regulation from the Legislative Counsel Bureau (“LCB”) regulation included in this memorandum is being proposed for permanent adoption. In order to review the revised and approved draft of the proposed regulation made since the first workshop held on February 21, 2020, and solicit comments from interested persons on those changes, a second workshop will be held via Webex conference from 10:00 a.m. – Noon on October 21, 2020.

**Governor Steve Sisolak signed an emergency directive related to how public bodies in the state of Nevada must operate public meetings to ensure the safety of all Nevadans during the COVID-19 crisis.

The directive suspends the requirement that there must be a physical location designated for meetings of a public body where members of the public are permitted to attend and participate in-person. Any public body that holds a meeting pursuant to this Executive Order must find an alternative way for the public to participate without having to be physically present.

In addition, the directive states that if a public body holds a meeting by teleconference or videoconference, there must be a way for members of the public to provide public comment. **

Enclosures:

Notice of Workshop and Workshop Agenda
Revised and approved draft of the regulation from LCB- R036-20
Enrolled Version S.B.432
Governor’s Sixth Directive

NOTICE OF SECOND 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 through videoconference and teleconference:

Date: Wednesday, October 21, 2020

Time: 10:00 a.m. – noon

When it’s time, join the Webex meeting by clicking on “Join meeting” link below:

[Join meeting](#)

Meeting number (access code): 146 871 0878

Meeting password: SB432WS2

Or join by phone: 1-844-621-3956 United States Toll Free

Additional options to join:

Join from a video system or application

Dial [1468710878@businessnv2.webex.com](tel:1468710878@businessnv2.webex.com)

You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business

Dial [1468710878.businessnv2@lync.webex.com](tel:1468710878.businessnv2@lync.webex.com)

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. Written comment can be submitted to the Division by email: fidmaster@fid.state.nv.us or by mail: 3300 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

A copy of all materials relating to the proposal may be obtained 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 of proposed regulation (for possible action). R036-20
4. Public comment.
5. Close Workshop.

PROPOSED REGULATIONS:

See attached

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
Capital Building, Main Floor
101 North Carson Street
Carson City, Nevada 89701

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Nevada Public Notice website:
www.notice.nv.gov

Nevada Legislature website:
www.leg.state.nv.us/App/Notice/A/

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

LCB File No. R036-20

September 14, 2020

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

AUTHORITY: §§1-11, 13-16 and 21-25, NRS 604C.200; §§12 and 17, NRS 604C.200 and 604C.540; §18, NRS 604C.200, 604C.610, 604C.630 and 658.101; §19, NRS 604C.200 and 604C.620; §20, NRS 604C.200 and 658.098.

A REGULATION relating to financial services; interpreting the term “promptly,” as used in existing law; authorizing a consumer to have more than one consumer litigation funding contract per legal claim; providing that only one document preparation fee be paid per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim; requiring the consumer litigation funding company to forward certain notices received from the consumer to the attorney or law firm representing the consumer; requiring the attorney retained by the consumer and the consumer litigation funding company to sign certain acknowledgements; prohibiting a consumer litigation funding company from collecting proceeds from a consumer in certain situations; prohibiting consumer litigation funding companies from participating in false, misleading or deceptive advertising; setting forth the process for how a consumer litigation funding contract is approved by the Commissioner of Financial Institutions; authorizing a consumer litigation funding company to communicate through electronic mail with a consumer; requiring certain documents written in a language other than English to be translated into English; requiring a consumer litigation funding company with offices or other places of business within this State to make its books and records available to the Commissioner or his or her representative; establishing certain fees; requiring a licensee to prominently display his or her license at each location he or she conducts business; requiring the licensee to give notice to the Commissioner upon certain changes in management; requiring certain persons involved with a business entity that applies for a license to engage in the business of a consumer litigation funding company to satisfy certain requirements; prohibiting a person from engaging in the business of a consumer litigation funding company without a license; establishing the renewal, suspension, reinstatement and revocation process for a license; establishing the hourly fee paid by a licensee to the Commissioner for supervision, examinations and audits; establishing the assessment for costs related to audits and examinations; providing for the assessment to cover the costs of legal services provided by the Attorney General to the Commissioner and the Division of Financial Institutions of the Department of Business and Industry; requiring certain reports to satisfy certain requirements; providing that certain information is confidential; requiring a licensee to

answer certain complaints within a certain period of time; requiring a licensee to notify certain persons that they have a right to file a written complaint with the Commissioner; authorizing the Commissioner to require a licensee to deliver an audited financial statement prepared by a certified public accountant in certain situations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) governs transactions in which a person provides not more than \$500,000 to a consumer with a pending legal claim in this State in exchange for the right to receive a portion of the proceeds of a settlement, judgment, award or verdict obtained as a result of the legal claim of the consumer; and (2) designates this type of transaction a "consumer litigation funding transaction" (Chapter 604C of NRS, NRS 604C.100) Existing law authorizes the Commissioner of Financial Institutions to adopt regulations for the administration and enforcement of existing law. (NRS 604C.200)

Sections 2-10 of this regulation relate to business practices involving consumer litigation funding contracts. Existing law requires a consumer litigation funding contract to contain certain disclosures, which are material terms of the contract, including a disclosure within the body of the contract which says "a copy of the executed contract must be promptly delivered to the attorney for the consumer." (NRS 604C.360) If a consumer cancels a consumer litigation funding contract, existing law requires the consumer litigation funding company to promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer. (NRS 604C.380) **Section 2** of this regulation interprets "promptly" to mean that the action must occur within 1 business day.

Existing law defines "consumer litigation funding transaction" to mean a nonrecourse transaction in which a consumer litigation funding company provides up to \$500,000 of consumer litigation funding to a consumer. (NRS 604C.100) **Section 3** of this regulation authorizes a consumer to seek more than one consumer litigation funding contract per legal claim with the total amount of consumer litigation funding provided to a consumer not exceeding \$500,000. Existing law defines "document preparation fee" to mean a one-time fee per legal claim, not to exceed \$500, assessed for services related to the preparation of a consumer litigation funding contract. (NRS 604C.110) **Section 3** provides that a consumer may pay only one document preparation fee per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim.

Existing law requires a consumer to notify the consumer litigation funding company if the consumer decides to cancel the consumer litigation funding contract within a certain period of time. (NRS 604C.350, 604C.360) Existing law additionally requires a consumer and the attorney of the consumer to notify the consumer litigation funding company of the outcome of the legal claim. (NRS 604C.360) **Section 4** of this regulation requires the consumer litigation funding company to notify the attorney or law firm who represents the consumer that the notices were received.

Existing law requires a consumer litigation funding contract to include an acknowledgement, 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 the contract was executed. (NRS 604C.370) **Section 5** of this regulation requires the attorney retained by the consumer and the litigation funding company to also sign the acknowledgement.

Existing law requires a consumer litigation funding contract to provide a disclosure that the funded amount and agreed upon charges shall be paid only from the proceeds of the legal claim and shall be paid only to the extent that there are available proceeds from the legal claim. Existing law provides that a consumer will not owe anything to the consumer litigation funding company if there are no proceeds. (NRS 604C.360) Accordingly, **section 6** of this regulation prohibits a consumer litigation funding company from collecting: (1) anything if there are no proceeds from the legal claim; and (2) any amount above available proceeds from the legal claim.

Existing law prohibits a consumer litigation funding company from intentionally advertising materially false or misleading information regarding the products or services it offers. (NRS 604C.300) **Section 7** of this regulation clarifies that materially false or misleading information includes false or deceptive statements, results or testimonials. **Section 7** additionally prohibits advertising that: (1) may tend to confuse the identity of the company with another consumer litigation funding company; or (2) states or implies that the amount owed on an existing consumer litigation funding contract will be paid off or reduced if transferred. **Section 7** further provides that the Commissioner may require all consumer litigation funding companies to submit proposed advertising for approval before dissemination.

Existing law prohibits a consumer litigation funding company from using any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner as prescribed by the Commissioner. (NRS 604C.300) **Section 8** of this regulation sets forth: (1) when a consumer litigation funding company is required to submit a consumer litigation funding contract to the Commissioner for his or her approval; (2) the requirements with which the contract must comply; and (3) when the contract is deemed approved by the Commissioner.

Existing law requires a consumer litigation funding contract to contain a provision advising the consumer of his or her right to cancel the contract. To cancel a contract, the consumer may mail a notice of cancellation to the consumer litigation funding company. (NRS 604C.350, 604C.360) **Section 9** of this regulation provides that, except for when the consumer is mailing such a notice of cancellation, the consumer litigation funding company may communicate through electronic mail with the consumer once the consumer litigation funding contract is entered into if the consumer consents in writing.

Section 10 of this regulation requires a licensee who uses a form or consumer litigation funding contract written in a language other than English to have the document translated into English and to maintain a copy of the document and its English translation. **Section 10** sets forth the qualifications that must be met when translating the document.

Sections 11-25 of this regulation relate to the licensing of consumer litigation funding companies.

Existing law requires each consumer litigation funding company that operates an office or other place of business outside of this State which is licensed pursuant to existing law to make available the books, accounts, papers, records and files of the office or place of business to the Commissioner or a representative of the Commissioner. (NRS 604C.600) **Section 11** of this regulation establishes a similar requirement for consumer litigation funding companies that operate offices or other places of businesses within this State.

Existing law requires the Commissioner to consider an application for a license to engage in the business of a consumer litigation funding company to be withdrawn if the Commissioner does not receive all the required information and fees within the required period of time. (NRS 604C.500) Existing law requires an application to be accompanied by: (1) a nonrefundable fee of not more than \$1,000 for the application and the survey; (2) any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and (3) a fee of not less than \$200 and not more than \$1,000. Existing law requires the Commissioner to adopt regulations establishing the amounts of the fees. (NRS 604C.540) **Section 12** of this regulation establishes the fees in the following amounts: (1) a nonrefundable fee of \$1,000 for the application and survey; (2) a nonrefundable investigation fee of \$50 per individual owner, partner, officer, director and manager of the entity applying to become a consumer litigation funding company; and (3) an initial licensing fee of \$1,000. **Section 12** additionally provides that if the application is withdrawn or denied, the Commissioner will refund the initial licensing fee of \$1,000 to the applicant.

Existing law requires an applicant for a license to engage in the business of a consumer litigation funding company to include in the application the address of each location at which the applicant proposes to do business under the license. (NRS 604C.500) If the Commissioner approves an application for a license, existing law requires the Commissioner to issue and deliver a license to the applicant. (NRS 604C.560) **Section 13** of this regulation provides that upon granting an application for a license, the Commissioner will issue and deliver a license to the licensee for each location proposed by the licensee in his or her application. **Section 13** also requires the licensee to prominently display the license at each location.

Existing law requires a licensee who wishes to change the address of an office or other place of business for which he or she has a license to give written notice of the proposed change to the Commissioner at least 10 days before changing the address. Existing law requires the Commissioner, upon receipt of the proposed change of address, to provide written approval of the change and the date of the approval. (NRS 604C.570) **Section 14** of this regulation requires a licensee who wishes to change the name of the licensee or change an officer, director or manager or member who acts in a managerial capacity for the licensee to, at least 10 days before making such a change, give written notice of the proposed change to the Commissioner who, upon receipt of the proposed change, will provide written approval of the change and the date of the approval.

Existing law requires the application of a business for a license to engage in the business of a consumer litigation funding company to include the name and address of each partner, officer, director, manager or member who acts in a managerial capacity and registered agent of the business entity. (NRS 604C.500) Existing law also requires each applicant to satisfy certain additional requirements. (NRS 604C.510) **Section 15** of this regulation requires each partner, officer, director, manager or member who acts in a managerial capacity and registered agent of a business

entity that is applying for a license to satisfy these additional requirements and provides that the Commissioner will not issue a license if the additional requirements are not satisfied.

Existing law provides how a person can apply for and receive a license to engage in the business of a consumer litigation funding company. (NRS 604C.500-604C.580) **Section 16** of this regulation provides that a person shall not engage in the business of a consumer litigation funding company unless: (1) the person has the applicable license; and (2) the location of the business complies with any applicable planning and zoning ordinances.

Existing law authorizes the Commissioner to suspend or revoke a license if the licensee has failed to pay the annual license fee. (NRS 604C.830) **Section 17** of this regulation provides that a license expires January 31 and that a licensee may renew his or her license on or before January 31 by: (1) submitting a renewal application; and (2) paying a renewal fee of \$1,000. **Section 17** provides that if the licensee fails to renew his or her license on or before January 31, the Commissioner will deem the license to be suspended. **Section 17** further provides that a licensee may reinstate his or her license within 10 business days after the license is suspended by: (1) notifying the Commissioner of his or her intent to reinstate the license; (2) submitting a renewal application; and (3) submitting the \$1,000 renewal fee. If a licensee fails to reinstate his or her license, the Commissioner will deem the license to be revoked.

Existing law requires the Commissioner to make an examination of the place of business of each licensee and of the transactions, books, papers and records that pertain to the business of the consumer litigation funding company. Existing law also requires the Commissioner to establish by regulation fees for the examination and to assess and collect from each licensee the reasonable costs of auditing the books and records. (NRS 604C.610, 658.101, 604C.630) **Section 18** of this regulation establishes an hourly fee of \$75 for the supervision, examination, audit or investigation of a licensee or for a related hearing. **Section 18** also establishes that the fee must be paid within 30 days after the date on which the bill is received, provides for a penalty payment if the fee is not paid by the licensee within the 30 days and further provides that failure of a licensee to pay the fee constitutes grounds for revocation of the licensee's license.

Existing law requires each licensee to pay the assessment levied by the Commissioner as a result of employing a certified public account to review and conduct independent audits and examinations of the licensee. (NRS 604C.620, 658.055) **Section 19** of this regulation requires each licensee to pay to the Division of Financial Institutions of the Department of Business and Industry an annual assessment of \$300 to cover costs related to the employment of a certified public account and the performance of such audits and examinations.

Existing law requires the Commissioner, on a quarterly or other regular basis, to collect an assessment from consumer litigation funding companies to recover the costs of legal services provided by the Attorney General to the Commissioner and to the Division. (NRS 658.098) **Section 20** of this regulation requires each licensee to pay the assessment within 30 days after the date on which the licensee receives the bill. **Section 20** imposes a charge of 10 percent of the assessment on any licensee who fails to pay the assessment within the 30 days and further provides that failure of a licensee to pay the fee constitutes grounds for revocation of the licensee's license.

Existing law requires a licensee to submit a report to the Commissioner containing certain information regarding the business of the licensee. Existing law further requires the Commissioner to make the information contained in the report available to the public upon request in a way which maintains the confidentiality of each company and consumer. (NRS 604C.640) **Section 21** of this regulation requires the report to be filed with the Commissioner with the renewal application required by **section 17** and additionally requires the report to contain certain information relating to each consumer with whom the licensee did business. **Section 22** of this regulation provides that an application for a license, any financial records of an applicant, any financial records or other documents submitted pursuant to an audit, examination or investigation and any report of examination are confidential and may only be disclosed to certain entities.

Existing law authorizes a consumer, an attorney for a consumer or any other person who believes that any provision governing consumer litigation funding has been violated to file a complaint with the Commissioner. Existing law authorizes the Commissioner to investigate and conduct hearings concerning the complaint. (NRS 604C.820) **Section 23** of this regulation requires the Commissioner to send a copy of the complaint and, if the Commissioner intends to hold a hearing, a notice of the date set for the hearing, to the licensee named in the complaint. **Section 23** authorizes the Commissioner to require the licensee to submit a verified answer within 10 business days of such notification and provides that a licensee's failure to respond shall be deemed to be an admittance to the allegations contained in the complaint. **Section 24** of this regulation requires the licensee to post on its website, at the physical location where it conducts business and in the consumer litigation funding contract a notice that alerts persons that they have a right to file a written complaint to the Commissioner.

Existing law requires each licensee to keep and use in his or her business such books and accounting records as are used with sound and accepted accounting practices. (NRS 604C.600) Existing law sets forth examination and audit practices to ensure that such records are in compliance with existing law. (NRS 604C.610-604C.640) **Section 25** of this regulation authorizes the Commissioner to require the licensee to deliver an audited financial statement prepared by a certified public accountant within a certain period of time if the Commissioner finds that the licensee's records are not maintained according to existing law.

Section 1. Chapter 604C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this regulation.

Sec. 2. *As used in NRS 604C.360 and 604C.380, the Commissioner interprets "promptly" to mean that the delivery of the contract or the forwarding of the notice of the cancellation, as applicable, must occur not later than 1 business day after the contract is executed or cancelled, as applicable.*

Sec. 3. 1. *A consumer may seek more than one consumer litigation funding contract per legal claim. The total amount of consumer litigation funding provided by a consumer litigation company to a consumer must not exceed \$500,000 per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim.*

2. If the consumer seeks more than one consumer litigation funding contract: (a) With a different consumer litigation funding company than the company from which he or she obtained the original consumer litigation funding contract, the different consumer litigation funding company must comply with paragraph (e) of subsection 1 of NRS 604C.300; and

(b) The consumer litigation funding company with which the consumer seeks additional consumer litigation funding contracts must make the disclosure pursuant to paragraph (f) of subsection 1 of NRS 604C.350.

3. Pursuant to NRS 604C.110:

(a) A consumer may pay only one document preparation fee per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim; and

(b) A consumer litigation funding company shall not charge a document preparation fee if the consumer has previously paid a document preparation fee with regard to the legal claim.

4. *Pursuant to NRS 604C.310, the amount to be paid to a company under a consumer litigation funding contract must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually. If, pursuant to subsection 1 of NRS 604C.360, the payment schedule in a consumer litigation funding contract contains multiple 180-day periods in 1 year, the charges for the consumer litigation funding contract for each 180-day period must not exceed a cumulative rate of 40 percent annually.*

Sec. 4. *If a consumer mails a notice of cancellation to the consumer litigation funding company pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 604C.350 and*

subsection 2 of NRS 604C.360 or if a consumer notifies the consumer litigation funding company as described in subsection 3 of NRS 604C.360, the consumer litigation funding company shall forward such notices to the attorney or law firm retained by the consumer in the legal claim of the consumer not later than 1 business day after receipt of the notice.

Sec. 5. The acknowledgement described in paragraph (g) of subsection 3 of NRS 604C.370 must be signed by the consumer, the attorney retained by the consumer in the legal claim and the consumer litigation funding company at the same time.

Sec. 6. As set forth in a consumer litigation funding contract pursuant to subsection 4 of NRS 604C.360, a consumer litigation funding company shall not collect:

- 1. Anything if there are no proceeds from the legal claim; and*
- 2. Any amount above the available proceeds from the legal claim if the funded amount and agreed upon charges exceed the proceeds from the legal claim.*

Sec. 7. 1. Intentionally advertising materially false or misleading information pursuant to paragraph (c) of subsection 1 of NRS 604C.300 includes, without limitation, advertising by use of false or deceptive statements, results or testimonials.

2. A consumer litigation funding company shall not advertise in any manner that:
(a) May tend to confuse the identity of the company with any other consumer litigation funding company; or

(b) States or implies that a consumer litigation funding contract of a prospective consumer with another company will be paid off or that the charges or fees for the consumer litigation funding contract will be reduced if the consumer litigation funding contract is transferred to the consumer litigation funding company which is advertising.

3. No unethical advertising by consumer litigation funding companies will be permitted and the Commissioner reserves the right to require all consumer litigation funding companies

to submit proposed advertising for approval before its dissemination through the press, or by radio, television or the Internet.

Sec. 8. 1. *To file a consumer litigation funding contract with the Commissioner pursuant to subsection 5 of NRS 604C.300, a consumer litigation funding company must submit the contract to the Commissioner for approval:*

- (a) When the applicant submits his or her application to obtain a license to engage in the business of a consumer litigation funding company;*
- (b) When a consumer litigation funding company makes any changes to the consumer litigation funding contract;*
- (c) If requested by the Commissioner or his or her authorized representative when making an examination pursuant to NRS 604C.610;*
- (d) If requested by the Commissioner when the licensee submits the report required by NRS 604C. 640; and*
- (e) At the request of the Commissioner or his or her authorized representative.*

2. *The consumer litigation funding contract filed pursuant to subsection 1 is a template and must comply with NRS 604C.300 to 604C.400, inclusive, except that the provisions concerning the details of individual consumer litigation funding transactions, including, without limitation, signatures, initials and the amount of the consumer litigation funding transaction, may be left blank. Any required details left blank must be filled in when the consumer litigation funding contract is used to establish a consumer litigation funding transaction.*

3. *A consumer litigation funding contract filed:*

- (a) Pursuant to paragraph (a) of subsection 1 is deemed approved by the Commissioner when the Commissioner issues and delivers a license to the applicant pursuant to NRS*

604C.560;

(b) Pursuant to paragraph (b) of subsection 1 is deemed approved by the Commissioner 30 days after the consumer litigation funding company files the changes to the consumer litigation funding contract with the Commissioner unless the Commissioner notifies the consumer litigation funding company in writing that the changes are not approved or need to be amended; and

(c) Pursuant to paragraph (c), (d) or (e) of subsection 1 is deemed approved by the Commissioner upon the filing of the consumer litigation funding contract with the Commissioner. Such approval may be revoked by the Commissioner not later than 30 days after:

(1) Such filing if the consumer litigation funding contract fails to conform to the requirements of subsection 2; or

(2) An investigation or examination made at the office or place of business of the consumer litigation funding company if the consumer litigation funding company fails to comply with the provisions of this chapter and chapter 604C of NRS.

Sec. 9. *Except as otherwise provided in paragraph (c) of subsection 1 of NRS 604C.350 and subsection 2 of NRS 604C.360, once a consumer litigation funding contract is entered into between a consumer and a consumer litigation funding company, the consumer litigation funding company may communicate with the consumer through electronic mail if the consumer consents in writing in the consumer litigation funding contract to such communication through electronic mail.*

Sec. 10. 1. *A licensee that uses a form or a consumer litigation funding contract written in a language other than English shall have the document translated into English and shall maintain a copy of the document with 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 of Financial Institutions of the Department of Business and Industry.

(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 a language other than English;

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

(3) Include the date of the 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. 11. *Each licensee who operates an office or other place of business within this State that is licensed pursuant to chapter 604C of NRS shall make available at the office or place of business within this State the books, accounts, papers, records and files of the office or place of business to the Commissioner or a representative of the Commissioner.*

Sec. 12. 1. *An application submitted to the Commissioner pursuant to NRS 604C.500 must be accompanied by:*

(a) A nonrefundable fee of \$1,000 for the application and survey;

(b) A nonrefundable investigation fee of \$50 for investigating each individual owner, partner, officer, director and manager or member who acts in a managerial capacity of the business entity applying to be a licensee; and

(c) An initial licensing fee of \$1,000.

2. If the Commissioner considers an application withdrawn pursuant to subsection 3 of NRS 604C.500 and the initial licensing fee set forth in paragraph (c) of subsection 1 has been submitted to the Commissioner or if the Commissioner does not grant an application pursuant to NRS 604C.560, the Commissioner shall refund the fee paid pursuant to paragraph (c) of subsection 1 to the applicant not later than 30 days after the withdrawal or denial.

Sec. 13. *Upon entering an order granting an application pursuant to NRS 604C.560, the Commissioner will issue and deliver a license to the licensee for each location proposed pursuant to paragraph (d) of subsection 1 of NRS 604C.500. The licensee shall prominently display the license at each location where the licensee proposed to do business pursuant to paragraph (d) of subsection 1 of NRS 604C.500.*

Sec. 14. *1. A licensee who wishes to change the name of the licensee or change an officer, director or manager or member who acts in a managerial capacity of the licensee must, not later than 10 days before making the change, give written notice of the proposed change to the Commissioner.*

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

Sec. 15. *1. A partner, officer, director, manager or member who acts in a managerial capacity and registered agent of the business entity, if applicable, must satisfy the requirements of NRS 604C.510 at the time a business entity applies for a license pursuant to paragraph (b) of subsection 1 of NRS 604C.500.*

2. If the provisions of subsection 1 are not satisfied, the Commissioner will not issue a license to the business entity pursuant to NRS 604C.560.

Sec. 16. *A person shall not engage in the business of a consumer litigation funding company unless:*

- 1. The person has been issued a license pursuant to NRS 604C.560; and*
- 2. The location of each office of the business complies with the provisions of any applicable planning and zoning ordinances.*

Sec. 17. *1. A license issued pursuant to NRS 604C.560 expires January 31 of the year following its issuance and expires on January 31 of each year thereafter.*

2. On or before January 31 of each year, a licensee may renew his or her license upon the approval of the Commissioner if:

- (a) The licensee files an application showing that the licensee conforms with the requirements for an initial application as set forth in this chapter and chapter 604C of NRS; and*
- (b) The licensee pays a fee of \$1,000 for the renewal of the license.*

3. If a licensee fails to renew his or her license pursuant to subsection 2 on or before January 31 of each year, the Commissioner will deem the license to be suspended. A licensee shall not engage in the business of a consumer litigation funding company if his or her license is suspended.

4. The Commissioner may reinstate a license that is suspended pursuant to subsection 3 if the licensee whose license is suspended, within 10 business days after his or her license is suspended:

- (a) Notifies the Commissioner of his or her intent to reinstate the license;*
- (b) Submits an application pursuant to paragraph (a) of subsection 2; and*
- (c) Submits the fee pursuant to paragraph (b) of subsection 2.*

5. *If a licensee fails to reinstate his or her license pursuant to subsection 4, the Commissioner will deem the license to be revoked. A licensee whose license is revoked shall apply for and obtain a new license pursuant to this chapter and chapter 604C of NRS before he or she may engage in the business of a consumer litigation funding company.*

6. *It is the responsibility of the licensee to renew a license issued pursuant to this chapter and chapter 604C of NRS on or before January 31 of each year. A lack of notice from the Commissioner to any person concerning the expiration of a license or the need to renew a license is not justification or excuse for failure to renew a license on or before January 31 and does not constitute grounds for a waiver of any of the requirements of this chapter or chapter 604C of NRS.*

Sec. 18. 1. *The Commissioner will charge and collect a fee of \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 604C of NRS.*

2. *The Commissioner will bill each licensee upon completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. In addition to any other fee allowed by this chapter or chapter 604C of NRS, and 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 licensee to pay the fee required in subsection 1 as a provided in this section constitutes grounds for revocation of his or her license.*

Sec. 19. 1. *Except as otherwise provided in NAC 658.030, each licensee shall pay to the Division of Financial Institutions of the Department of Business and Industry an annual*

assessment of \$300 to cover costs related to the employment of a certified public accountant and the performance of audits and examinations conducted by the Division.

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

3. In addition to any other fee allowed by this chapter or chapter 604C of NRS, 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. 20. *1. Each licensee shall pay to the Division of Financial Institutions of the Department of Business and Industry the assessment to cover the costs of legal services provided by the Attorney General to the Commissioner and the Division which is imposed pursuant to NRS 659.098.*

2. The Division shall bill each licensee for the assessment described in subsection 1. The licensee shall pay the assessment within 30 days after the date on which the licensee receives the bill.

3. A charge of 10 percent of the assessment described in subsection 1 will be imposed on any licensee if payment for an assessment described in subsection 1 is received by the Division after the date on which the assessment is due.

4. Failure to pay the assessment described in subsection 1 constitutes grounds for the revocation of the license of the licensee.

Sec. 21. *The report due on or before January 31 pursuant to NRS 604C.640 must:*

1. Be filed:

(a) With the Commissioner with the application for renewal required pursuant to section 17 of this regulation; and

(b) On a form prescribed by the Commissioner; and

2. In addition to the number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year pursuant to paragraph (a) of subsection 1 of NRS 604C.640, contain for each consumer litigation funding transaction:

(a) The name of the consumer;

(b) The funded amount for each consumer; and

(c) A detail of all charges and the document preparation fee charged to each consumer.

Sec. 22. Except as otherwise provided in subsection 3 of NRS 604C.640, an application for a license and financial records, if any, submitted by an applicant pursuant to the provisions of this chapter and chapter 604C of NRS, financial records or other documents submitted by a licensee pursuant to an audit, examination or investigation conducted by the Commissioner and any report of examination made by the Commissioner are confidential and may be disclosed only to an authorized employee of the Division of Financial Institutions of the Department of Business and Industry or an agency of this State, any other state or Federal Government that is investigating the activities of an applicant or a licensee or a court upon a court order.

Sec. 23. 1. Upon the receipt of a complaint filed pursuant to NRS 604C.820, the Commissioner shall send a copy of the complaint to the licensee named in the complaint.

2. The Commissioner may require the accused licensee or authorized representative of the licensee to file a verified answer to the complaint within 10 business days after sending the copy of the complaint pursuant to subsection 1. The Commissioner may, for good cause shown, extend the time to file a verified answer for a period not to exceed 60 days.

3. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time prescribed by the Commissioner pursuant to subsection 2, the licensee is deemed to have admitted to the allegations contained in the complaint.

4. *Subject to the discretion of the Commissioner and except as otherwise provided in section 22 of this regulation, a complaint filed with the Commissioner, any documents filed with the complaint and any report or information resulting from an investigation of a complaint are confidential.*

Sec. 24. 1. *For the purpose of NRS 604C.820, a licensee shall post the notice set forth in subsection 2. The following conditions apply to the notice:*

(a) *If printed, the notice shall be printed in at least 16-point bold type or font with all upper-case letters being printed in at least 18-point type or font.*

(b) *If handwritten or displayed digitally or by other electronic means, the notice must be in characters that are equivalent in legibility and size to the type and font required for a printed notice.*

(c) *If the licensee uses a language other than English for the consumer litigation funding contract, the notice must be posted in English and also in the language other than English.*

2. *The following notice shall be posted on the Internet website of the licensee, at the physical location where the licensee conducts business and within the body of the consumer litigation funding contract. The notice shall be in substantially the following form:*

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

You may file a written complaint with the Commissioner of Financial Institutions by submitting a signed complaint to the Office of the Commissioner. The form required to file a complaint can be found on the following Internet website for Financial Institutions: www.fid.nv.gov. You can also request the form by calling the following tollfree telephone number: 1 (866) 858-8951.

Sec. 25. 1. *If the Commissioner finds that a licensee's records are not maintained pursuant to NRS 604C.600 to 604C.640, inclusive, the Commissioner may require the licensee to deliver an audited 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.*

2. The statement required pursuant to subsection 1 must be submitted within 60 days after the Commissioner requests the statement. The Commissioner may grant a reasonable extension for the submission if the extension is requested before the statement is due.

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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.



DECLARATION OF EMERGENCY
DIRECTIVE 006

WHEREAS, on March 12, 2020, I, Steve Sisolak, Governor of the State of Nevada issued a Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States declared a nationwide emergency pursuant to Sec. 501 (b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"); and

WHEREAS, the World Health Organization and United States Centers for Disease Control and Prevention have advised that there is a correlation between density of persons gathered and the risk of transmission of COVID-19; and

WHEREAS, close proximity to other persons is currently contraindicated by public health and medical best practices to combat COVID-19; and

WHEREAS, recreational social gatherings unnecessarily extend periods of interpersonal contact and promulgates spread of COVID-19; and

WHEREAS, certain non-essential activities result in the congregation of persons for extended periods of time; and

WHEREAS, NRS 414.060 outlines powers and duties delegated to the Governor during the existence of a state of emergency, including without limitation, directing and controlling the conduct of the general public and the movement and cessation of movement of pedestrians and vehicular traffic during, before and after exercises or an emergency Of disaster, public meetings Of gatherings; and

WHEREAS, Nevada Revised Statutes 414.060(3) states: "In performing his Of her duties under this chapter and to effect its policy and purpose, the Governor may: (a) Make, amend and rescind the necessary orders and regulations to carry out the provisions of this chapter within the limits

of the authority conferred upon the Governor in this chapter, with due consideration of the plans provided by the Federal Government;" and

WHEREAS, NRS 414.070 outlines additional powers delegated to the Governor during the existence of a state of emergency, including without limitation, enforcing all laws and regulations relating to emergency management and assuming direct operational control of any or all forces, including, without limitation, volunteers and auxiliary staff for emergency management in the State; providing for and compelling the evacuation of all Of part of the population from any stricken or threatened area Of areas within the State and to take such steps as are necessary for the receipt and care of those persons; and performing and exercising such other functions, powers and duties as are necessary to promote and secure the safety and pf0tection of the civilian population; and

WHEREAS, on March 15, 2020, I directed executive branch agencies to close state offices to the public and to wind down in-person public services and to the extent practicable, transition services to online and over-the-phone services; and

WHEREAS, Nevada Revised Statutes 241.010 provides that "[i]n enacting this chapter, the Legislature finds and declares that all public bodies exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly;" and

WHEREAS, the continued operations of state public bodies are essential to the State of Nevada; and

WHEREAS, on March 20, 2020, I issued Declaration of Emergency Directive 003 that ordered the closure of all Non-Essential Businesses by 11:59 p.m. on March 20, 2020, authorized criminal and civil penalties of Non-Essential Businesses that continued to operate in violation of that order, and authorized all local, city, and county governments along with the Office of the Attorney General to enforce that Directive; and

WHEREAS, immediate enforcement of Declaration of Emergency Directive 003 is vital to protect the Health and Safety of the public:

NOW THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the State of Nevada and the United States, and pursuant to the March 12, 2020, Emergency Declaration,

IT IS HEREBY ORDERED THAT:

SECTION 1: requirement contained in NRS 241.023(1)(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended.

SECTION 2: If a public body holds a meeting by means of teleconference Of videoconference and a physical location where members of the public can attend is not provided, the public body must provide a means for the public to provide public comment, and post that means on the public notice agenda posted in accordance with NRS 241.020. Public comment options may include, without limitation, telephonic or email comment.

SECTION 3: The requirements contained in NRS 241.020(4)(a) that public notice agendas be posted at physical locations within the State of Nevada are suspended.

SECTION 4: Public bodies must still comply with the requirements in NRS 241.020(4)(b) and NRS 241.020(4)(c) that public notice agendas be posted to Nevada's notice website and the public body's website, if it maintains one along with providing a copy to any person who has requested one via U.S. mail Of electronic mail.

SECTION 5: The requirement contained in NRS 241.020(3)(c) that physical locations be available for the public to receive supporting material fof public meetings is suspended.

SECTION 6: If a public body holds a meeting and does not provide a physical location where supporting material is available to the public, the public body must provide on its public notice agenda the name and contact information for the person designated by the public body from whom a member of the public may request supporting material electronically and must post supporting material to the public body's website, if it maintains one.

SECTION 7: A public body that holds a meeting pursuant to this Executive Order must ensure that any party entitled to or required to appear before it shall be able to do so through remote means and fully able to participate in the agenda items that pertain to them.

SECTION 8: The requirements of NRS 241.033, NRS 241.034 are suspended for any actions necessary to enforce Declaration of Emergency Directive 003 against entities, owners, representatives, agents, or employees that continue to operate or assist in operation after 11:59 p.m. on March 2020. Public bodies enforcing Declaration of Emergency Directive 003 against entities, owners, agents, or employees pursuant to this section shall provide the responding party with at least 24 hours notice of a meeting to take action; and

SECTION 9: Public bodies may enforce Declaration of Emergency Directive 003 at an emergency meeting as authorized by NRS 241.020(11) and may make use of all other amendments to NRS chapter 241 included in this Executive Order.

SECTION 10: This Directive shall remain in effect until April 16, 2020, unless renewed by a subsequent Directive promulgated pursuant to the March 12, 2020 Declaration of Emergency to facilitate the State's response to the COVID-19 pandemic.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Nevada to be affixed at the State Capitol in Carson City, this 22nd day of March,

in the year two thousand twenty.



Governor of the State of Nevada

Barbara K. Cegavske

Secretary of State

Scott K. Kubler

Deputy Secretary of State