

ASSEMBLY BILL NO. 75—ASSEMBLYMAN YEAGER

PREFILED JANUARY 30, 2023

Referred to Committee on Judiciary

SUMMARY—Revises certain requirements relating to securities. (BDR 7-145)

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

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

AN ACT relating to securities; defining “Nevada certified investor”; authorizing the Administrator of the Securities Division of the Office of the Secretary of State, who is the Deputy of Securities, to adopt certain regulations **;** ~~[in consultation with the Office of Economic Development; revising the information that must be included in a registration statement for a security that may be registered by qualification; exempting a person who files a registration statement for a security that may be registered by qualification from paying any fees associated with that filing;]~~ providing for an exemption from certain requirements concerning the registration of securities for certain transactions involving an offer to sell or sale of a security by certain issuers who are residents of this State to a Nevada certified investor; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing federal law, with certain exceptions, prohibits a person from engaging in certain activities relating to offering to sell or selling a security unless the security is registered with the Securities and Exchange Commission. (15 U.S.C. § 77e) Existing federal law creates an exemption from this requirement for a security which is part of an issue offered or sold only to persons who are residents of the same state of which the issuer is also a resident and doing business within or, if the issuer is a corporation, incorporated by and doing business within. (15 U.S.C. § 77c(a)(11)) Existing federal regulations set forth: (1) requirements that an issuer must meet to be deemed to be a resident of and doing business within a state where the issuer offers and sells securities; and (2) various other requirements for transactions involving intrastate offers or sales of securities for the transaction to qualify for the exemption from the federal registration requirements. (17 C.F.R. §§ 230.147, 230.147A)

Existing state law prohibits a person from offering to sell or selling any security in this State unless the security meets certain registration requirements or the security transaction is exempt from the registration requirements. (NRS 90.460) **Section 5** of this bill creates an exemption from those state registration requirements for certain transactions involving an offer to sell or sale of a security to a Nevada certified investor. **Section 2** of this bill defines “Nevada certified investor” to mean, in general, a natural person who is, or a married couple who each are, a resident of this State and who meets certain financial qualifications. Under **section 5**, a transaction involving an offer to sell or sale of a security to a Nevada certified investor is exempt from the registration requirements provided under existing state law if: (1)

the transaction meets the requirements for the federal exemption for intrastate offers and sales of securities; (2) the transaction meets any other requirements established by regulations adopted by the Administrator of the Securities Division of the Office of the Secretary of State, who is the Deputy of Securities, pursuant to **section 3** of this bill; (3) the transaction involves certain types of Nevada certified investors, the ~~total amount paid by~~ **transaction would not result in** the Nevada certified investor ~~for all of the securities involved in the transaction does not exceed~~ **investing more than** 10 percent of the net worth of the investor ~~subject to certain requirements concerning the net worth of the investor;~~ **in securities purchased in transactions exempt pursuant to section 3; and** (4) ~~the transaction is part of an issue in which not more than 75 purchasers are Nevada certified investors; and~~ (5) the person offering to sell or selling the security first undergoes a criminal background check ~~and~~ **submits certain information to the Administrator and makes certain information available to Nevada certified investors.**

Section 3 authorizes the Administrator ~~in consultation with the Office of Economic Development within the Office of the Governor;~~ to adopt regulations establishing additional requirements for transactions involving an offer to sell or sale of a security to a Nevada certified investor to qualify for an exemption from the registration requirements pursuant to **section 5**.

Section 4 of this bill makes a conforming change to indicate the proper placement of **section 2** in the Nevada Revised Statutes.

Existing law authorizes the registration of a security by qualification and requires the registration statement for such a security to contain certain information relating to the issuer and certain other persons. (NRS 90.490) **Section 4.5** of this bill revises the information which is required to be included in the registration statement.

~~Existing law sets forth certain fees associated with the filing of a registration statement or an amendment to a registration statement. (NRS 90.500) Section 4.7 of this bill exempts a person who files a registration statement to register a security by qualification or an amendment to such a registration statement from paying any fees associated with such filings. Sections 4.1 4.9 and 5.5 make conforming changes to revise certain internal references.~~

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. “Nevada certified investor” means a natural person who is, or a married couple who each are, a resident of this State and who, at the time an offer to sell or sale of a security is made to the person or couple:

(a) Holds an ownership interest of more than 50 percent in a business that has reported a gross revenue of more than \$200,000 or 2 1/2 times the median household income, whichever is greater, on each federal income tax return filed for the 2 immediately preceding calendar years; or

(b) Has reported an income on the federal income tax return of the person or couple filed for the immediately preceding calendar year that exceeds ~~[\$100,000]~~ the greater of:

(1) One hundred thousand dollars, if the person filed an individual federal income tax return, or \$150,000, if the couple jointly filed a federal income tax return; or ~~the~~

(2) The median household income, ~~which is greater.~~

2. As used in this section, “median household income” means the median household income in this State, as identified in the most recent data from the American Community Survey published by the Bureau of the Census of the United States Department of Commerce or as determined by the Administrator based on another source of data specified by the Administrator by regulation.

1 **Sec. 3.** ~~The Administrator may, in consultation with the Office of~~
2 ~~Economic Development,~~ adopt regulations that set forth additional requirements
3 for transactions involving an offer to sell or sale of a security to a Nevada
4 certified investor that must be met for the transaction to qualify for an exemption
5 pursuant to subsection 22 of NRS 90.530. Such regulations may include, without
6 limitation, provisions establishing minimum qualifications for an issuer who
7 engages in such a transaction ~~and~~ and additional requirements concerning the
8 process by which such an issuer shall submit to the Administrator and make
9 available to a Nevada certified investor the information required by subsection 22
10 of NRS 90.530.

11 **Sec. 4.** NRS 90.211 is hereby amended to read as follows:

12 90.211 As used in this chapter, unless the context otherwise requires, the
13 words and terms defined in NRS 90.215 to 90.309, inclusive, and section 2 of this
14 act have the meanings ascribed to them in those sections.

15 **Sec. 4.1.** ~~NRS 90.470 is hereby amended to read as follows:~~

16 ~~— 90.470 1. Securities for which a registration statement has been filed under~~
17 ~~the Securities Act of 1933 in connection with the offering of the securities may be~~
18 ~~registered by filing, whether or not they are also eligible for registration under NRS~~
19 ~~90.480 or 90.490, if:~~

20 ~~— (a) The issuer is organized under the laws of the United States or a state or, if~~
21 ~~the issuer is not organized under the laws of the United States or a state, it has~~
22 ~~appointed a duly authorized agent in the United States for service of process;~~

23 ~~— (b) The issuer has actively engaged in business operations in the United States~~
24 ~~for a period of at least 36 consecutive calendar months immediately before the~~
25 ~~filing of the federal registration statement;~~

26 ~~— (c) The issuer has registered a class of equity securities under section 12(b) or~~
27 ~~12(g) of the Securities Exchange Act of 1934, and the class of securities is held of~~
28 ~~record by 500 or more persons;~~

29 ~~— (d) The issuer has:~~

30 ~~— (1) Either a total net worth of \$4,000,000 or a total net worth of \$2,000,000~~
31 ~~and not pretax income from operations before allowances for extraordinary items,~~
32 ~~for at least 2 of the 3 preceding fiscal years;~~

33 ~~— (2) Not less than 400,000 units of the class of security registered under~~
34 ~~section 12 of the Securities Exchange Act of 1934 held by the public, excluding~~
35 ~~securities held by officers and directors of the issuer, underwriters and persons~~
36 ~~beneficially owning 10 percent or more of that class of security; and~~

37 ~~— (3) No outstanding warrants and options held by the underwriters and~~
38 ~~executive officers and directors of the issuer in an amount exceeding 10 percent of~~
39 ~~the total number of shares to be outstanding after completion of the offering of the~~
40 ~~securities being registered;~~

41 ~~— (e) The issuer has been subject to the requirements of section 12 of the~~
42 ~~Securities Exchange Act of 1934 and has filed all the material required to be filed~~
43 ~~under sections 13 and 14 of that act for at least 36 consecutive calendar months~~
44 ~~immediately before the filing of the statement and the issuer has filed in a timely~~
45 ~~manner all reports required to be filed during the 12 calendar months next~~
46 ~~preceding the filing of the federal registration statement;~~

47 ~~— (f) For at least 30 days during the 3 months next preceding the offering of the~~
48 ~~securities registered there have been at least four market makers for the class of~~
49 ~~equity securities registered under section 12 of the Securities Exchange Act of~~
50 ~~1934;~~

51 ~~— (g) Each of the underwriters participating in the offering of the security and~~
52 ~~each broker dealer who will offer the security in this State is a member of or is~~
53 ~~subject to the regulations of fair practice of a national association of securities~~

1 ~~dealers with respect to the offering and the underwriters have contracted to~~
2 ~~purchase the securities offered in a principal capacity;~~

3 ~~— (h) The aggregate commissions or discounts to be received by the underwriters~~
4 ~~will not exceed 10 percent of the aggregate price at which the securities being~~
5 ~~registered are offered to the public;~~

6 ~~— (i) Neither the issuer nor any of its subsidiaries, since the end of the fiscal year~~
7 ~~next preceding the filing of the registration statement, have:~~

8 ~~— (1) Failed to pay a dividend or sinking fund installment on preferred stock;~~

9 ~~— (2) Defaulted on indebtedness for borrowed money; or~~

10 ~~— (3) Defaulted on the rental on one or more long-term leases, and the~~
11 ~~defaults in the aggregate are material to the financial position of the issuer and its~~
12 ~~subsidiaries, taken as a whole; and~~

13 ~~— (j) In the case of an equity security, the price at which the security will be~~
14 ~~offered to the public is not less than \$5 per share.~~

15 ~~2. A registration statement under this section must contain the following~~
16 ~~information and be accompanied by the following records in addition to the~~
17 ~~information specified in subsection [4] 5 of NRS 90.500 and the consent to service~~
18 ~~of process required by NRS 90.770:~~

19 ~~— (a) A statement demonstrating eligibility for registration by filing;~~

20 ~~— (b) The name, address and form of organization of the issuer;~~

21 ~~— (c) With respect to a person on whose behalf a part of the offering is to be~~
22 ~~made in a nonissuer distribution:~~

23 ~~— (1) Name and address;~~

24 ~~— (2) The amount of securities of the issuer held by the person as of the date~~
25 ~~of the filing of the registration statement; and~~

26 ~~— (3) A statement of the reasons for making the offering;~~

27 ~~— (d) A description of the security being registered; and~~

28 ~~— (e) A copy of the latest prospectus filed with the registration statement under~~
29 ~~and satisfying the requirements of section 10 of the Securities Act of 1933.~~

30 ~~3. If the information and records required to be filed by subsection 2 have~~
31 ~~been on file with the Administrator for at least 5 business days, or any shorter~~
32 ~~period the Administrator allows by regulation or order, and the applicable~~
33 ~~registration fee has been paid before the effectiveness of the federal registration~~
34 ~~statement, a registration statement under this section automatically becomes~~
35 ~~effective concurrently with the effectiveness of the federal registration statement. If~~
36 ~~the federal statement becomes effective before the conditions in this section are~~
37 ~~satisfied and they are not waived, the registration statement becomes effective when~~
38 ~~the conditions are satisfied. The registrant shall promptly notify the Administrator~~
39 ~~by telephone or telegram of the date and time when the federal registration~~
40 ~~statement became effective and the content of the price amendment, if any, and~~
41 ~~shall file promptly a posteffective amendment containing the information and~~
42 ~~records in the price amendment. The Administrator shall promptly acknowledge~~
43 ~~receipt of notification and effectiveness of the registration statement as of the date~~
44 ~~and time the registration statement became effective with the Securities and~~
45 ~~Exchange Commission.] **(Deleted by amendment.)**~~

46 **Sec. 4.3.** ~~[NRS 90.480 is hereby amended to read as follows:~~

47 ~~— 90.480 1. Securities for which a registration statement has been filed under~~
48 ~~the Securities Act of 1933 in connection with the offering of the securities may be~~
49 ~~registered by coordination.~~

50 ~~— 2. A registration statement under this section must contain the following~~
51 ~~information and be accompanied by the following records in addition to the~~
52 ~~information specified in subsection [4] 5 of NRS 90.500 and the consent to service~~
53 ~~of process required by NRS 90.770:~~

1 ~~— (a) One copy of the latest form of prospectus filed under the Securities Act of~~
2 ~~1933;~~

3 ~~— (b) If the Administrator by regulation or order requires:~~

4 ~~— (1) A copy of the articles of incorporation and bylaws, or their substantial~~
5 ~~equivalents, currently in effect;~~

6 ~~— (2) A copy of any agreement with or among underwriters;~~

7 ~~— (3) A copy of any indenture or other instrument governing the issuance of~~
8 ~~the security to be registered; and~~

9 ~~— (4) A copy, specimen or description of the security;~~

10 ~~— (c) If the Administrator requests and subject to the provisions of NRS 90.730,~~
11 ~~any other information or copies of any other records filed under the Securities Act~~
12 ~~of 1933; and~~

13 ~~— (d) An undertaking to forward promptly and in any event not later than the first~~
14 ~~business day after the day they are forwarded to or filed with the Securities and~~
15 ~~Exchange Commission, all future amendments to the federal prospectus, other than~~
16 ~~an amendment that delays the effective date of the registration statement, whichever~~
17 ~~occurs first.~~

18 ~~3. A registration statement under this section becomes effective when the~~
19 ~~federal registration statement becomes effective and all the following conditions are~~
20 ~~satisfied:~~

21 ~~— (a) No order is in effect, and no proceeding is pending, under NRS 90.510;~~

22 ~~— (b) The registration statement has been on file with the Administrator for at~~
23 ~~least 10 days, but if the registration statement is not filed with the Administrator~~
24 ~~within 5 days after the initial filing under the Securities Act of 1933, the~~
25 ~~registration statement must have been on file with the Administrator for 30 days or~~
26 ~~any shorter period as the Administrator by regulation or order specifies; and~~

27 ~~— (c) A statement of the maximum and minimum proposed offering prices and~~
28 ~~the maximum underwriting discounts and commissions has been on file for 2 full~~
29 ~~business days or any shorter period the Administrator permits and the offering is~~
30 ~~made within those limitations.~~

31 ~~4. The registrant shall promptly notify the Administrator of the date and time~~
32 ~~when the federal registration statement became effective and the content of the~~
33 ~~price amendment, if any, and shall promptly file a posteffective amendment~~
34 ~~containing the information and records in the price amendment.~~

35 ~~5. Upon failure to receive the required notification and posteffective~~
36 ~~amendment with respect to the price amendment, the Administrator may enter an~~
37 ~~order, retroactively denying effectiveness to the registration statement or~~
38 ~~suspending its effectiveness until the registrant complies with subsection 4. The~~
39 ~~Administrator shall promptly notify the registrant of the issuance of the order. If the~~
40 ~~registrant proves compliance with the requirements of subsection 4 as to notice and~~
41 ~~posteffective amendment, the order is void as of its entry.~~

42 ~~6. The Administrator by regulation or order may waive either or both of the~~
43 ~~conditions specified in paragraphs (b) and (c) of subsection 3.~~

44 ~~7. If the federal registration statement becomes effective before all the~~
45 ~~conditions in subsection 3 are satisfied and they are not waived, the registration~~
46 ~~statement automatically becomes effective when all the conditions are satisfied. If~~
47 ~~the registrant advises the Administrator of the date when the federal registration~~
48 ~~statement is expected to become effective, the Administrator shall promptly advise~~
49 ~~the registrant, at the registrant's expense, whether all conditions are satisfied and~~
50 ~~whether the Administrator then contemplates the institution of a proceeding under~~
51 ~~NRS 90.510, but the advice by the Administrator does not preclude the institution~~
52 ~~of a proceeding for an order suspending the effectiveness of the registration~~
53 ~~statement. An order issued under this subsection is not retroactive.~~

~~8. The Administrator by regulation or order may waive or modify the application of a requirement of this section if a provision or an amendment, repeal or other alteration of the provisions of the Securities Act of 1933 for the registration of securities or of the regulations adopted under that act renders the waiver or modification appropriate for further coordination of state and federal registration.~~
(Deleted by amendment.)

Sec. 4.5. NRS 90.490 is hereby amended to read as follows:

90.490 1. A security may be registered by qualification.

2. A registration statement under this section must contain the following information and be accompanied by the following records in addition to the information specified in subsection ~~4~~ ~~(b)~~ of NRS 90.500 and the consent to service of process required by NRS 90.770:

(a) With respect to the issuer and any significant subsidiary:

- (1) Its name, address and form of organization;
- (2) The state or foreign jurisdiction and date of its organization;
- (3) The general character and location of its business;
- (4) A description of its physical property and equipment; and
- (5) A statement of the general competitive conditions in the industry or business in which it is or will be engaged;

(b) With respect to every director and officer of the issuer or person occupying a similar status or performing similar functions:

- (1) Name ~~and~~ address ~~and~~ principal occupation for the last 5 years;
- (2) The amount of securities of the issuer held by the person as of a specified date within 30 days before the filing of the registration statement;
- (3) The amount of the securities covered by the registration statement to which the person has indicated an intention to subscribe; and
- (4) A description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past 3 years or proposed to be effected ~~;~~ ~~including, without limitation, compensation provided to the person or that is proposed to be provided to the person by the issuer or the significant subsidiary;~~

(c) With respect to persons covered by paragraph (b), the compensation paid or given, directly or indirectly, during the last 12 months and estimated to be paid during the next 12 months by the issuer together with all predecessors, parents, subsidiaries and affiliates, to all those persons in the aggregate;

(d) With respect to any person owning of record, or beneficially if known, 10 percent or more of the outstanding shares of a class of equity security of the issuer, the information specified in paragraph (b) ~~;~~ ~~other than occupation;~~

~~(e)~~ ~~(f)~~

~~(d)~~ With respect to a promoter, *if such a promoter exists, and* if the issuer was organized within the last 3 years:

- (1) The information specified in paragraph (b);
 - (2) The amount paid to the person within that period or intended to be paid;
- and
- (3) The consideration for the payment;

(f) With respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution:

- (1) Name and address;
- (2) The amount of securities of the issuer held by the person as of the date of the filing of the registration statement;
- (3) A description of any material interest in any material transaction with the issuer or any significant subsidiary effected within the past 3 years or proposed to be effected; and

1 (4) A statement of the reasons for making the offering:

2 (g) ~~(e)~~ The capitalization and long-term debt, on both a current and a pro
3 forma basis, of the issuer and any significant subsidiary, including a description of
4 each security outstanding or being registered or otherwise offered, and , *if*
5 *applicable*, a statement of the amount and kind of consideration, whether in the
6 form of cash, physical assets, services, patents, goodwill or anything else, for which
7 the issuer or a subsidiary has issued its securities within the last 2 years or is
8 obligated to issue its securities;

9 (h) ~~(f)~~ The kind and amount of securities to be offered, the proposed offering
10 price or the method by which it is to be computed, any variation therefrom at which
11 a proportion of the offering is to be made to a person or class of persons other than
12 the underwriters, with a specification of the person or class, the basis upon which
13 the offering is to be made if otherwise than for cash, the estimated aggregate
14 underwriting and selling discounts or commissions and finder's fees, including
15 separately cash, securities, contracts or anything else of value to accrue to the
16 underwriters or finders in connection with the offering or, if the selling discounts or
17 commissions are variable, the basis of determining them and their maximum and
18 minimum amounts, the estimated amounts of other selling expenses, including
19 legal, engineering and accounting charges, the name and address of every
20 underwriter and every recipient of a finder's fee, a copy of any underwriting or
21 selling-group agreement pursuant to which the distribution is to be made, or the
22 proposed form of the agreement whose terms have not yet been determined, and a
23 description of the plan of distribution of securities that are to be offered otherwise
24 than through an underwriter;

25 (i) ~~(g)~~ The estimated cash proceeds to be received by the issuer from the
26 offering, the purposes for which the proceeds are to be used by the issuer, the
27 amount to be used for each purpose, the order of priority in which the proceeds will
28 be used for the purposes stated, the amounts of funds to be raised from other
29 sources to achieve the purposes stated, the sources of the funds, and, if part of the
30 proceeds is to be used to acquire property, including goodwill, otherwise than in the
31 ordinary course of business, the names and addresses of the vendors, the purchase
32 price, the names of the persons who have received commissions in connection with
33 the acquisition and the amounts of commissions and any other expense in
34 connection with the acquisition, including the cost of borrowing money to finance
35 the acquisition;

36 (j) ~~(h)~~ A description of the stock options or other security options
37 outstanding or to be created in connection with the offering and the amount of the
38 options held or to be held by every person required to be named in paragraph (b),
39 ~~(e)~~ (d) , (e), ~~(f)~~ (f) or (h) and by a person who holds or will hold 10 percent or
40 more in the aggregate of the options;

41 (k) ~~(i)~~ The dates of, parties to and general effect, concisely stated, of every
42 management or other material contract made or to be made otherwise than in the
43 ordinary course of business if it is to be performed in whole or in part at or after the
44 filing of the registration statement or was made within the last 2 years, and a copy
45 of the contract;

46 (l) ~~(j)~~ A description of any pending litigation or proceedings to which the
47 issuer is a party and that materially affect its business or assets, including any
48 litigation or proceeding known to be contemplated by a governmental authority;

49 (m) ~~(k)~~ A copy of any prospectus, pamphlet, circular, form letter,
50 advertisement or other sales literature intended as of the effective date to be used in
51 connection with the offering ~~f~~

52 ~~—(n)~~ , *if such materials exist;*

1 ~~[(n)]~~ (n) A copy, specimen or description of the security being registered, a
2 copy of the issuer's articles of incorporation and bylaws or their substantial
3 equivalents, as currently in effect, and a copy of any indenture or other instrument
4 covering the security to be registered;

5 (o) A signed or conformed copy of an opinion of counsel as to the legality of
6 the security being registered, with an English translation if it is in a foreign
7 language, which states whether the security when sold will be legally issued, fully
8 paid and nonassessable and, if a debt security, a binding obligation of the issuer;

9 (p) The written consent of an accountant, engineer, appraiser or other person
10 whose profession gives authority to a statement made by the person, if the person is
11 named as having prepared or certified a report or valuation, other than a public and
12 official record or statement, which is used in connection with the registration
13 statement;

14 (q) A statement of financial condition of the issuer as of a date within 4 months
15 before the filing of the registration statement, a statement of results of operations
16 and analysis of surplus for each of the 3 fiscal years preceding the date of the
17 statement of financial condition and for any period between the close of the last
18 fiscal year and the date of the statement of financial condition, or for the period of
19 the issuer's and any predecessors' existence if less than 3 years, and, if part of the
20 proceeds of the offering is to be applied to the purchase of a business, the same
21 financial statements which would be required if that business were the registrant;
22 and

23 (r) fund

24 ~~(m)~~ Any additional information the Administrator by regulation or order
25 specifies.

26 3. A statement under this section becomes effective 30 calendar days, or any
27 shorter period as the Administrator by regulation or order specifies, after the date
28 the registration statement or the last amendment other than a price amendment is
29 filed, if:

30 (a) No order is in effect and no proceeding is pending under NRS 90.510;

31 (b) The Administrator has not, under subsection 4, ordered that effectiveness
32 be delayed; and

33 (c) The registrant has not requested that effectiveness be delayed.

34 4. The Administrator may delay effectiveness for a single period of not more
35 than 90 days if the Administrator determines the registration statement is not
36 complete in all material respects and promptly notifies the registrant of that
37 determination. The Administrator may delay effectiveness for a single period of not
38 more than 30 days if the Administrator determines that the delay is necessary,
39 whether or not the Administrator previously delayed effectiveness under this
40 subsection.

41 **Sec. 4.7.** ~~[NRS 90.500 is hereby amended to read as follows:~~

42 ~~90.500 1. A registration statement may be filed by the issuer, any other~~
43 ~~person on whose behalf the offering is to be made, or a broker dealer licensed~~
44 ~~under this chapter.~~

45 ~~2. Except as otherwise provided in subsection 3 [,] or 4, a person filing a~~
46 ~~registration statement shall pay a filing fee of 0.2 percent of the maximum~~
47 ~~aggregate offering price at which the registered securities are to be offered in this~~
48 ~~State, but not less than \$700 or more than \$5,000. If a registration statement is~~
49 ~~withdrawn before the effective date or a pro effective order is entered under NRS~~
50 ~~90.510, the Administrator shall retain the fee.~~

51 ~~3. An open end management company, a face amount certificate company or~~
52 ~~a unit investment trust, as defined in the Investment Company Act of 1940, may~~

1 ~~register an indefinite amount of securities under a registration statement. The~~
2 ~~registrant shall pay:~~

3 ~~— (a) A fee of \$1,000 at the time of filing; and~~

4 ~~— (b) Within 60 days after the registrant's fiscal year during which its statement~~
5 ~~is effective, a fee of \$4,000, or file a report on a form the Administrator adopts,~~
6 ~~specifying its sale of securities to persons in this State during the fiscal year and~~
7 ~~pay a fee of 0.2 percent of the aggregate sales price of the securities sold to persons~~
8 ~~in this State, but the latter fee must not be less than \$700 or more than \$5,000.~~

9 ~~— 4. A person filing a registration statement pursuant to NRS 90.490 is~~
10 ~~exempt from paying any fee to file the registration statement.~~

11 ~~— 5. Except as otherwise permitted by subsection 3, a statement must specify:~~

12 ~~— (a) The amount of securities to be offered in this State and the states in which a~~
13 ~~statement or similar record in connection with the offering has been or is to be~~
14 ~~filed; and~~

15 ~~— (b) Any adverse order, judgment or decree entered by a securities agency or~~
16 ~~administrator in any state or by a court or the Securities and Exchange Commission~~
17 ~~in connection with the offering.~~

18 ~~— [5.] 6. A record filed under this chapter as now or previously in effect, within~~
19 ~~5 years before the filing of a registration statement, may be incorporated by~~
20 ~~reference in the registration statement if the record is currently accurate.~~

21 ~~— [6.] 7. The Administrator by regulation or order may permit the omission of~~
22 ~~an item of information or record from a statement.~~

23 ~~— [7.] 8. In the case of a nonissuer offering, the Administrator may not require~~
24 ~~information under subsection [13] 14 or NRS 90.510 unless it is known to the~~
25 ~~person filing the registration statement or to the person on whose behalf the~~
26 ~~offering is to be made, or can be furnished by one of them without unreasonable~~
27 ~~effort or expense.~~

28 ~~— [8.] 9. In the case of a registration under NRS 90.480 or 90.490 by an issuer~~
29 ~~who has no public market for its shares and no significant earnings from continuing~~
30 ~~operations during the last 5 years or any shorter period of its existence, the~~
31 ~~Administrator by regulation or order may require as a condition of registration that~~
32 ~~the following securities be deposited in escrow for not more than 3 years:~~

33 ~~— (a) A security issued to a promoter within the 3 years immediately before the~~
34 ~~offering or to be issued to a promoter for a consideration substantially less than the~~
35 ~~offering price; and~~

36 ~~— (b) A security issued to a promoter for a consideration other than cash, unless~~
37 ~~the registrant demonstrates that the value of the noncash consideration received in~~
38 ~~exchange for the security is substantially equal to the offering price for the security.~~

39 ~~— The Administrator by regulation may determine the conditions of an escrow~~
40 ~~required under this subsection, but the Administrator may not reject a depository~~
41 ~~solely because of location in another state.~~

42 ~~— [9.] 10. The Administrator by regulation may require as a condition of~~
43 ~~registration under NRS 90.480 or 90.490 that the proceeds from the sale of the~~
44 ~~registered security in this State must be impounded until the issuer receives a~~
45 ~~specified amount from the sale of the security. The Administrator by regulation or~~
46 ~~order may determine the conditions of an impounding arrangement required under~~
47 ~~this subsection, but the Administrator may not reject a depository solely because of~~
48 ~~its location in another state.~~

49 ~~— [10.] 11. If a security is registered pursuant to NRS 90.470 or 90.480, the~~
50 ~~prospectus filed under the Securities Act of 1933 must be delivered to each~~
51 ~~purchaser in accordance with the requirements of that act for the delivery of a~~
52 ~~prospectus.~~

~~11.] 12. If a security is registered pursuant to NRS 90.490, an offering record containing information the Administrator by regulation or order designates must be delivered to each purchaser with or before the earliest of:~~

~~(a) The first written offer made to the purchaser by or for the account of the issuer or another person on whose behalf the offering is being made or by an underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by it as a participant in the distribution;~~

~~(b) Confirmation of a sale made by or for the account of a person named in paragraph (a);~~

~~(c) Payment pursuant to a sale; or~~

~~(d) Delivery pursuant to a sale.~~

~~12.] 13. Except for a registration statement under which an indefinite amount of securities are registered as provided in subsection 3, a statement remains effective for 1 year after its effective date unless the Administrator by regulation extends the period of effectiveness. A registration statement under which an indefinite amount of securities are registered remains effective until 60 days after the beginning of the registrant's next fiscal year following the date the statement was filed. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of a nonissuer transaction while the registration statement is effective, unless the Administrator by regulation or order provides otherwise. A registration statement may not be withdrawn after its effective date if any of the securities registered have been sold in this State, unless the Administrator by regulation or order provides otherwise. No registration statement is effective while an order is in effect under subsection 1 of NRS 90.510.~~

~~13.] 14. During the period that an offering is being made pursuant to an effective registration statement, the Administrator by regulation or order may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.~~

~~14.] 15. A registration statement filed under NRS 90.470 or 90.480 may be amended after its effective date to increase the securities specified to be offered and sold. The amendment becomes effective upon filing of the amendment and payment of an additional filing fee of 3 times the fee otherwise payable, calculated in the manner specified in subsection 2, with respect to the additional securities to be offered and sold. The effectiveness of the amendment relates back to the date or dates of sale of the additional securities being registered.~~

~~15.] 16. A registration statement filed under NRS 90.490 may be amended after its effective date to increase the securities specified to be offered and sold, if the public offering price and underwriters' discounts and commissions are not changed from the respective amounts which the Administrator was informed. The amendment becomes effective when the Administrator so orders and relates back to the date of sale of the additional securities being registered. [A person filing an amendment shall pay an additional filing fee of 3 times the fee otherwise payable, calculated in the manner specified in subsection 2, with respect to the additional securities to be offered and sold.] **(Deleted by amendment.)**~~

Sec. 4.9. [NRS 90.510 is hereby amended to read as follows:

~~90.510 1. The Administrator may issue an order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if the Administrator finds that the order is in the public interest and that:~~

~~(a) The registration statement as of its effective date or as of the proposed effective date in the case of an order denying effectiveness, an amendment under subsection [14] 15 or [15] 16 of NRS 90.500, as of its effective date, or a report under subsection [13] 14 of NRS 90.500, is incomplete in any material respect or~~

1 contains a statement that, in the light of the circumstances under which it was made,
2 was false or misleading with respect to a material fact;

3 ~~— (b) This chapter, or a regulation, order or condition lawfully imposed under
4 this chapter, has been willfully violated in connection with the offering by;~~

5 ~~— (1) The person filing the registration statement;~~

6 ~~— (2) The issuer, a partner, officer or director of the issuer, a person
7 occupying similar status or performing similar functions, or a person directly or
8 indirectly controlling or controlled by the issuer, but only if the person filing the
9 registration statement is directly or indirectly controlled by or acting for the issuer;
10 or~~

11 ~~— (3) An underwriter;~~

12 ~~— (c) The security registered or sought to be registered is the subject of a
13 permanent or temporary injunction of a court of competent jurisdiction or an
14 administrative order similar to an order under this section entered under any other
15 federal or state law applicable to the offering, except that the Administrator may
16 not~~

17 ~~— (1) Institute a proceeding against an effective registration statement under
18 this paragraph more than 1 year after the date of the order or injunction relied on; or~~

19 ~~— (2) Enter an order under this paragraph on the basis of an order or
20 injunction entered under the securities act of another state unless the order or
21 injunction was based on facts that currently would constitute a ground for an order
22 under this section;~~

23 ~~— (d) The issuer's enterprise or method of business includes or would include
24 activities that are illegal where performed;~~

25 ~~— (e) The offering has worked or tended to work a fraud upon purchasers or
26 would so operate;~~

27 ~~— (f) The offering has been or would be made with unreasonable amounts of
28 underwriters' and sellers' discounts, commissions or other compensation, or
29 promoters' profits or participation, or unreasonable amounts or kinds of options;~~

30 ~~— (g) A security sought to be registered pursuant to NRS 90.470 is not eligible
31 for such registration;~~

32 ~~— (h) With respect to a security sought to be registered pursuant to NRS 90.480,
33 there has been a failure to comply with the undertaking required by paragraph (d) of
34 subsection 2 of that section; or~~

35 ~~— (i) The applicant or registrant has failed to pay the proper filing fee, but the
36 Administrator may enter only an order denying effectiveness under this paragraph
37 and shall vacate the order if the deficiency is corrected.~~

38 ~~2. The Administrator may not institute a proceeding:~~

39 ~~— (a) Against an effective registration statement on the basis of a fact or
40 transaction known to the Administrator when the registration statement became
41 effective unless the proceeding is instituted within 30 days after the registration
42 statement became effective; or~~

43 ~~— (b) With respect to a registration filed under NRS 90.470 on the basis of
44 paragraph (e) or (f) of subsection 1.~~

45 ~~3. The Administrator may vacate or modify an order entered under this
46 section if the Administrator finds that the conditions which prompted entry have
47 changed or that it is otherwise in the public interest.] **(Deleted by amendment.)**~~

48 **Sec. 5.** NRS 90.530 is hereby amended to read as follows:

49 90.530 The following transactions are exempt from NRS 90.460 and 90.560:

50 1. An isolated nonissuer transaction, whether or not effected through a
51 broker-dealer.

52 2. A nonissuer transaction in an outstanding security if the issuer of the
53 security has a class of securities subject to registration under section 12 of the

1 Securities Exchange Act of 1934, 15 U.S.C. § 78l, and has been subject to the
2 reporting requirements of section 13 or 15(d) of the Securities Exchange Act of
3 1934, 15 U.S.C. §§ 78m and 78o(d), for not less than 90 days next preceding the
4 transaction, or has filed and maintained with the Administrator for not less than 90
5 days preceding the transaction information, in such form as the Administrator, by
6 regulation, specifies, substantially comparable to the information the issuer would
7 be required to file under section 12(b) or 12(g) of the Securities Exchange Act of
8 1934, 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its securities
9 registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. §
10 78l, and paid a fee of \$300 with the filing.

11 3. A nonissuer transaction by a sales representative licensed in this State, in
12 an outstanding security if:

13 (a) The security is sold at a price reasonably related to the current market price
14 of the security at the time of the transaction;

15 (b) The security does not constitute all or part of an unsold allotment to, or
16 subscription or participation by, a broker-dealer as an underwriter of the security;

17 (c) At the time of the transaction, a recognized securities manual designated by
18 the Administrator by regulation or order contains the names of the issuer's officers
19 and directors, a statement of the financial condition of the issuer as of a date within
20 the preceding 18 months, and a statement of income or operations for each of the
21 last 2 years next preceding the date of the statement of financial condition, or for
22 the period as of the date of the statement of financial condition if the period of
23 existence is less than 2 years;

24 (d) The issuer of the security has not undergone a major reorganization, merger
25 or acquisition within the preceding 30 days which is not reflected in the information
26 contained in the manual; and

27 (e) At the time of the transaction, the issuer of the security has a class of equity
28 security listed on the New York Stock Exchange, American Stock Exchange or
29 other exchange designated by the Administrator, or on the National Market System
30 of the National Association of Securities Dealers Automated Quotation System.
31 The requirements of this paragraph do not apply if:

32 (1) The security has been outstanding for at least 180 days;

33 (2) The issuer of the security is actually engaged in business and is not
34 developing the issuer's business, in bankruptcy or in receivership; and

35 (3) The issuer of the security has been in continuous operation for at least 5
36 years.

37 4. A nonissuer transaction in a security that has a fixed maturity or a fixed
38 interest or dividend provision if there has been no default during the current fiscal
39 year or within the 3 preceding years, or during the existence of the issuer, and any
40 predecessors if less than 3 years, in the payment of principal, interest or dividends
41 on the security.

42 5. A nonissuer transaction effected by or through a registered broker-dealer
43 pursuant to an unsolicited order or offer to purchase.

44 6. A transaction between the issuer or other person on whose behalf the
45 offering of a security is made and an underwriter, or a transaction among
46 underwriters.

47 7. A transaction in a bond or other evidence of indebtedness secured by a real
48 estate mortgage, deed of trust, personal property security agreement, or by an
49 agreement for the sale of real estate or personal property, if the entire mortgage,
50 deed of trust or agreement, together with all the bonds or other evidences of
51 indebtedness secured thereby, is offered and sold as a unit.

52 8. A transaction by an executor, administrator, sheriff, marshal, receiver,
53 trustee in bankruptcy, guardian or conservator.

1 9. A transaction executed by a bona fide secured party without the purpose of
2 evading this chapter.

3 10. An offer to sell or the sale of a security to a financial or institutional
4 investor or to a broker-dealer.

5 11. Except as otherwise provided in this subsection, a sale or an offer to sell
6 securities of an issuer if:

7 (a) The transaction is part of an issue in which there are not more than 35
8 purchasers in this State, other than those designated in subsection 10, during any 12
9 consecutive months;

10 (b) No general solicitation or general advertising is used in connection with the
11 offer to sell or sale of the securities;

12 (c) No commission or other similar compensation is paid or given, directly or
13 indirectly, to a person, other than a broker-dealer licensed or not required to be
14 licensed under this chapter, for soliciting a prospective purchaser in this State; and

15 (d) One of the following conditions is satisfied:

16 (1) The seller reasonably believes that all the purchasers in this State, other
17 than those designated in subsection 10, are purchasing for investment; or

18 (2) Immediately before and immediately after the transaction, the issuer
19 reasonably believes that the securities of the issuer are held by 50 or fewer
20 beneficial owners, other than those designated in subsection 10, and the transaction
21 is part of an aggregate offering that does not exceed \$500,000 during any 12
22 consecutive months.

23 ➤ The Administrator by rule or order as to a security or transaction or a type of
24 security or transaction may withdraw or further condition the exemption set forth in
25 this subsection or waive one or more of the conditions of the exemption.

26 12. An offer to sell or sale of a preorganization certificate or subscription if:

27 (a) No commission or other similar compensation is paid or given, directly or
28 indirectly, for soliciting a prospective subscriber;

29 (b) No public advertising or general solicitation is used in connection with the
30 offer to sell or sale;

31 (c) The number of offers does not exceed 50;

32 (d) The number of subscribers does not exceed 10; and

33 (e) No payment is made by a subscriber.

34 13. An offer to sell or sale of a preorganization certificate or subscription
35 issued in connection with the organization of a depository institution if that
36 organization is under the supervision of an official or agency of a state or of the
37 United States which has and exercises the authority to regulate and supervise the
38 organization of the depository institution. For the purpose of this subsection, "under
39 the supervision of an official or agency" means that the official or agency by law
40 has authority to require disclosures to prospective investors similar to those
41 required under NRS 90.490, impound proceeds from the sale of a preorganization
42 certificate or subscription until organization of the depository institution is
43 completed, and require refund to investors if the depository institution does not
44 obtain a grant of authority from the appropriate official or agency.

45 14. A transaction pursuant to an offer to sell to existing security holders of the
46 issuer, including persons who at the time of the transaction are holders of
47 transferable warrants exercisable within not more than 90 days after their issuance,
48 convertible securities or nontransferable warrants, if:

49 (a) No commission or other similar compensation, other than a standby
50 commission, is paid or given, directly or indirectly, for soliciting a security holder
51 in this State; or

1 (b) The issuer first files a notice specifying the terms of the offer to sell,
2 together with a nonrefundable fee of \$300, and the Administrator does not by order
3 disallow the exemption within the next 5 full business days.

4 15. A transaction involving an offer to sell, but not a sale, of a security not
5 exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.,
6 if:

7 (a) A registration or offering statement or similar record as required under the
8 Securities Act of 1933, 15 U.S.C. §§ 77a et seq., has been filed, but is not effective;

9 (b) A registration statement, if required, has been filed under this chapter, but
10 is not effective; and

11 (c) No order denying, suspending or revoking the effectiveness of registration,
12 of which the offeror is aware, has been entered by the Administrator or the
13 Securities and Exchange Commission, and no examination or public proceeding
14 that may culminate in that kind of order is known by the offeror to be pending.

15 16. A transaction involving an offer to sell, but not a sale, of a security
16 exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.,
17 if:

18 (a) A registration statement has been filed under this chapter, but is not
19 effective; and

20 (b) No order denying, suspending or revoking the effectiveness of registration,
21 of which the offeror is aware, has been entered by the Administrator and no
22 examination or public proceeding that may culminate in that kind of order is known
23 by the offeror to be pending.

24 17. A transaction involving the distribution of the securities of an issuer to the
25 security holders of another person in connection with a merger, consolidation,
26 exchange of securities, sale of assets or other reorganization to which the issuer, or
27 its parent or subsidiary, and the other person, or its parent or subsidiary, are parties,
28 if:

29 (a) The securities to be distributed are registered under the Securities Act of
30 1933, 15 U.S.C. §§ 77a et seq., before the consummation of the transaction; or

31 (b) The securities to be distributed are not required to be registered under the
32 Securities Act of 1933, 15 U.S.C. §§ 77a et seq., written notice of the transaction
33 and a copy of the materials, if any, by which approval of the transaction will be
34 solicited, together with a nonrefundable fee of \$300, are given to the Administrator
35 at least 10 days before the consummation of the transaction and the Administrator
36 does not, by order, disallow the exemption within the next 10 days.

37 18. A transaction involving the offer to sell or sale of one or more promissory
38 notes each of which is directly secured by a first lien on a single parcel of real
39 estate, or a transaction involving the offer to sell or sale of participation interests in
40 the notes if the notes and participation interests are originated by a depository
41 institution and are offered and sold subject to the following conditions:

42 (a) The minimum aggregate sales price paid by each purchaser may not be less
43 than \$250,000;

44 (b) Each purchaser must pay cash either at the time of the sale or within 60
45 days after the sale; and

46 (c) Each purchaser may buy for the purchaser's own account only.

47 19. A transaction involving the offer to sell or sale of one or more promissory
48 notes directly secured by a first lien on a single parcel of real estate or participating
49 interests in the notes, if the notes and interests are originated by a mortgagee
50 approved by the Secretary of Housing and Urban Development under sections 203
51 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b, and are
52 offered or sold, subject to the conditions specified in subsection 18, to a depository
53 institution or insurance company, the Federal Home Loan Mortgage Corporation,

1 the Federal National Mortgage Association or the Government National Mortgage
2 Association.

3 20. A transaction between any of the persons described in subsection 19
4 involving a nonassignable contract to buy or sell the securities described in
5 subsection 18 if the contract is to be completed within 2 years and if:

6 (a) The seller of the securities pursuant to the contract is one of the parties
7 described in subsection 18 or 19 who may originate securities;

8 (b) The purchaser of securities pursuant to a contract is any other person
9 described in subsection 19; and

10 (c) The conditions described in subsection 18 are fulfilled.

11 21. A transaction involving one or more promissory notes secured by a lien
12 on real estate, or participating interests in those notes, by a mortgage company
13 licensed pursuant to chapter 645B of NRS to engage in those transactions.

14 22. *A transaction involving an offer to sell or sale of a security to a Nevada
15 certified investor if all of the following conditions are satisfied:*

16 (a) *The transaction satisfies the requirements for exemption under section
17 3(a)(1) of the Securities Act of 1933, 15 U.S.C. § 77c(a)(1) and Rule 147 or
18 147A of the Securities and Exchange Commission, 17 C.F.R. § 230.147 or
19 230.147A.*

20 (b) *The transaction satisfies any requirements established by the
21 Administrator by regulation pursuant to section 3 of this act.*

22 (c) *For a transaction involving the sale of a security to a Nevada certified
23 investor described in paragraph (b) of subsection 1 of section 2 of this act, the
24 ~~total amount paid by~~ transaction would not result in the Nevada certified
25 investor ~~for all of the securities involved in the transaction does not exceed~~
26 investing more than 10 percent of the net worth of the investor ~~+~~ in securities
27 that were purchased by the Nevada certified investor in transactions exempt from
28 NRS 90.460 and 90.560 pursuant to this subsection. For the purposes of meeting
29 the requirements of this paragraph, the equity the Nevada certified investor holds
30 in a primary residence must not account for more than 50 percent of the net
31 worth of the Nevada certified investor.*

32 (d) ~~The transaction is part of an issue in which there are not more than 75~~
33 ~~purchasers who are Nevada certified investors.~~

34 ~~(e) The person offering to sell or selling the security has submitted to the~~
35 ~~Administrator ~~+~~:~~

36 (1) A complete set of his or her fingerprints and written permission
37 authorizing the Administrator to submit the fingerprints to the Central Repository
38 for Nevada Records of Criminal History for its report on the criminal history of
39 the person and for forwarding to the Federal Bureau of Investigation for its
40 report on the criminal history of the person ~~+~~;

41 (2) The latest available balance sheet of the issuer; and

42 (3) A description of any compensation paid by the person offering to sell
43 or selling the security to any person authorized to make decisions on behalf of or
44 exert control over the management or operation of the person offering to sell or
45 selling the security.

46 (e) The person offering to sell or selling the security has made available to
47 any Nevada certified investor wishing to purchase the security:

48 (1) A full disclosure of any and all previous criminal convictions; and

49 (2) The information submitted to the Administrator pursuant to
50 subparagraphs (2) and (3) of paragraph (d).

51 **Sec. 5.5.** ~~NRS 90.660 is hereby amended to read as follows:~~

52 ~~90.660 1. A person who offers or sells a security in violation of any of the~~
53 ~~following provisions:~~

1 ~~— (a) Subsection 1 of NRS 90.240;~~
2 ~~— (b) NRS 90.460;~~
3 ~~— (c) Subsection [10] ~~11~~ of NRS 90.500;~~
4 ~~— (d) Subsection 2 of NRS 90.570;~~
5 ~~— (e) Subsection 2 of NRS 90.610; or~~
6 ~~— (f) A condition imposed in subsection [8] ~~9~~ or [9] ~~10~~ of NRS 90.500,~~
7 ~~— is liable to the person purchasing the security. Upon tender of the security, the~~
8 ~~purchaser may recover the consideration paid for the security and interest at the~~
9 ~~legal rate of this State from the date of payment, costs and reasonable attorney's~~
10 ~~fees, less the amount of income received on the security. A purchaser who no~~
11 ~~longer owns the security may recover damages. Damages are the amount that~~
12 ~~would be recoverable upon a tender less the value of the security when the~~
13 ~~purchaser disposed of it, plus interest at the legal rate of this State from the date of~~
14 ~~disposition of the security, costs and reasonable attorney's fees determined by the~~
15 ~~court. Tender requires only notice of willingness to exchange the security for the~~
16 ~~amount specified.~~
17 ~~— 2. A person who offers or sells a security in violation of subsection 2 of NRS~~
18 ~~90.570 is not liable under subsection 1 of this section if:~~
19 ~~— (a) The purchaser knew that a statement of a material fact was untrue or that~~
20 ~~there was an omission of a statement of a material fact; or~~
21 ~~— (b) The seller did not know and in the exercise of reasonable care could not~~
22 ~~have known of the untrue statement or misleading omission.~~
23 ~~— 3. A person who willfully participates in any act or transaction in violation of~~
24 ~~NRS 90.580 is liable to a person who purchases or sells a security, other than a~~
25 ~~security traded on a national securities exchange or quoted on a national automated~~
26 ~~quotation system administered by a self regulatory organization, at a price that was~~
27 ~~affected by the act or transaction for the damages sustained as a result of the act or~~
28 ~~transaction. Damages are the difference between the price at which the securities~~
29 ~~were purchased or sold and the market value the securities would have had at the~~
30 ~~time of the person's purchase or sale in the absence of the act or transaction, plus~~
31 ~~interest at the legal rate of this State from the date of the act or transaction and~~
32 ~~reasonable attorney's fees.~~
33 ~~— 4. A person who directly or indirectly controls another person who is liable~~
34 ~~under subsection 1 or 3, a partner, officer or director of the person liable, a person~~
35 ~~occupying a similar status or performing similar functions, any agent of the person~~
36 ~~liable, an employee of the person liable if the employee materially aids in the act,~~
37 ~~omission or transaction constituting the violation, and a broker dealer or sales~~
38 ~~representative who materially aids in the act, omission or transaction constituting~~
39 ~~the violation, are also liable jointly and severally with and to the same extent as the~~
40 ~~other person, but it is a defense that the person did not know, and in the exercise of~~
41 ~~reasonable care could not have known, of the existence of the facts by which the~~
42 ~~liability is alleged to exist. With respect to a person who directly or indirectly,~~
43 ~~controls another person who is liable under subsection 3, it is also a defense that the~~
44 ~~controlling person acted in good faith and did not, directly or indirectly, induce the~~
45 ~~act, omission or transaction constituting the violation. Contribution among the~~
46 ~~several persons liable is the same as in cases arising out of breach of contract.]~~
47 ~~(Deleted by amendment.)~~

48 **Sec. 6.** 1. This section becomes effective upon passage and approval.

49 2. Sections 1 to 5.5, inclusive, of this act become effective:

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

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