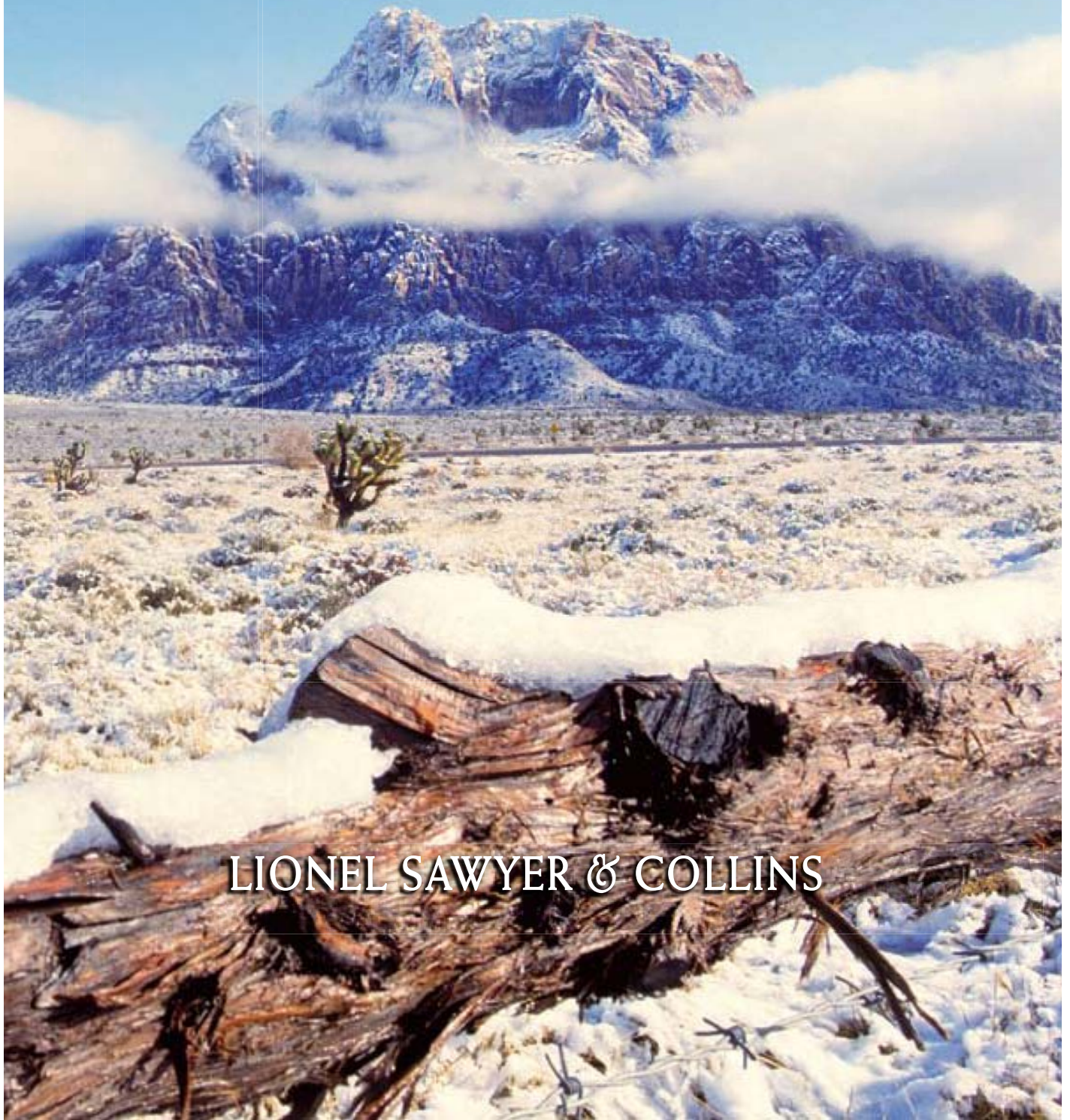


Doing Business In Nevada

A PRACTICAL GUIDE

THIRD EDITION



LIONEL SAWYER & COLLINS

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By

LIONEL SAWYER & COLLINS

Doing Business in Nevada is a general guide to certain Nevada laws that apply to the conduct of business in Nevada as of June 30, 2007 (except as specifically noted otherwise), and generally does not include federal law except for specific instances where particularly relevant or where the general reader might be unaware of an area of federal regulation. Because of the large volume of Nevada statutes, regulations and case law, any summary of Nevada law would have to omit many things. This guide does not cover all laws or regulations that could apply in all circumstances. The information contained in this guide is for general reference only and is not intended to provide legal advice. You should contact a Nevada attorney to advise you prior to conducting business in Nevada.

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Published By

LIONEL SAWYER & COLLINS

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LIONEL SAWYER & COLLINS

Lionel Sawyer & Collins is the largest private law firm in Nevada. Lionel Sawyer & Collins is a full service, business-oriented law firm with offices in Las Vegas, Reno and Washington D.C. The Firm's practice areas include real estate, banking and finance, corporations, business organization, employment and labor, healthcare, gaming, litigation, intellectual property, regulatory and licensing, governmental relations and lobbying, land use, tax, energy, telecommunications, water, and utilities.

Since its inception in 1967, Lionel Sawyer & Collins has achieved a preeminent position in the State of Nevada, serving clients of all sizes, from individuals and small businesses to Fortune 500 companies. As a result of the firm's long and extensive involvement in the Nevada legal, political and business communities, Lionel Sawyer & Collins is in a unique position to assist established Nevada businesses as well as businesses relocating to Nevada.

We invite you to visit our website at <http://www.lionelsawyer.com> for more information about our attorneys and our firm.

A C K N O W L E D G M E N T S

Doing Business In Nevada, Third Edition, is a *Lionel Sawyer & Collins*' publication. The Third Edition was edited by **Jeffrey Zucker**, Chair of the Firm's Business Law Department and a Director, and **Pearl Gallagher**, associate attorney in the Business Law Department.

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Table of Contents

INTRODUCTION 1

CHAPTER 1: AN OVERVIEW OF NEVADA 3

Nevada Geography and Climate 3

Nevada Culture and Entertainment 4

Nevada Agriculture and Mining 4

Nevada Technology, Energy, Telecommunications
and Water Resources 5

Nevada Population, Housing and Income 5

Nevada Employment 6

Nevada Education 6

Nevada Government 6

Nevada Airports 7

Nevada Highways, Public Transportation and Railroads 8

Nevada Foreign Investment and Exports 8

The Nevada Market 9

Nevada Taxes and Financial Incentives for Businesses 10

CHAPTER 2: BUSINESS ORGANIZATION 11

Corporations 11

 In Brief 11

 Organization 11

 Corporate Record Keeping 12

 Board Governance Issues 14

 Stockholder Governance Issues 18

 Dissolution 20

 Stockholder Rights Plans 21

 Control Share Act 21

 Business Combination Act 22

Statutory Close Corporations 22

Joint Ventures 23

Partnerships 24

General Partnerships	24
In Brief	24
Organizational Formalities	24
Record Keeping	25
Governance	25
Liability of Partners	26
Dissolution and Termination	26
Registered Limited-Liability Partnerships	27
In Brief	27
Organization	27
Record Keeping	28
Governance	28
Liability of a Partner	29
Dissolution and Termination	29
Limited Partnerships	29
In Brief	29
Organization	30
Record Keeping	31
General Partner Governance	32
Limited Partner Governance	33
General Partner Liability	33
Limited Partner Liability	34
Liability for Contributions and Return of Distributions	34
Dissolution, Charging Orders, Receivership and Termination	35
Registered Limited-Liability Limited Partnerships	37
In Brief	37
Organization	37
Liability of a Partner	38
Record Keeping, Governance, and Dissolution	38
Limited Liability Companies	38
In Brief	38
Organization	38
Record Keeping	40
Member and Manager Governance Issues	41
Dissolution	44
Professional Entities	45
Sole Proprietorships	46

Non-Profit Corporations	47
In Brief	47
Organization	47
Record Keeping	48
Officers and Directors Governance Issues	48
Members and Delegates	50
Dissolution	51
Business Trusts	52
In Brief	52
Organization	53
Record Keeping	53
Governance Issues	54
Dissolution	56
Mergers, Conversions, Exchanges and Domestication	56
Mergers and Exchanges	56
Conversion	57
Domestication	58
Dissenters' Rights	59
CHAPTER 3: REPORTING REQUIREMENTS FOR FOREIGN DIRECT INVESTMENT	60
CHAPTER 4: ANTI-TRUST LAW	62
CHAPTER 5: CONSUMER PROTECTION LAWS	64
CHAPTER 6: REGULATION OF FRANCHISES	68
CHAPTER 7: TAXATION	69
Personal Income Tax	69
Business Tax / State Business License	69
Bank Excise Tax	70
Property (Ad Valorem) Tax	70
Property Transfer Tax	71
Sales and Use Tax	72
Live Entertainment Tax	73

CHAPTER 8: LABOR AND EMPLOYMENT LAW	74
At-Will Employment	74
Labor Commissioner	74
Right to Work	74
Gaming Casino Employees	75
Child Labor	75
Meal and Rest Periods	76
Time and Manner of Payment of Wages	76
Minimum Wage	77
Overtime	78
Public Works Contracts	79
Records Regarding Employment	79
Black Lists	80
Non-Compete Agreements	80
Law Against Discrimination	81
Federal Family and Medical Leave Act and Other State and Federal Leave Laws	82
Nevada Occupational Safety and Health Act	82
Workers' Compensation Act	83
Nevada Occupational Diseases Act	84
Unemployment Compensation	84
Employee Privacy Rights	85
 CHAPTER 9: ENVIRONMENTAL LAW / ENDANGERED SPECIES	 87
Air Quality	87
Water Pollution Control	88
Waste Management	88
Hazardous Waste and Materials	88
Solid Waste	89
Special Waste	89
Radioactive Waste	89
Mining	90
Corrective Action	90
Underground Storage Tanks	90
Brownfield Sites	91
Endangered Plants and Animals	91

CHAPTER 10: INTELLECTUAL PROPERTY	93
Trademarks	93
Protectable Trademarks	94
Nevada Registration Process	95
Trademark and Service Mark Notice	96
Fictitious Names	97
Trade Secrets	98
Copyright	98
Works of Art	99
Right of Publicity	100
Patents	101
CHAPTER 11: ELECTRONIC TRANSACTIONS	102
CHAPTER 12: DISPUTE RESOLUTION	104
District Courts	104
Justice Courts	105
Appellate Courts	106
Alternative Dispute Resolution	107
CHAPTER 13: FINANCING INVESTMENTS	108
Incentive for Locating and Expanding Businesses in Nevada	108
Personal and Real Property Tax Abatement Programs	108
Programs for the Abatement and Deferral of Sales and Use Taxes	108
Program for the Training for Employees of Businesses	109
Program for the Abatement of Business Tax	110
CHAPTER 14: REGULATION AND OPERATIONS OF FINANCIAL INSTITUTIONS ...	111
Regulation of the Business of Banking	111
State-Chartered Banks	111
Out-of-State and Foreign Banks	112
Interstate Banking	112
Other Types of Financial Institutions	112
Trust Companies	112
Thrift Companies	113
Savings and Loan Associations	114
Mortgage Bankers and Mortgage Brokers	114

Installment Loan Companies	115
Nontraditional Lending Practices	116
CHAPTER 15: SECURITIES REGULATION	117
Registration of Securities	117
Exemptions from Registration	119
Broker-Dealer, Investment Advisor Registration	120
Anti-Fraud Provisions	120
CHAPTER 16: REAL ESTATE	121
Ownership	121
Concurrent Ownership	121
Tenancy in Common	121
Joint Tenancy	121
Community Property	121
CHAPTER 17: REAL PROPERTY SECURITY	122
Deeds of Trust / Judicial Foreclosures	122
Receivers	124
Land Sale Contracts	124
CHAPTER 18: EASEMENTS	126
CHAPTER 19: LEASES	127
Commercial Leases	127
Residential Leases	128
Mobile Home Parks	129
CHAPTER 20: ZONING	131
CHAPTER 21: MINERAL RIGHTS	133
Oil, Gas and Geothermal Rights	133
Water Rights	133
Minerals	134
CHAPTER 22: EMINENT DOMAIN	135
CHAPTER 23: SPOUSAL RIGHTS	138

CHAPTER 24: PURCHASE AND SALE OF PROPERTY	140
Purchase Agreements	140
Title	140
Protection from Fraud	141
Prorations	141
Closing Documents	142
Deed	142
Bill of Sale	142
Financing	142
Closing Statement	143
CHAPTER 25: REQUIREMENTS FOR FOREIGN QUALIFICATION TO DO BUSINESS IN NEVADA	144
CHAPTER 26: BUSINESS NAME REGISTRATION REQUIREMENTS	146
CHAPTER 27: USURY	148
CHAPTER 28: BUSINESS REGULATION	149
CHAPTER 29: GAMING	150
Introduction	150
The Nevada Gaming Regulatory System	150
State Licensing Requirements	151
Licensing of Landlords	152
Licensing of Owners and Operators	152
Licensing and Regulation of Business Entities	152
Private Corporations	153
Public Corporations	153
Limited Partnerships	153
Limited Liability Companies	154
Institutional Investors	154
Holding Company Regulation	154
Regulation of Public Companies	154
Local Government Gaming Regulation	155
Location Suitability	155
Taxation	156
Financial Regulations	156

APPENDIX	157
State Agencies	157
State Board of Accountancy	157
Department of Administration	157
Department of Agriculture	157
State Board of Architecture, Interior Design and Residential Design	157
Attorney General's Office	157
Administration Division	158
Bureau of Consumer Protection	158
Civil Division	158
Criminal Justice Division	158
Gaming Division	158
Human Resources Division	158
Investigations Division	158
Litigation Division	158
Department of Business and Industry	158
Athletic Commission	158
Consumer Affairs Division	159
Dairy Commission	159
Financial Institutions Division	159
Division of Industrial Relations	159
Industrial Insurance Regulation Section	159
Occupational Safety and Health Administration Section	160
Safety Consultation and Training Section	160
Mine Safety and Training Section	160
Insurance Division	160
Labor Commissioner	161
Manufactured Housing Division	161
Real Estate Division	161
Taxicab Authority	161
Transportation Services Authority	161
Attorney for Injured Workers	162
Office of Business Finance and Planning	162
Employee Management Relations Board	162
Energy Office	162
Governor's Committee on the Employment of People with Disabilities	162

Housing Division	162
State Bar of Nevada	163
Chiropractic Physicians' Board of Nevada	163
Conservation and Natural Resources	163
Contractors' Board	163
Department of Corrections	163
Department of Cultural Affairs	163
Board of Dental Examiners	164
Commission on Economic Development	164
Department of Education	164
Department of Employment Training and Rehabilitation	164
Employment Security Division	164
Nevada Rehabilitation Division	165
Nevada Equal Rights Commission	165
State Board of Professional Engineers and Land Surveyors	165
Gaming Commission	165
Gaming Control Board	165
Department of Health and Human Services	166
Department of Information Technology	166
State Board of Medical Examiners	166
Commission on Mineral Resources, Division of Minerals	166
Department of Motor Vehicles	166
State Board of Nursing	167
State Board of Optometry	167
Department of Personnel	167
State Board of Pharmacy	167
Private Investigator's License Board	167
Psychological Examiner's Board	168
Public Utilities Commission	168
Board of Examiners for Social Workers	168
Nevada Secretary of State	168
Commercial Recording Division	168
Elections Division	168
Notary Division	169
Securities Division	169
Nevada Department of Taxation	169
Nevada State Board of Veterinary Medical Examiners	169

Local Agencies	170
Assessor's Office	170
Clark County Assessor's Office	170
Washoe County Assessor's Office	170
Clerk's Office - Fictitious Firm Name Filings	170
Clark County Clerk's Office	170
Henderson City Clerk's Office	170
Las Vegas City Clerk's Office	170
Washoe County Clerk's Office	170
Local Business License	170
Boulder City Business License Division	170
Clark County Business License Department	170
Henderson Business License Department	170
Las Vegas Business Services Division	171
North Las Vegas Business License Division	171
Reno Business License - Finance Department	171
Sparks Business License	171
Washoe County Business License	171
Zoning Ordinances	171
Boulder City Planning Commission	171
Clark County Planning Department	171
Henderson Community Planning and Development Department	171
Las Vegas Planning Department	171
North Las Vegas Planning and Zoning Department	171
Reno Community Development Department	171
Sparks Community Development Department	171
Washoe County Department of Community Development	172
Employer Identification Number	172
Internal Revenue Service	172
ENDNOTES	173
INDEX	203
NOTES	209
ORDER FORM	211



Introduction

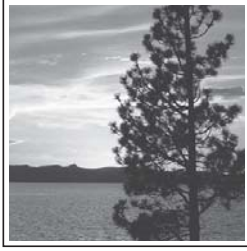
This guide is a practical reference for doing business in Nevada. It includes information about Nevada and the legal overview required when starting a business, acquiring a business, operating a business or investing in Nevada. This guide is designed to benefit both Nevada and non-Nevada business persons.

The purpose of this Guide is to provide you with general information regarding the legal aspects of conducting business in Nevada. Obviously, a book of this length cannot serve as a substitute for the tens of thousands pages of Nevada statutes, administrative regulations, case law and attorney general opinions. This guide is not meant to be a substitute for legal advice from an attorney. Rather, this guide is meant to direct your attention to some important aspects of your area of interest. We recommend that the reader seek advice from a Nevada licensed attorney before conducting business in Nevada.

Nevada is deeply committed to remaining in the forefront of economic growth in the twenty-first century. In the past decade, Nevada and Las Vegas have been two of the fastest growing regions in the country. Nevada's political leadership is bi-partisan in its commitment to maintain Nevada as one of the more business-friendly states. Nevada offers a year-round climate that promotes a high quality lifestyle for both work and play.

We hope that this guide will help you in planning your business in Nevada.

LIONEL SAWYER & COLLINS



An Overview of Nevada

NEVADA GEOGRAPHY AND CLIMATE

Nevadans are proud of their pioneer heritage. That legacy is reflected today in a strong work ethic and an entrepreneurial spirit. Nevada offers one of the most business-friendly environments in the United States. Situated at the hub of eleven states, Nevada is conveniently accessible to millions of people in the western region of the United States. Nevada has two international airports and a network of major interstate highways making travel to and from Nevada easy.¹

Living in the “Silver State” offers the excitement and sophistication of urban areas, or peaceful, hometown living in one of Nevada’s thriving rural communities. Nevada - the Spanish word for “snow capped” - is relatively dry. Annual precipitation is typically 15 inches or less, and reaches a low of 4-5 inches in the southern region of the state.

Northern Nevada has been defined by the culture and heritage of the miners and ranchers who settled there in the 19th century. The Cowboy Poetry Gathering is held in Elko every year at the end of January, and Winnemucca’s annual Labor Day Rodeo is the oldest in the state. Although northern Nevada enjoys four distinct seasons, the sun shines more than 300 days per year and even crisp, white winter days are typically sunny. Temperatures in southern Nevada average 25 degrees higher than in northern Nevada. The state’s overall lack of humidity gives the weather a more moderate feel than temperatures reflect and allows for outdoor activities all year long.

Central Nevada has expansive scenery, geologic wonders and historic mining towns. Wild deer, antelope, horses and burros roam the vast central Nevada valleys. Walker Lake is the remnant of a huge prehistoric sea, and is now popular for fishing and water skiing. Century-old ranches in the valleys are filled with livestock and fields of hay. As you travel through western Nevada you will pass through ghost towns, mining towns and Beatty, the gateway to Death Valley National Park. You can also travel

through the eastern part of the state to visit the Great Basin National Park and admire its ancient, gnarled bristlecone pine trees.

Southern Nevada, which is part of the Mojave Desert, has a diverse landscape consisting of expansive arid desert, craggy mountains and canyons. The serenely beautiful Red Rock Canyon is a national conservation area located just west of Las Vegas, and protects a variety of wildlife such as burros and bighorn sheep. Just north of Las Vegas is Mt. Charleston, cool in the summer and a recreation area in the winter with skiing, snowboarding and sledding. Northeast of Las Vegas is the Valley of Fire State Park, which derives its name from the beautiful bright red sandstone sculpted by the wind into fantastic formations, some with prehistoric Indian petroglyphs. Southern Nevada's Las Vegas is the entertainment capital of the world and draws visitors from all corners of the globe.

NEVADA CULTURE AND ENTERTAINMENT

Nevada's arts, cultural and entertainment environments are rich and diverse. Sports enthusiasts enjoy minor league baseball, competitive collegiate sports, and NBA and NHL exhibition games. The University of Nevada, Las Vegas and the University of Nevada, Reno each offer a full range of athletic programs. Southern Nevada provides its residents and visitors with symphony, opera and ballet, as well as an assortment of museums. Performers from around the world appear regularly in the hotels and at local cultural venues. Moreover, Nevada's location provides easy access by car or air to some of the largest, most sophisticated cultural centers of the world.

NEVADA AGRICULTURE AND MINING

Nevada's widely varied topography provides an agricultural environment that supports cattle, horses, sheep, hogs and poultry. Nevada's crops include hay, wheat, corn, potatoes, rye, oats, alfalfa, barley, vegetables, dairy products and some fruits.

Nevada is the largest gold-producing state in the nation and fourth largest gold-producing region in the world. Commonly referred to as "the Silver State," Nevada is also known for the large quantities of silver which are mined locally every year, making silver Nevada's second largest mined mineral resource. Among Nevada's other important minerals are copper, zinc, brucite, magnesium, magnetite, manganese, tungsten, uranium, mercury, lead, coal, iron mercury, opal, barite, molybdenum, diatomite,

talc, gypsum, dolomite, lime, turquoise, fluorspar, antimony, perlite, pumice, salt, and sulfur.

NEVADA TECHNOLOGY, ENERGY, TELECOMMUNICATIONS AND WATER RESOURCES

Nevada has the technology, energy, telecommunications and water resources to meet the needs of businesses of all sizes. Nevada's two major energy companies, Nevada Power Company and Sierra Pacific Power Company, merged in 1999 to form Sierra Pacific Resources, which is headquartered in Reno, Nevada. Nevada is ranked as a leader in the nation for its development of alternative energy sources such as geothermal and solar energy. Nevada's technology support, competitive energy rates and telecommunications infrastructure serve all types of industries looking to relocate or expand into Nevada.

Water supply and conservation is supported by pragmatic and assertive resource and conservation agreements. Particularly in southern Nevada, water is a precious commodity and business and domestic use of water is carefully monitored. Anticipating southern Nevada's continued growth, the Southern Nevada Water Authority has long-term resource agreements and conservation plans. 88% of the water for southern Nevada comes from the Colorado River and 12% comes from groundwater that is pumped through wells. Since the early 1990's, despite unprecedented growth, the Las Vegas community has been able to sufficiently control its water use to assure business and domestic users a continuous, plentiful water supply for the next several generations.

Hoover Dam, located just outside of Las Vegas in Black Canyon on the Colorado River, is a large contributor to meeting the water needs of the southwest United States. The highest concrete dam in the Western Hemisphere, Hoover Dam regulates the flow of the Colorado River while it stores water for irrigation, municipal and industrial uses. Various cities in the region, including Los Angeles, San Diego and Phoenix, benefit from the resulting water supply. Hoover Dam also provides a low-cost energy source to residents of Nevada, Arizona and California as the dam's massive generators convert the rushing waters of the Colorado River into hydroelectric power.²

NEVADA POPULATION, HOUSING AND INCOME

The U.S. Census Bureau estimates that the population of Nevada in 2006 grew to 2,495,529. The population has increased more than 66%

from 1990 to 2000 and approximately 25% between 2000 and 2006. The Census Bureau also reports that Nevada had 751,165 households in 2000 and an estimated 1,019,427 housing units in 2005. The median household income in Nevada in 2004 was \$47,231 (U.S. median – \$44,334) and percentage of persons below the poverty line, based upon the 2004 estimate, is 11.1% (the official U.S. poverty rate for 2004 was 12.7%).³

NEVADA EMPLOYMENT

In the last several years, Nevada has been one of the nation's leaders in job growth due to employment opportunity and quality of life, a perfect combination to attract and retain a quality workforce. Nevada is an "employment at will" state.⁴ Nevada workers are flexible and accustomed to multiple shift operations to support Nevada's world-class tourism industry. Easy commuting is one of the factors that provides a dependable and productive workforce throughout the state.

NEVADA EDUCATION

Clark County is the home of one of the nation's largest school districts, with over 280 elementary, middle and high schools, and an expanding number of private religious and preparatory schools. Nevada also boasts a burgeoning system of higher education. Nevada's two state universities, the University of Nevada, Reno, and the University of Nevada, Las Vegas, have expanding doctoral programs in many disciplines and have won national recognition for their research. The University of Nevada, Las Vegas is now home to Nevada's only law school, while both northern and southern Nevada benefit from the University of Nevada School of Medicine. Great Basin College in Elko, in northeastern Nevada, recently expanded its curriculum to a 4-year program. The College of Southern Nevada (formerly known as Community College of Southern Nevada), the fourth largest community college of its kind in the country, serves four counties and educates over 70,000 students annually. Truckee Meadows and Western Nevada Community Colleges in northern Nevada also enroll thousands of students per year.⁵

NEVADA GOVERNMENT

Historically, because of its size, Nevadans have enjoyed easy access to all public officials. This tradition is deeply ingrained and continues today, encouraging business and government to respond quickly and resolve

problems as they arise. The legislature meets biennially, with interim committees working between legislative sessions. Legislative sessions in Nevada have been constitutionally limited to 120 days.⁶ Nevada's constitution requires a balanced budget and the political leadership of both parties are fully committed to that principle.

NEVADA AIRPORTS

Nevada's unprecedented growth in the past decade has driven improvements, expansion and new development across the state, particularly in Las Vegas and Reno. Las Vegas and Reno are home to two international airports, although there are many smaller airports throughout the state.

McCarran International Airport, one of the ten busiest airports in the nation, is publicly owned by Clark County, Nevada, and is operated under the direction of the Board of Clark County Commissioners.⁷ McCarran had its beginnings when Amelia Earhart, who had an interest in a Nevada gypsum mine, first landed her airplane on the site in 1923. However, it was not until 1934 when Senator Patrick McCarran advocated the creation of an independent aviation authority that the airfield on this site was established.⁸ The airfield was known as the Clark County Municipal Airport from its creation in 1934 until 1965 when it was renamed "McCarran Airport". From 1965 to the present, McCarran International Airport continues to grow and develop to meet the needs and expectations of passengers from all over the world. In May 2007, the monthly passenger count of arriving and departing passengers at McCarran was 4,170,268.⁹

In 1927, Charles Lindbergh landed at Blanchfield Airfield (now Washoe County Golf Course) and observed that Blanchfield was too small for even his two passenger Boeing Model 40 aircraft. In July 1928, Boeing Air Transport purchased a landing field in Reno which in November 1928, was christened "Hubbard Field" (which is the location of the current Reno/Tahoe International Airport). As air traffic in Reno increased, Boeing purchased more land and expanded runways. In 1937, United Airlines purchased Hubbard Field and leased the airfield to the City of Reno who subsequently acquired the airfield from United in 1953. Construction of the present Reno/Tahoe International Airport buildings began in 1956, and was completed in 1960 and dedicated just prior to the Squaw Valley Olympics. Continuing its development and growth, in 1977 the Airport Authority of Washoe County was formed, and in November 1998, Reno/Tahoe International Airport celebrated its 70th Anniversary at its current

location. The airport is currently owned and operated by the Airport Authority of Washoe County, Nevada.

Today, McCarran International Airport and Reno/Tahoe International Airport are major business airport hubs as well as popular tourist destinations.

NEVADA HIGHWAYS, PUBLIC TRANSPORTATION AND RAILROADS

Nevada, particularly southern Nevada, has experienced unprecedented growth over the last decade. This growth has made transportation needs a high priority for state government. There are two major inter-state highways: I-80 crossing northern Nevada, east-west; and I-15 crossing southern Nevada, east-south-west. U.S. highway 95 connects the two principal cities of Las Vegas and Reno. The Las Vegas Beltway (Rt. 215) was built to accommodate the housing construction that circles Las Vegas and help alleviate the heavy use of Interstate 15. The Nevada Department of Transportation has committed billions of dollars to design, construct and maintain all of Nevada's highways to accommodate Nevada's needs in the new century.

The two main business centers for Nevada, Las Vegas and Reno, both have city public transportation. Las Vegas' Citizens Area Transit or CAT system offers bus service throughout the metropolitan area. Many cross-town bus routes stop, start and transfer through the downtown area, the Strip and surrounding communities. Reno's Citifare has been in operation since 1978 providing quality service to the people of Reno, Sparks and Washoe County, Nevada. Citifare operates under the direction of the Regional Transportation Commission of Washoe County, Nevada.

Nevada has two freight railroads operating within the state and a total of 1,200 rail miles. Railroads in Nevada originated a total of 2.5 million tons of freight traffic in 2005, with the greatest number of tons attributable to nonmetallic minerals. Nevada railroads terminated a total of 9.5 million tons of freight in 2005, with the greatest number of tons attributable to coal.¹⁰

NEVADA FOREIGN INVESTMENT AND EXPORTS

Nevada has two foreign trade zones: Las Vegas and Reno. These two foreign trade zones allow firms to bring foreign goods or raw materials for manufacturing and/or assembling into the United States without formal customs entry or payment of customs duties and governmental excise taxes until products leave the zone. If the final product is exported from the United

States, no U.S. Customs duty or excise tax is levied. If the final product is imported into the United States, fees are only due at the time of transfer on the product or its parts, whichever is lower. In 2006, Nevada's foreign exports totaled \$5.5 billion. Canada, Switzerland, Japan, Mexico, United Kingdom, Germany and Australia are Nevada's largest export markets.

The Nevada Global Trade and Investment Office conducts trade missions, provides export seminars and counseling and hosts foreign delegations to Nevada. The program is designed to both assist Nevada businesses to begin or expand activities in international markets and attract foreign investments to the state.

THE NEVADA MARKET

Southern Nevada experienced explosive growth in the past decade and has attracted a variety of new businesses. Tourism-connected industries such as hotels, casinos, amusement and recreation facilities, employ the largest number of individuals in Nevada.¹¹ While gaming remains the major industry, Nevada continues to attract non-gaming businesses such as technology companies, healthcare facilities, retail shops, real estate developers and financial institutions.

Nevada is an ideal location for companies seeking cost-effective rapid access to domestic and international markets. With an effective market area of 51 million people within a day's drive, businesses can take advantage of Nevada's low operational costs while distributing goods to a multitude of states, including California, the world's eighth largest marketplace. For this reason, Nevada is home to one of the fastest-growing warehouse and distribution centers in the west.

Nevada is consistently ranked as one the best locations for start-up businesses.¹² The State of Nevada offers incentive programs to qualifying businesses that are expanding or relocating to the region. These incentives include sales and use tax abatements, personal property tax abatements, and training grants for employees.¹³ The Nevada Commission on Economic Development¹⁴ works with a network of regional development authorities. These development authorities are experts regarding local political climates, business opportunities, and real estate costs and availability.¹⁵

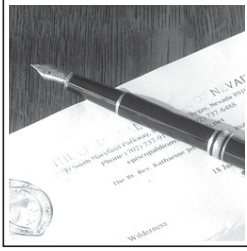
NEVADA TAXES AND FINANCIAL INCENTIVES FOR BUSINESSES

Nevada has a favorable tax climate for businesses and individuals. The favorable tax climate is one of the many reasons to conduct business in Nevada. Nevada's tax structure distinguishes the state as offering a business friendly environment very few states can match.¹⁶

Because there is no franchise, income or intangibles tax, Nevada is an excellent place to establish "back office" operations, particularly for companies that collect large sums of money from outside of Nevada (e.g., credit card servicing companies).

Please refer to Chapter 7 of this Guide for more information about Nevada taxes.

For additional information about Nevada generally, please see the resources listed in the Appendix.



Business Organization

CORPORATIONS

IN BRIEF

Corporations are familiar and popular entities for large and small businesses, whether for the benefit of a single stockholder¹⁷ or the thousands of stockholders of publicly traded corporations. Over the years Nevada has tailored its corporate laws to encourage businesses to incorporate and operate in Nevada at a low cost and with simple procedures.

ORGANIZATION

Incorporation in Nevada requires one or more persons to sign and file “articles of incorporation” with the Nevada Secretary of State’s office (the “Secretary of State”) on or accompanied by a form prescribed by the Secretary of State.¹⁸ Articles of incorporation must contain: (1) the name of the corporation, which must be distinguishable from any other name already on file with the Secretary of State;¹⁹ (2) the required information regarding the corporation’s registered agent who can accept service of process (as further discussed below); (3) the number of shares the corporation is authorized to issue, and if there is more than one class or series of shares, the description of all classes and series of shares or a grant of authority to the board of directors to designate the class or series of shares; (4) the name and address of each incorporator signing the articles of incorporation; and (5) a list of the initial board of directors and their respective addresses.²⁰ Articles of incorporation may also contain any provision not contrary to the laws of the State of Nevada related to management, conduct, regulatory and distribution issues.²¹ In Nevada, an incorporator’s only task is to file the articles of incorporation with all required information on the Secretary of State’s prescribed form, which form includes the certificate of acceptance of appointment of the registered agent.²² The initial board of directors is responsible for the initial corporate organization, adopting bylaws and similar actions.

Articles of incorporation may be delivered to the Secretary of State either by hand delivery, mail, or facsimile, and each method may be done on an “expedited” basis. If documents sent to the Secretary of State for filing are not “expedited” filing can take a long period of time. Although as of mid-2007 non-expedited processing times have improved, a document filed without “expedited” service could still take several weeks before being file-stamped and entered into the Secretary of State’s system.

A Nevada corporation is not required to adopt a corporate seal.²³ A Nevada corporation may adopt a corporate seal, but whether a corporate seal is or is not used does not affect the legality of any corporate record.

No later than the last day of the first month after articles of incorporation are filed, the corporation must file an Initial List of Officers, Directors and Registered Agent containing certain information about the corporation, on the Secretary of State’s prescribed form.²⁴ This initial list must contain: (1) the name of the corporation; (2) the Secretary of State’s file number (if known) for the corporation; (3) the names, titles and mailing or street addresses of the president, secretary, treasurer and all the directors of the corporation; (4) the required information regarding the registered agent of the corporation; and (5) a statement under penalty of perjury that the corporation has complied with all provisions of Nevada Revised Statutes Chapter 360 (business license).²⁵ In addition, the initial list must include a statement that the company is, or is not, a publicly traded corporation, and if publicly traded the company’s “Central Index Key” must be listed as well.²⁶ The initial list must be signed and certified by an officer of the corporation.²⁷ An Annual List of Officers, Directors and Registered Agent, which is nearly identical to the initial list, is filed with the Secretary of State each year by the last day of the anniversary month of the corporation’s formation.²⁸

CORPORATE RECORD KEEPING

All corporations must have a registered agent who resides or is located in Nevada.²⁹ The purpose of the registered agent is to accept service of all legal process and any demand or notice that can be served on a corporation.³⁰ A registered agent for a corporation is first appointed in the articles of incorporation filed with the Secretary of State; the appointment of a registered agent must be accompanied by a certificate of acceptance of appointment signed by the registered agent.³¹ Unless the registered agent has officially resigned, the registered agent is required to accept service of process for a corporation, even if the corporation’s charter has been revoked.³²

The registered agent for every corporation must keep certain documents and records in its registered office.³³ These documents include a copy of the file-stamped articles of incorporation and any amendments thereto, a copy of the corporation's bylaws certified by an officer of the corporation and any amendments thereto, and an up-to-date stock ledger or a statement naming the custodian of the stock ledger and its location.³⁴ These documents or a statement setting out the custodian of such records must be maintained by the registered agent for three years following dissolution of the corporation or the registered agent's resignation or termination.³⁵

Non-publicly traded corporations must maintain a current list of its owners of record at its registered office or principal place of business, or a statement indicating where such a list is maintained.³⁶ The corporation must provide the Secretary of State with the name and contact information of the custodian of the owner's list and notify the Secretary of State within 10 days of any changes to the information on the list.³⁷ The Secretary of State must keep this information confidential unless a law enforcement agency requests such information in the course of a criminal investigation.³⁸ Upon such a request, the Secretary of State may require a corporation to answer interrogatories submitted by the Secretary of State that will assist in a criminal investigation.³⁹ Failure of a corporation to comply with these Secretary of State requests may result in the suspension or revocation of its corporate charter.⁴⁰

Effective July 1, 2008, Nevada's version of the Model Registered Agents Act goes into effect. Under this Act, a registered agent may resign as registered agent for any corporation or multiple corporations by filing a statement of resignation with the Secretary of State that names each corporation from which the registered agent desires to resign and paying a resignation fee.⁴¹ The statement of resignation takes effect on the earlier of the thirty-first day after the statement is filed or upon the corporation's appointment of a new registered agent.⁴² Additionally, a commercial registered agent may resign as registered agent for all of the entities it represents by filing a commercial registered agent termination statement with the Secretary of State and paying a resignation fee; the commercial registered agent termination statement takes effect thirty-one days after such statement is filed.⁴³ Before the effective date of a registered agent resignation or termination, a corporation must file a statement of change of registered agent with the Secretary of State.⁴⁴ A corporation that fails to file a statement of change of registered agent before the effective date of

the resignation or termination shall be in default, subject to penalties and at risk of losing its charter.⁴⁵

Prior to July 1, 2008, a registered agent may resign by a process similar to that described above; however, the resignation takes effect upon filing. Prior to July 1, 2008, a corporation whose registered agent resigns must replace the resident agent within thirty days or be subject to the penalties described above.⁴⁶

Subject to statutory limitations, any stockholder of record owning at least 15% of the issued and outstanding shares of the corporation, or who has been authorized in writing by the holders of the same percentage of stock, may upon at least five days written demand, inspect the books and account and all financial records of the corporation and audit such records.⁴⁷ The corporation can refuse to let a stockholder inspect such records if the stockholder will not give the corporation an affidavit stating that the inspection is related to his or her interest as a stockholder of the corporation.⁴⁸

BOARD GOVERNANCE ISSUES

The board of directors of a Nevada corporation governs the corporation's business. The members of the board of directors must be natural persons at least 18 years old and have full control over the business of the corporation.⁴⁹ A corporation must have at least one board member and the articles or bylaws must provide for a fixed or variable number of directors, and in the case of a variable number, the manner in which the board of directors may be increased or decreased.⁵⁰ There is no requirement that directors be residents of Nevada or the United States. Unless otherwise provided in the articles of incorporation, directors do not need to be stockholders.⁵¹ Generally, directors must be elected annually by at least a plurality of the votes cast at the annual meeting unless the directors are elected by written consent or unless the articles of incorporation or the bylaws require more than a plurality for the election of directors.⁵² Unless otherwise provided in the corporation's bylaws or articles, each board member remains a board member until resignation, removal, replacement or reelection.⁵³ A corporation's articles or bylaws may provide for the classification of directors as to their term of office, or as to their election by different classes or series of authorized shares so long as at least one-fourth of the directors are elected annually.⁵⁴ The articles of incorporation may also provide that the voting power of an individual director or classes of directors may be greater or less than any other individual director or classes of directors.⁵⁵

A director may be removed from office by the vote of at least two-thirds of the voting power of the issued and outstanding stock entitled to vote on the issue, unless a corporation's articles of incorporation provide a higher percentage.⁵⁶ However, if a corporation has adopted cumulative voting, then unless all of the directors are to be voted out at one time or as the result of one transaction, the removal of one or more directors requires the affirmative vote of stockholders owning enough shares that they could prevent each respective director's election at the time of removal.⁵⁷

The board of directors may make or adopt bylaws for the corporation subject to the provisions of any bylaws made or adopted by the stockholders of the corporation.⁵⁸ Unless prohibited by any bylaws made or adopted by stockholders, the board of directors may adopt, amend or repeal any bylaws adopted by the stockholders.⁵⁹ The articles of incorporation may grant the board of directors the exclusive right to make or adopt bylaws for the corporation.⁶⁰

Unlike many other states, and unless prohibited in the articles of incorporation, any power of the board of directors may be delegated to a committee, including the management of the business and affairs of the corporation.⁶¹ Each committee must contain at least one director, but unless provided otherwise in the bylaws or articles of incorporation, the board may otherwise appoint non-directors to serve on any committee.⁶²

Every corporation must have a president, secretary and treasurer; and may have one or more vice presidents, assistant secretaries and assistant treasurers and such other officers or agents as necessary.⁶³ All officers must be natural persons and chosen pursuant to the bylaws or as determined by the board of directors, and may hold two or more offices.⁶⁴ An officer holds office until the appointment of a successor, or until the officer's resignation or removal from office.⁶⁵ The bylaws should prescribe how to fill a vacancy caused by an officer's resignation or removal.⁶⁶ However, if the bylaws are silent, the board of directors fills the vacancy.⁶⁷

Directors and officers of a Nevada corporation shall exercise the powers conferred upon them as directors and officers in good faith and with a view to the interest of the corporation.⁶⁸ Directors and officers may rely on information, opinions, reports, books of account or statements, including financial statements and other financial data, prepared or presented by certain qualified persons who are reasonably believed to be reliable and competent in the matters prepared or presented, provided that a director or officer may not rely on any such information if he or she has knowledge that

the information provided is not reliable.⁶⁹ Directors and officers of a Nevada corporation are presumed to act in good faith on an informed basis and with a view to the interests of the corporation.⁷⁰ Unlike Delaware, Nevada has, by statute, provided a list of factors the board of directors may consider with any level of importance, and in any combination, when exercising the board of director's powers with a view to the interests of the corporation.⁷¹ Under Nevada law, the board is not required to approve a transaction merely because it results in the stockholder getting the best available price. Instead, the list of statutory factors is intended to give the board and its officers a broad spectrum and scope with which to analyze circumstances and surrounding issues related to matters of corporate governance, takeovers, distributions, and other matters affecting the corporation.

The existence of self-dealing in a contract or transaction between a director or officer and the corporation does not automatically void the contract or transaction.⁷² A contract or transaction between a corporation and an interested director or officer is acceptable and not automatically void so long as: (1) the contract or transaction is approved by the non-interested directors, or by stockholders holding a majority of the voting power (including the interested parties); or (2) the fact of common directorship, office or financial interest is not known to the director or officer at the time the transaction is heard by the board; or (3) the contract or transaction is fair to the corporation at the time it is approved.⁷³

Generally, under Nevada law, a corporation may waive the "corporate opportunity doctrine", which requires that before a director may pursue a business opportunity that would otherwise belong to the corporation, he or she must first present the opportunity to the corporation. Specifically, a corporation may renounce specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders in its articles or by resolution of the board, thus allowing a safe harbor to officers and directors to pursue the renounced business.⁷⁴ However, even if the board of directors or stockholders approve an interested party transaction, the board of directors still has a fiduciary duty to the corporation, and if such a transaction would otherwise constitute a breach of fiduciary duty, the approval by independent directors or by the stockholders does not relieve the board of its responsibilities.

Unless otherwise provided in the articles or bylaws, directors and stockholders may take action by meeting (including participation via

telephone conference or similar method of communication) or written consent.⁷⁵ A written consent in lieu of a meeting of directors will have the same effect as a meeting of directors so long as the written consent is signed by all of the directors, excluding common or interested directors who properly abstain from providing consent.⁷⁶ A written consent in lieu of a meeting of stockholders will have the same effect as a meeting of stockholders so long as the written consent is signed by stockholders having at least a majority of the voting power or such other percentage as may be required to approve a particular action.⁷⁷ A meeting of the board of directors or stockholders may take place either inside or outside of Nevada in the manner provided in the corporation's articles or bylaws.⁷⁸ Unless a corporation's articles or bylaws provide otherwise, the entire board, any two directors, or the president of the corporation may call annual and special meetings of the directors or stockholders.⁷⁹

When a Nevada corporation's board of directors desires to sell, lease or exchange its property and assets, including good will and corporate franchises, the board of directors does not need the stockholders' vote unless the sale, lease or exchange is of all of the corporation's property and assets, or unless the corporation's articles of incorporation provide otherwise.⁸⁰ The board, acting alone, may abandon any such sale, lease or exchange.⁸¹ This standard is important because it is different from all other states. Other states require stockholder approval of any sale of "all or substantially all" of a corporation's property and assets. This means that although a Nevada court would probably not uphold a sham transaction where a corporation effectively sold, leased or exchanged all of its property and assets but retained just a few assets so that the transaction on its face did not involve "all assets", the board of a Nevada corporation should be able to dispose of much more of its assets without stockholder ratification than is the case in other jurisdictions.

Except as otherwise provided by specific statute or (in some cases) for a breach of fiduciary duty, no director, stockholder, or officer of a corporation is individually liable for any debt or liability of the corporation unless such person acts as the "alter ego" of the corporation.⁸² The term "alter ego" is defined by statute and follows the common-law definition of this doctrine.⁸³ The decision as to whether any person has acted as the "alter ego" of the corporation is a matter of law to be determined by a court of competent jurisdiction.⁸⁴ Further, directors and officers are not individually liable to the corporation, its stockholders or its creditors for any damages that

occur as a result of any act or failure of the director or officer to act in his capacity as a director or officer unless it is proven that: “(a) His act or failure to act constituted a breach of his fiduciary duties as a director or officer; and (b) His breach of those duties involved intentional misconduct, fraud or a knowing violation of law.”⁸⁵

Subject to certain statutory limitations, a corporation may indemnify any person who was a director, officer, employee or agent of the corporation in an action related to the corporation, including attorneys’ fees actually and reasonably incurred by such person, in connection with such action if he or she acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the corporation.⁸⁶ If such an action is successfully defended by a director, officer, employee or agent of the corporation, the corporation must indemnify him or her for any such expenses, including attorneys’ fees actually and reasonably incurred in connection with the defense.⁸⁷

Unless otherwise prohibited in a corporation’s articles or bylaws, a corporation may issue uncertificated shares.⁸⁸ Stock splits, including reverse stock splits, are allowed under Nevada law, and depending upon the stock split to take place, may not require stockholder approval.⁸⁹

The class or series of shares and the rights attributed to each class or series can affect voting issues. Unless voting rights to a particular series or class of shares are specifically prohibited in the corporation’s articles of incorporation, under Nevada law, even if stock is non-voting stock under other corporate constituent documents, stockholders still have a right to vote on certain actions if any preference or relative right of the class or series is adversely affected.⁹⁰

STOCKHOLDER GOVERNANCE ISSUES

Unless Nevada Revised Statutes Chapter 78 or the corporation’s articles or bylaws provide otherwise, a majority of the stockholders with voting power (present in person or by proxy, whether or not the person holding the proxy has authority to vote on all matters), constitutes a quorum for the transaction of business.⁹¹ Other than the election of directors, any action taken by stockholders is approved if the number of votes in favor of the action is greater than the number of votes against the action.⁹² Unless provided in the corporation’s articles, stockholders will not vote for directors cumulatively.⁹³ If pursuant to a corporation’s articles stockholders are allowed to use cumulative voting for the election of directors, then that right

must be described in the notice calling the meeting of stockholders or its related proxy material, and cumulative voting will be required if one or more of the stockholders gives notice of their intent to use cumulative voting.⁹⁴

Stockholders in a Nevada corporation have a statutory right to receive notice of stockholder meetings. If pursuant to Nevada Revised Statutes Chapter 78 stockholders are required or authorized to take any action at a meeting of stockholders, a notice of the meeting must be sent to all stockholders.⁹⁵ This notice must contain specific information regarding the meeting's location, time and purpose(s).⁹⁶ When a meeting of stockholders is called, a "record date" may be set which establishes the date upon which stock ownership will be determined for purposes of who will be entitled to receive notice of the meeting and who will be entitled to vote.⁹⁷

Stockholders also have the right to designate another person or persons to act on their behalf by proxy.⁹⁸ A stockholder may give more than one person a proxy and may limit any proxy to particular matters to be voted upon.⁹⁹ Any proxy given must be in writing and will expire 6 months after it is issued, unless coupled with an interest, or unless the stockholder specifies a longer date, which may not exceed 7 years.¹⁰⁰ Unless otherwise provided in the proxy, a proxy properly coupled with an interest does not expire. Subject to the foregoing restrictions, any proxy properly created is not revoked until another instrument revoking it or a properly created proxy with a later date is given to the corporation's secretary or other person appointed by the corporation to handle proxy matters.¹⁰¹ Additionally, a proxy is revoked if a stockholder attends a meeting and personally votes his shares.¹⁰² Similarly, by an agreement in writing stockholders may also transfer their stock to a voting trust. Under a voting trust, a trustee or trustees actually vote the stock.¹⁰³ In Nevada, the maximum term for a voting trust is 15 years.¹⁰⁴

Under Nevada law, stockholders have a fiduciary duty to the corporation, although the exact nature of that duty is unclear. The Nevada Supreme Court characterizes the duty owed by majority stockholders to minority stockholders as one that is "limited"¹⁰⁵. While, at a minimum, majority stockholders have a fiduciary duty to minority stockholders to refrain from acting in a way that intentionally harms their interests and probably have a duty to refrain from withholding material information, whether majority stockholders have a duty beyond the foregoing remains to be decided.¹⁰⁶

As discussed above in the “Board Governance” section, corporate stockholders are not individually liable for any debt or liability of the corporation unless such person acts as the “alter ego” of the corporation.¹⁰⁷

A stockholder in a Nevada corporation created on or after October 1, 1991, does not have any preemptive rights to purchase unissued shares, unless the corporation’s articles of incorporation provide that the corporation elects to have preemptive rights.¹⁰⁸ However, in the case of a corporation that existed before October 1, 1991, and unless otherwise prohibited in the corporation’s articles of incorporation, stockholders have preemptive rights to acquire unissued shares, treasury shares or securities convertible into such shares, subject to certain restrictions.¹⁰⁹

DISSOLUTION

Subject to statutory provisions regarding payment for shares and the corporation’s commencement of business with the public, a corporation may cause its own dissolution and winding-up.¹¹⁰ The dissolution of a corporation does not impair any remedy or cause of action available to or against it or its directors, officers or stockholders arising before its dissolution and commenced within 2 years after the date of dissolution.¹¹¹ However, this 2 year limitation only applies to claims that are known or reasonably should have been known before the corporation’s dissolution; therefore, claims that are first reasonably discovered post-dissolution but are based on acts that occurred before dissolution are generally not barred if brought after such 2 year period.¹¹² A corporation continues for these and other purposes related to winding-up its affairs and business, but not for the purposes for which the corporation was established.¹¹³ Upon the dissolution of a corporation or upon the expiration of its corporate existence, directors become trustees of the corporation, subject to statutory duties and obligations of a trustee.¹¹⁴

Any creditor or stockholder of a dissolved corporation may make application to district court to have a receiver appointed.¹¹⁵ The receiver may be a director of the corporation or not (as determined by the court) and shall have the power and authority vested by the court.¹¹⁶ All actions taken by such receiver shall be subject to review by the court.¹¹⁷ Further, if a corporation becomes insolvent or suspends its ordinary business due to lack of finances, any creditor holding 10% of the outstanding indebtedness, or stockholders owning 10% of the outstanding stock, may apply to the

district court for an injunction and the appointment of a receiver or trustee to manage or dissolve the corporation.¹¹⁸

A corporation subject to bankruptcy proceedings or reorganization may take any reorganization action directed by the bankruptcy court without further approval by the corporation's directors or stockholders.¹¹⁹

A corporation whose charter has been revoked may apply to the Secretary of State to have its charter revived or renewed together with all rights, privileges, obligations, and liabilities existing prior to revocation.¹²⁰ An application for revival or renewal of a corporate charter must be filed with the Secretary of State, and include certain information required by statute and the appropriate fees.¹²¹

STOCKHOLDER RIGHTS PLANS

The board of a Nevada corporation has broad statutory authority to resist any change-in-control, including, without limitation, actions that affect the timing of stockholders' voting rights or the adoption and execution of plans that deny rights, privileges, power or authority to any stockholder with a voting interest.¹²² It is important to note that in Nevada the board's analysis of a takeover is based on the benefit to the corporation as a whole, and the mere fact that the stockholders may not get the best possible price does not justify terminating the transaction.¹²³

CONTROL SHARE ACT

The effect of a person acquiring a controlling interest in a corporation doing business in Nevada is varied and requires analysis of several factors, many of which are dependent on the outcome of events that take place after the acquisition. If purchasing a quantity of shares sufficient to trigger control share provisions, an in-depth analysis of these statutes is necessary. Nevada's control share act requires approval by the non-interested stockholders when any other stockholder(s) exceed certain thresholds of stock ownership. The control share act only applies to a corporation that does business in Nevada (directly or through an affiliate), and has at least 200 stockholders of record, 100 of whom maintain a Nevada address on the stock ledger. Even if the control share act applies to a corporation at the time of a person's acquisition of a controlling interest in the corporation, if the corporation's articles or bylaws in effect on the tenth day following such an acquisition provide that the control share act does not apply to the corporation or to an acquisition by specific types of existing or future stockholders, then the

control share act will not apply to such an acquisition.¹²⁴ A corporation's articles or bylaws may impose stricter requirements on the acquisition of a controlling interest in the corporation than the provisions of the control share act provide.¹²⁵ Any person who acquires a controlling interest in a corporation subject to the control share act will only obtain voting rights in the corporation to the extent allowed by the corporation's stockholders pursuant to a resolution approved at a special or annual meeting after the relevant acquisition.¹²⁶ Further, unless otherwise provided in the articles or bylaws, if the person subject to the control share act received full voting rights holds shares representing at least a majority of the voting power, then the corporation has to offer to buy back, at fair market value, all shares owned by stockholders that did not vote in favor of such a person receiving full voting rights.¹²⁷ "Fair value" means the value of the shares immediately before the person acquired a controlling interest, excluding any appreciation or depreciation in anticipation of such acquisition unless exclusion would be inequitable.¹²⁸

BUSINESS COMBINATION ACT

The business combination act can be the ultimate trap and prevent further acquisitions by any person in the same corporation if such person acquires a certain percentage ownership of a business, or even if a certain percentage of ownership can be imputed to that person. The business combination act can be a non-fixable trap for the unwary investor, or it can be a strong director control tool if wielded properly. The business combination statutes prohibit certain "combinations"¹²⁹ between a Nevada corporation and an "interested stockholder"¹³⁰ for 3 years after such a person becomes an interested stockholder. There are various exceptions, such as where a corporation's original articles of incorporation elect to not be governed by these statutory provisions.¹³¹ Even after 3 years, combinations are not allowed unless the combination complies with certain provisions in the corporation's articles of incorporation and various statutory requirements, including specific board and stockholder approval.¹³²

STATUTORY CLOSE CORPORATIONS

Nevada's close corporation laws afford stockholders of close corporations limited liability while relaxing the requirement to comply with

certain corporate formalities. Non-publicly traded corporations with fewer than 30 owners may elect to incorporate as a statutory “close corporation” pursuant to Nevada Revised Statutes Chapter 78A.¹³³

Statutory close corporations have certain unique features, including that the close corporation’s articles of incorporation may provide that there will be no board of directors and restrict who may own an interest in the corporation.¹³⁴ In addition, an interest in the shares of a close corporation may only be transferred as permitted in the articles of incorporation, the bylaws, a stockholders’ agreement or a voting trust agreement.¹³⁵ Moreover, stock certificates issued by close corporations must contain a conspicuous statement that “the rights of stockholders in a close corporation may differ materially from the rights of [stockholders] in other corporations.”¹³⁶ A close corporation may regulate the management of the business pursuant to a written stockholders’ agreement.¹³⁷ In addition to eliminating a board of directors, a stockholders’ agreement may restrict the discretion or powers of the board of directors, treat the corporation as a partnership, or create a partnership relationship among the stockholders.¹³⁸ A close corporation must hold an annual meeting if a stockholder delivers a written request for one.¹³⁹

Generally, stockholders of a close corporation are not personally liable for failure to observe usual corporate formalities.¹⁴⁰ If the discretion or power of a board of directors is restricted by a stockholders’ agreement, however, any liability for such discretionary acts or exercise of such power shifts from the directors to the people who are given such discretion or power.¹⁴¹ Finally, unless otherwise provided in Nevada Revised Statutes Chapter 78A, the same rules applicable to corporations under Nevada Revised Statutes Chapter 78 also apply to close corporations.¹⁴²

JOINT VENTURES

Joint ventures are not specifically covered by statute in Nevada. A joint venture may be considered a subset of a general partnership. A joint venture is a contractual relationship where two or more persons conduct a business enterprise and agree to share profits and losses jointly, or in proportion to capital contributed.¹⁴³ Thus, the principles of law and liability governing a general partnership also govern a joint venture, unless the joint venturers

take steps to properly organize into some form of Nevada business entity, such as limited liability company, corporation or limited partnership.

PARTNERSHIPS

Nevada recognizes the following four types of partnerships: (1) general partnerships; (2) registered limited-liability partnerships; (3) limited partnerships; and (4) registered limited-liability limited partnerships. A partnership is an association of two or more persons carrying on as co-owners a business for profit.¹⁴⁴ Each type of partnership has varying characteristics with respect to organization, governance, partner liability, dissolution and termination.

General Partnerships

IN BRIEF

General partnerships require no organizational formalities but offer no protection to their partners. Chapter 87 of the Nevada Revised Statutes governs two different general partnership structures.¹⁴⁵ The original structure is based on the Uniform Partnership Act of 1914. The new structure follows the Uniform Partnership Act of 1997. General partnerships may elect to be governed by either structure; however, general partnerships formed after June 30, 2006, will be governed under the new structure unless they make an election to be governed under the original structure.¹⁴⁶

The key difference between the original and new structure is that under the original structure, a general partnership is generally treated as an aggregation of its individual partners whereas the new structure generally treats a general partnership as a distinct entity.¹⁴⁷ Most United States general partnerships will likely use the new structure. Certain foreign jurisdictions, however, impose negative tax consequences upon general partnerships which are treated as distinct entities; therefore, persons subject to these negative tax implications may prefer the original general partnership structure. The significant distinctions between the structures are noted below.

ORGANIZATIONAL FORMALITIES

There are no statutory requirements to establish a general partnership

in Nevada. A general partnership may be formed by express agreement or by implication. Under the original structure, the receipt of a business' share of profits is acceptable evidence that a person is a partner in the business, subject to certain exceptions.¹⁴⁸ Under the new structure, a partnership is formed by the association of two or more persons to carry on as co-owners of a business for profit.¹⁴⁹ Although there are no formal requirements for organizing a general partnership, a fictitious name certificate must be filed for the general partnership in each county for which it is doing business.¹⁵⁰ Additionally, under the new structure, the general partnership may file a statement of partnership authority with the Nevada Secretary of State identifying such information as the name of the partnership, the street address of its chief executive office, the name and addresses of the partners and the authority of such partners.¹⁵¹

RECORD KEEPING

Under the original general partnership structure, except as otherwise agreed among the partners, a partnership's books must be kept at the partnership's principal place of business.¹⁵² Every partner must have access to and may inspect and copy the partnership's books.¹⁵³ Any partner has the right to demand a formal accounting of the partnership's affairs if: (1) wrongfully excluded from the partnership's business or possession of the partnership's property by any other partner; (2) allowed by a partnership agreement; (3) allowed by Nevada Revised Statutes § 87.210; or (4) just and reasonable in the circumstances.¹⁵⁴ Similarly, under the new general partnership structure, a general partnership must keep its records at its chief executive office and all partners must have access to the books and records.¹⁵⁵

GOVERNANCE

Partners are repaid their respective contributions (whether cash or property) and share equally in the profits remaining after all liabilities, including liabilities to partners, are satisfied.¹⁵⁶ Each partner shall contribute the partnership's losses according to the partner's respective share in the profits.¹⁵⁷ The partnership shall indemnify every partner for payments made and personal liabilities reasonably incurred by such partner in the ordinary and proper conduct or preservation of the partnership's business or property.¹⁵⁸ A partner, who in aid of the partnership makes any payment or advance greater than the amount of capital which such partner agreed to contribute, must be paid interest on such payment or

advance from the date made.¹⁵⁹ Under the original structure, a partner may receive interest on a capital contribution to the partnership but only from the date the capital contribution should have been repaid.¹⁶⁰ Unless a partnership agreement provides otherwise, all partners have equal rights in the management and conduct of the partnership's business.¹⁶¹ No partner is entitled to remuneration for acting on behalf of the partnership, however if a partnership is dissolved, a surviving partner is entitled to reasonable compensation for services performed to wind-up the partnership's affairs.¹⁶² No person may become a member of a partnership without the consent of all existing partners.¹⁶³

LIABILITY OF PARTNERS

All partners are jointly and severally liable for everything chargeable to the partnership, including debts and obligations of the partnership.¹⁶⁴

DISSOLUTION AND TERMINATION

Any partner at any time can cause a partnership to be dissolved. However, if the person causing the dissolution does not act pursuant to statute or an agreement among the partners, the person causing the dissolution is liable for breach of contract. A partnership may dissolve even if there is no violation of the partnership agreement upon: (1) the expiration of the partnership's stated term; (2) the occurrence of an event specified in the partnership agreement; (3) the express will of any partner when no definite term or particular undertaking is specified; (4) the consent of all the partners who have not assigned or pledged their partnership interests (whether before or after the termination of any specified term or particular undertaking); or (5) the legitimate expulsion of any partner from the partnership pursuant to the terms of the partnership agreement.¹⁶⁵ Dissolution also occurs upon the happening of any event which makes it unlawful for partnership's business to continue, the death of any partner, the bankruptcy of any partner or the partnership, or by a court's decree.¹⁶⁶

Dissolution alone does not terminate a partnership. A partnership continues until the partnership's affairs are wound-up.¹⁶⁷ Generally, dissolution terminates all authority of any partner to act for the partnership, except as necessary to wind-up partnership affairs, including uncompleted transactions.¹⁶⁸ Unless otherwise agreed, any partner who has not wrongfully dissolved the partnership, or the legal representative of the last surviving non-bankrupt partner, has the right to wind-up the partnership's

affairs.¹⁶⁹ However, any partner, her legal representative or her assignee may request that the court direct the winding-up of a partnership.¹⁷⁰

Registered Limited-Liability Partnerships

IN BRIEF

Registered limited-liability partnerships require organizational formalities but offer certain limited liability protections to the partners.¹⁷¹ In a general partnership, each partner may be jointly and severally liable for the acts or omissions of the other partners.¹⁷² In contrast, in a registered limited-liability partnership, a partner is not liable for the debts, obligations, or liabilities of the partnership which arise while the partnership is a registered limited-liability partnership due to the acts or omissions of another partner, employee, or agent of the partnership.¹⁷³

ORGANIZATION

A partnership may form a registered limited-liability partnership by filing a certificate of registration with the Secretary of State, signed by either a majority in interest of its partners, or one or more authorized partners.¹⁷⁴ A certificate of registration must contain: (1) the name of the partnership that is distinguishable from any other name already on file with the Secretary of State;¹⁷⁵ (2) the street address of its principal office; (3) the required information regarding the registered agent who can accept service of process; (4) the name and business address of each managing partner; (5) a statement that the partnership will thereafter be a registered limited partnership; and (6) any discretionary information that the partnership wants to include.¹⁷⁶

The certificate of registration must be delivered to the Secretary of State to be filed.¹⁷⁷ The certificate of registration may be delivered to the Secretary of State either by hand delivery, mail, or facsimile, and each method may be done on an “expedited” basis as discussed earlier in this chapter regarding corporations.

No later than the last day of the first month after the certificate of registration is filed the registered limited-liability partnership must file, using the Secretary of State’s prescribed form, an Initial List of Managing Partners and Registered Agent containing certain information about the registered limited-liability partnership.¹⁷⁸ This initial list must contain: (1) the name of the registered limited-liability partnership; (2) the Secretary of

State's file number (if known) for the registered limited-liability partnership; (3) the names of all of the registered limited-liability partnership's managing partners; (4) the mailing or street address (residence or business) of each managing partner; (5) the required information regarding the limited-liability partnership's registered agent; (6) the signature of a managing partner certifying that the list is true and correct; and (7) a statement under penalty of perjury that the registered limited-liability partnership has complied with the provisions of Nevada Revised Statutes § 360.780 (regarding business licenses).¹⁷⁹ The initial list is to be signed and certified by the managing partner of the registered limited-liability partnership. An Annual List of Managing Partners and Registered Agent, which is nearly identical to the initial list, is filed with the Secretary of State each year by the last day of the anniversary month of the registered limited liability partnership's formation.¹⁸⁰

RECORD KEEPING

Record keeping procedures for a registered limited-liability partnership are the same as those described above in this chapter for a general partnership. In addition, registered limited-liability partnerships must maintain a current list of managing partners or a statement indicating where such a list is maintained.¹⁸¹ The requirements regarding this list and the Secretary of State's rights in a criminal investigation are the same as those described above in this chapter for corporations.¹⁸²

All registered limited-liability partnerships must have a registered agent who resides or is located in Nevada.¹⁸³ The registered agent for the registered limited-liability partnership is first appointed when the certificate of registered limited-liability partnership is filed with the Secretary of State.¹⁸⁴ The requirements regarding a resignation of a registered agent of a registered limited-liability partnership are similar to those discussed above for corporations.¹⁸⁵

GOVERNANCE

Generally, the same governance rules applicable to general partnerships are also applicable to registered limited-liability partnerships; moreover, like general partnerships, a partner's rights and powers may be altered from the statutory defaults by a written partnership agreement.¹⁸⁶

LIABILITY OF A PARTNER

A partner in a registered limited-liability partnership is not liable directly or indirectly, by way of indemnification, contribution, assessment or otherwise, for debts, obligations or liabilities of or chargeable to the partnership, whether in contract, tort or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed while the partnership is a registered limited-liability partnership and in the course of the partnership business by another partner or an employee, agent or representative of the partnership and is not a proper party to a proceeding against the registered limited-liability partnership for the recovery of damages related to such omissions, negligence, acts, etc.¹⁸⁷ However, a partner in a registered limited-liability partnership is liable for the partner's own omissions, negligence, wrongful acts, misconduct or malpractice or that of any person under that partner's direct supervision and control.¹⁸⁸

DISSOLUTION AND TERMINATION

The dissolution, termination, and winding-up of a registered limited-liability partnership is governed by the same statutes that apply to general partnerships discussed in the prior section of this chapter; however, it is unclear whether the dissolution, termination and winding-up of registered limited-liability partnerships are governed by the original general partnership structure or the new general partnership structure.

Limited Partnerships

IN BRIEF

Limited partnerships are partnerships that provide all of its partners, except any general partner(s), with limited liability. Chapters 87A and 88 of the Nevada Revised Statutes govern two different limited partnership structures.¹⁸⁹ The original structure is based on the Uniform Limited Partnership Act of 1976.¹⁹⁰ The new structure follows the Uniform Limited Partnership Act of 2001.¹⁹¹ Limited partnerships can elect to be governed by either structure; however, limited partnerships formed on or after October 1, 2007, must make an election to be governed under the original structure.¹⁹² Limited partnerships formed before October 1, 2007, must elect to be governed under the new structure, but limited partnerships formed on or after October 1, 2007, will default to the new structure.¹⁹³

One of the key differences between the two structures is that under the new structure, a limited partner who participates in the management and control of the limited partnership cannot be held personally liable for the partnership's debts.¹⁹⁴ Under the original structure, a limited partner can be held liable for the debts of the limited partnership by participating in the control of the business in certain situations.¹⁹⁵ Finally, under the new structure, a limited partnership is assumed to be a perpetual entity unless the limited partnership agreement provides for a termination date, whereas under the original structure, the duration of the limited partnership must be specified in the certificate of limited partnership.¹⁹⁶

ORGANIZATION

A limited partnership is formed by filing a certificate of limited partnership with the Nevada Secretary of State on its prescribed form.¹⁹⁷ A certificate of limited partnership must be signed by all of the limited partnership's organizers for limited partnerships under the original structure and by all of the general partners listed in the certificate for limited partnerships under the new structure.¹⁹⁸ The certificate of limited partnership must contain (1) the name of the limited partnership; (2) the street address of the office where the limited partnership's records are located; (3) information regarding the limited partnership's registered agent who can accept service of process; (4) the name and the address of each general partner; (5) for limited partnerships under the original structure, the latest date upon which the limited partnership is to dissolve under the original structure and for limited partnerships under the new structure, any information required pursuant to Nevada Revised Statutes Chapter 92A¹⁹⁹; and (6) any other information the organizers desire to include.²⁰⁰

No later than the last day of the first month after the certificate of limited partnership is filed, the limited partnership must file an Initial List of General Partners and Registered Agent containing certain information about the limited partnership on the Secretary of State's prescribed form.²⁰¹ This initial list must contain (1) the name of the limited partnership; (2) the Secretary of State's file number (if known) for the limited partnership; (3) the names and addresses of each general partner of the limited partnership; (4) required information regarding the registered agent of the limited partnership; and (5) a statement under penalty of perjury that the limited partnership has complied with all provisions of Nevada Revised Statutes § 360.780.²⁰² The initial list is signed and certified by a general partner

of the limited partnership.²⁰³ An Annual List of General Partners and Registered Agent, which is nearly identical to the initial list, is filed with the Secretary of State each year by the last day of the anniversary month of the limited partnership's formation.²⁰⁴

RECORD KEEPING

Under both structures, all limited partnerships must have a registered agent who resides or is located in Nevada.²⁰⁵ The registered agent for the limited partnership is first appointed when the certificate of limited partnership is filed with the Secretary of State.²⁰⁶ The requirements regarding a resignation of a registered agent of a limited partnership are similar to those discussed above for corporations.²⁰⁷

A limited partnership must maintain specific books and records at an office located in the State of Nevada; however, this location does not need to be its place of business.²⁰⁸ A limited partnership is required to keep: (1) a current list of the full name and address of each partner separately identifying the general and limited partners in alphabetical order, (2) a copy of the certificate of limited partnership and any amendments thereto, (3) copies of the limited partnership's federal, state and local income tax returns and reports (if any) for the 3 most recent years, (4) copies of the partnership agreement, (5) financial statements of the limited partnership for the 3 most recent years, and (6) unless otherwise set forth in the partnership agreement, statutorily prescribed information about capital contributions, limits on distributions (including repayments of capital), and events which will trigger dissolution.²⁰⁹ The limited partnership must, at its principal place of business or registered office, keep a current list of each general partner or a statement indicating where such a list is maintained.²¹⁰ The requirements regarding this list and the Secretary of State's rights in connection with a criminal investigation also apply to limited partnerships.²¹¹ In lieu of keeping these records at an office located in Nevada, the limited partnership may keep a statement with the registered agent setting out the name of the custodian of this information and the address where the information is kept.²¹²

Additionally, under the new structure, limited partnerships must maintain (1) copies of any filed articles of conversion or merger, (2) the three most recent annual lists that were filed with the Secretary of State and (3) any record made during the past 3 years of any partner consents or votes.²¹³

A partner of a limited partnership generally may request to inspect and copy, during ordinary business hours, the records kept by the limited partnership.²¹⁴

GENERAL PARTNER GOVERNANCE

Under the original structure, except for certain rights given to limited partners, the general partners of a limited partnership run the day-to-day affairs of a limited partnership.²¹⁵ Under the new structure, a limited partner can take part in the management of the limited partnership if such power is granted in the partnership agreement.²¹⁶ In addition, under the new structure, a limited partner is not liable for the limited partnership's debts even if that limited partner participates in the management of the entity.²¹⁷ Under the original structure, except as provided by statute or in a limited partnership's partnership agreement, a general partner has the same rights, powers and liabilities, and is subject to the same restrictions, as a partner in a general partnership.²¹⁸ It is unclear whether the new general partnership structure or original general partnership structure governs the rights, powers and liabilities of a general partner in a limited partnership (the material differences between those structures are noted in the General Partnerships section of this chapter). Under both structures, each general partner has equal rights in the management and conduct of the limited partnership's activities.²¹⁹

Under the original structure, a limited partnership's partnership agreement may grant the right to vote on any matter to all or only certain general partners, separately, or with all or any class of limited partners.²²⁰ Subject only to certain nonwaivable provisions of NRS Chapter 87A, such as the governing law applicable to the limited partnership and the ability of a limited partner to sue, under the new structure, the partnership agreement has unrestricted power to govern the relations among the partners and between the partners and the limited partnership.²²¹

A person who is both a general and limited partner of a limited partnership has the rights and duties of a general or limited partner, depending on the capacity in which he or she is acting.²²²

A general partner may withdraw or be removed as general partner upon giving written notice to the other partners, upon any agreed-upon event in accordance with a partnership agreement or as otherwise provided by statute under the original and new structures.²²³

LIMITED PARTNER GOVERNANCE

Under the original structure, a limited partnership agreement may grant all or any specific group of limited partners the right to vote on limited partnership matters.²²⁴ The new structure provides that a partnership agreement governs the relations among the partners and between the partners and the limited partnership (including the right of limited partners to vote) subject to only certain nonwaivable provisions.²²⁵ Under the original structure, certain types and amounts of participation in the control of a limited partnership's business can, by operation of law, cause limited partners to lose their shield of limited liability.²²⁶ Thus, a limited partner in such a partnership should be cautious to avoid "participat[ing] in the control of the business," the event that creates unlimited liability for a limited partner.²²⁷ Fortunately, as discussed below in the section "Limited Partner Liability", Nevada Revised Statutes § 88.430(2) provides a non-exclusive list of activities in which a limited partner may participate that do not constitute "participation in the control of the business."

Under the new structure, a limited partner is not personally liable for limited partnership obligations by reason of being a limited partner, even if he or she participates in the management and control of the limited partnership.²²⁸ However, there is no guarantee that a Nevada court will not hold a limited partner liable for obligations of the partnership if the partner acts as the "alter ego" of the partnership, similar to a finding that a stockholder has acted as the "alter ego" of a corporation.²²⁹

Under both structures, after the limited partnership is formed, additional limited partners may be admitted as provided in the agreement of limited partnership or by the written consent of all existing partners.²³⁰ Additionally, under the new structure, additional limited partners may be added as a result of a conversion or merger.²³¹

GENERAL PARTNER LIABILITY

Under the original structure, the liability of a general partner of a limited partnership is identical to the liability of a partner in a general partnership.²³² Thus, all general partners are jointly and severally liable for everything attributable to the limited partnership.²³³ This liability includes any wrongful act or omission by any general partner. It is unclear whether the new general partnership structure or original general partnership structure governs such liability (the material differences between those structures are addressed in the General Partnerships section of this chapter). Under

the new structure, a general partner is generally liable for all obligations of the limited partnership unless otherwise agreed to by the claimant or as provided by law (*e.g.* a general partner is generally not liable for limited partnership obligations after withdrawal).²³⁴

LIMITED PARTNER LIABILITY

Under the original structure, a limited partner is not liable for the obligations of a limited partnership unless the limited partner is also a general partner, or the limited partner participates in the control of the business.²³⁵ Nevada Revised Statutes § 88.430 sets forth certain acts that do not constitute “participat[ing] in the control of the business.”²³⁶ In the event that a limited partner participates in the control of the business, the limited partner is only liable to persons who transact business with the limited partnership reasonably believing, based on the limited partner’s conduct, that the limited partner is a general partner.²³⁷ A limited partner is also liable for the obligations of the limited partnership when the limited partner knowingly permits his, her or its name to be used in the name of the partnership unless it is also the name of a general partner, the corporate name of a corporate general partner, or the business of the limited partnership had been carried on under that name before the admission of that limited partner.²³⁸ If a limited partner allows his, her or its name to be so used, the limited partner is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.²³⁹

Under the new structure, a limited partner is not personally liable for the obligations of a limited partnership.²⁴⁰ Also, in contrast to the original structure, the name of the limited partnership may contain the name of any partner, including limited partners, without subjecting the limited partner to liability.²⁴¹

LIABILITY FOR CONTRIBUTIONS AND RETURN OF DISTRIBUTIONS

Under the original structure, a promise by a limited partner to make a contribution to the limited partnership is not enforceable unless the promise is written and signed by the limited partner who made the promise.²⁴² Under both structures, generally a partner’s obligation to contribute money, other property or to perform services is not excused by death, disability, or inability of the partner to perform.²⁴³ If a partner fails to make a promised non-monetary contribution, the partner may be obligated to contribute

money to the limited partnership equal to the value of the non-monetary contribution promised.²⁴⁴ For example, if a partner promises to provide certain services to the partnership but fails to do so, the partner may be obligated to contribute money to the partnership equal to the value of the services promised.

Except as otherwise set forth in the limited partnership agreement, the obligation of a partner to make a contribution, or return a distribution made in violation of the Nevada Revised Statutes Chapter 88, may not be excused without the consent of all partners of the limited partnership.²⁴⁵ Under the new structure, general partners may be personally liable for consenting to unlawful distributions.²⁴⁶

Under the original structure, upon withdrawal, a partner is generally entitled to receive any distribution to which the partner is entitled under the partnership agreement, or if not otherwise provided in the partnership agreement, the partner is entitled to the fair value of his interest as of the date of withdrawal based upon his right to share in distributions from the limited partnership.²⁴⁷ Under the new structure, a partner does not have a right to receive a distribution on account of withdrawal.²⁴⁸

DISSOLUTION, CHARGING ORDERS, RECEIVERSHIP AND TERMINATION

Under both the new and the original structures, a limited partnership is dissolved, and its affairs must be wound-up, upon the occurrence of certain statutory events.²⁴⁹ Under the original structure, this includes the time specified in the certificate of limited partnership, the occurrence of events specified in writing in the partnership agreement, or the written consent of all partners or judicial decree of dissolution.²⁵⁰ Under the new structure, dissolution occurs upon the happening of an event specified in the partnership agreement or with the consent of all general partners and limited partners owning a majority of rights to receive distributions as limited partners.²⁵¹ Under both structures, a limited partnership will also dissolve if a general partner withdraws or is expelled unless there is at least one other general partner and it is agreed among the partners to carry-on the partnership's business.²⁵² Even if the only general partner of a limited partnership withdraws or is expelled, the business of the partnership may continue if, no later than ninety (90) days thereafter, the limited partners appoint a replacement general partner.²⁵³

Any partner may apply to district court for a decree of dissolution of a limited partnership, and the district court may order the limited partnership

be dissolved, if proven to the court that it is not reasonably practicable for the partnership to continue its business pursuant to the terms of the partnership agreement.²⁵⁴

Unless otherwise prohibited in the partnership agreement, the affairs of a limited partnership will be wound-up by the general partner (unless wrongfully dissolved by the general partner) or, if there is no general partner, (1) a limited partner may wind-up the business of the partnership in the case of limited partnerships under the original structure or (2) the limited partners holding a majority of the rights to receive distributions may do so in the case of limited partnerships under the new structure.²⁵⁵ However, if the court orders the dissolution of a limited partnership, the court may wind up the limited partnership's affairs.²⁵⁶

Upon the winding-up of a limited partnership, the assets of the limited partnership will be distributed to creditors in satisfaction of the limited partnership's liabilities (including certain liabilities to partners).²⁵⁷ Under the original structure, unless a different order is set forth in the limited partnership agreement, the distributions are made to partners and former partners in satisfaction of liabilities for distributions, then to partners for the return of their contributions, and then to the partners in proportion to their interests and share of distributions.²⁵⁸ Therefore, a loan made by a partner to the limited partnership will be paid along with other debts of the corporation before distributions to partners. Under the new structure, any surplus remaining after the limited partnership pays off its creditors must be distributed to the limited partners in cash.²⁵⁹ If the remaining assets are insufficient to cover all obligations, those who were general partners at the time the outstanding obligations were incurred must contribute additional funds to the partnership.²⁶⁰

Under the original structure, a certificate of limited partnership must be cancelled upon the dissolution and commencement of winding-up of the limited partnership, or at any other time there are no limited partners.²⁶¹ A certificate of limited partnership is cancelled by filing a certificate of cancellation with the Secretary of State.²⁶² The certificate of cancellation must contain the name of the limited partnership, the reason for filing the certificate of cancellation, the effective date of cancellation if other than the date of the filing of the certificate, and any other information the general partners filing the certificate may desire.²⁶³ Under the new structure, a dissolved limited partnership may, among other things, amend its certificate of limited partnership to state that the limited partnership is

dissolved and may preserve the limited partnership as a going concern for a reasonable time during the winding-up period.²⁶⁴

A judgment creditor of a partner may apply to a court of competent jurisdiction to “charge” any partner’s partnership interest with payment of any unsatisfied judgment plus interest and has only the rights of an assignee of the partnership interest.²⁶⁵ Therefore, a purchaser of such a partnership interest will only have the right to receive distributions and will have no right of involvement in the management of the partnership.

REGISTERED LIMITED-LIABILITY LIMITED PARTNERSHIPS

IN BRIEF

Both general and limited partners in a registered limited-liability limited partnership are shielded from personal liability for the debts of the entity.²⁶⁶ A registered limited-liability limited partnership is structured as a limited partnership with both general and limited partners, while a registered limited-liability partnership has only general partners.²⁶⁷ Under the new structure of limited partnerships, limited-liability limited partnership status may be used to protect general partners from liability for obligations incurred while the limited partnership is a registered limited-liability limited partnership.²⁶⁸

Although in the past, there may have been differences among registered limited-liability partnerships, registered limited-liability limited partnerships, and limited liability companies, currently, these entities provide roughly the same limited liability protections. Historically, certain professional entities generally organized as registered limited-liability partnerships or registered limited-liability limited partnerships. Also, estate planners frequently use registered limited-liability limited partnerships for tax purposes. With these exceptions, persons desiring the limited liability protections of a corporation with the pass through tax benefits of a partnership typically form limited liability companies.

ORGANIZATION

A limited partnership may form a registered limited-liability limited partnership by filing a certificate of registration with the Secretary of State signed by the partners holding the voting power necessary to amend the partnership agreement and paying the appropriate fee.²⁶⁹ A certificate of

registration must contain: (1) the name of the partnership, which must be distinguishable from any other name already on file with the Secretary of State;²⁷⁰ (2) the street address of its principal office; (3) the required information regarding the registered agent of the registered limited-liability limited partnership; (4) the name and business address of each initial general partner; (5) a statement that the partnership will thereafter be a registered limited-liability limited partnership; and (6) any discretionary information that the partners decide to include.²⁷¹

LIABILITY OF A PARTNER

Generally, both general and limited partners in a registered limited-liability limited partnership are not personally liable for a debt or liability of the registered limited-liability limited partnership.²⁷²

RECORD KEEPING, GOVERNANCE, AND DISSOLUTION

Generally, the same record keeping, governance and dissolution rules applicable to limited partnerships are also applicable to registered limited-liability limited partnerships.²⁷³

LIMITED LIABILITY COMPANIES

IN BRIEF

A limited liability company (“LLC”) is a business entity created by statute that combines the flexibility and tax benefits of a partnership with the limited liability attributes of a corporation. As an owner of an LLC, a member’s liability is generally limited in a manner similar to stockholders of a corporation, while the LLC’s income is subject to only one level of federal income tax. Under Nevada law, one can also establish a “Series LLC.”²⁷⁴ A Series LLC is an LLC that has the same creditor protection as an LLC, but allows the LLC to establish separate series or cells within itself.²⁷⁵ The liabilities associated with one series will not jeopardize the assets of another series.

ORGANIZATION

An LLC is a separate legal entity, capable of suing and being sued, and having the rights, obligations, powers and privileges accorded by the state statutes under which it is organized. In Nevada, an LLC may be

formed and organized for any lawful purpose; however, LLCs may not be organized for the purpose of insurance unless approved to do so by the Commissioner of Insurance.²⁷⁶

Formation of an LLC requires that articles of organization be executed and filed with the Secretary of State by one or more persons (who need not be members).²⁷⁷ Articles of organization must contain: (1) the name of the LLC (the name must be distinguishable from any other name already on file with the Secretary of State);²⁷⁸ (2) the required information regarding the company's registered agent who can accept service of process; (3) a statement whether the LLC will be managed by one or more managers or by the members and such person or persons' address; (4) the name and address of each organizer executing the articles of organization; and (5) if debts are to be enforceable against the assets of a particular series of members, a statement setting forth the rights, powers and duties of the series or an indication that such terms will be set forth in the operating agreement.²⁷⁹ Articles of organization may also contain any provision not contrary to the laws of the State of Nevada regarding management, conduct, regulatory, and distribution issues.²⁸⁰ Similar to a corporation, in Nevada, an organizer's only task is to file the articles of organization with all required information on the Secretary of State's prescribed form, which form includes the certificate of acceptance of appointment of the registered agent.²⁸¹ Articles of organization are not required to describe any member's or manager's rights or other powers.²⁸² An LLC has perpetual existence unless otherwise provided in the LLC's articles of organization or the operating agreement.²⁸³

No later than the last day of the first month after articles of organization are filed, the LLC must file an Initial List of Managers or Members and Registered Agent containing certain information about the LLC, on the Secretary of State's prescribed form.²⁸⁴ This initial list must contain: (1) the name of the LLC; (2) the Secretary of State's file number (if known) for the LLC; (3) the names, titles and mailing or street addresses of all managers or managing members, as the case may be; (4) the required information regarding the registered agent of the LLC; and (5) a statement under penalty of perjury, that the LLC has complied with all provisions of Nevada Revised Statutes § 360.780 (regarding business licenses).²⁸⁵ The initial list is signed and certified by a manager or a managing member of the LLC certifying that the list is true, accurate and complete.²⁸⁶ An Annual List of Managers or Members and Registered Agent, which is nearly identical to

the initial list, is filed with the Secretary of State each year by the last day of the anniversary month of the LLC's formation.²⁸⁷

A Series LLC is established in much the same way as an ordinary LLC with some distinctions. The articles of organization of a Series LLC must contain a statement setting forth the rights, powers and duties of each series or state that the rights, powers and duties of each series will be set forth in the operating agreement.²⁸⁸ The articles of organization or the operating agreement must also provide that “the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series.”²⁸⁹ It is important that this language is used, otherwise there will be no liability protection.

Each entity or cell established by the company is referred to as a separate series which has different rights and obligations. A new series can be added by amending the articles of organization or the operating agreement. If the articles of organization have been properly drafted then only the operating agreement needs to be amended in order to add a new series.

RECORD KEEPING

An LLC must continuously maintain an office in the State of Nevada at which certain records of the LLC must be kept (a “Records Office”)²⁹⁰, which office need not be a place of business for the LLC.²⁹¹ Generally, the required records are: (1) a current list of full name and last known business address of all of the managers and members, separately identifying the manager(s) and the member(s) in alphabetical order;²⁹² (2) a copy of the filed articles of organization and any amendment thereto and executed copies of any powers of attorney pursuant to which any such document has been executed;²⁹³ and (3) a copy of the most current operating agreement and any amendments thereto.²⁹⁴ In addition to these requirements, an LLC must also maintain a current list of each member and manager or a statement indicating where such a list is maintained at its registered office or principal place of business.²⁹⁵ Because an LLC must keep a current list of members and managers at both its (1) Records Office and (2) registered office or principal place of business, an LLC may avoid having to maintain such a list at duplicate offices by designating its registered office as its Records Office. The requirements regarding this list and the Secretary of State's rights in a criminal investigation are the same as those described above in

this chapter for corporations.²⁹⁶ Any member of an LLC may inspect and copy required records upon reasonable request, during ordinary business hours and at the member's expense, unless otherwise provided in the operating agreement.²⁹⁷

An LLC must have a registered agent who resides in or is located in Nevada.²⁹⁸ The purpose of the registered agent is to accept service of all legal process and any demand or notices that can be served on the LLC.²⁹⁹

A registered agent may resign upon filing a statement of resignation with the Secretary of State for each LLC from which it desires to resign.³⁰⁰ Before the effective date of the registered agent's resignation or termination, the LLC must file a statement of change of registered agent with the Secretary of State.³⁰¹ An LLC that fails to file a statement of change of registered agent before the effective date of the resignation or termination shall be in default, subject to penalties, and at risk of losing its charter.³⁰²

A Series LLC is governed by the same statutes as an LLC when it comes to record keeping, however, in order to maintain the separate liability for each series, each series must maintain separate and distinct records (including having its own EIN number) and accountings from the assets of the company and any other series.³⁰³

For purposes of filing and registering with the state, the Series LLC is considered to be a single entity, thereby reducing the administrative costs associated with creating multiple LLCs. Therefore, each series will have the same registered agent and similar to an LLC the registered agent must reside in or be located in Nevada.³⁰⁴

MEMBER AND MANAGER GOVERNANCE ISSUES

Members have a wide range of flexibility and discretion in structuring the management of an LLC. The main instrument that will set forth the management and operational structure of the LLC is an operating agreement. An LLC may, but is not required to, adopt an operating agreement.³⁰⁵ An operating agreement must be in writing and may only be adopted by the unanimous vote or unanimous written consent of the members.³⁰⁶ The agreement may dictate, among other things, how members are to be admitted and terminated, the liability of members, voting rights, meetings, and information and inspection rights to the extent not inconsistent with Nevada Revised Statutes Chapter 86. Unless otherwise provided in the operating agreement, amendments to the operating agreement must be

adopted by the unanimous vote or unanimous written consent of the members at the time of amendment.³⁰⁷

An LLC is owned by its members³⁰⁸ and although all members typically share in the economic benefit of the LLC, an LLC may have non-economic members (for example, a lender can be a non-economic member for management or voting purposes).³⁰⁹ A membership interest in an LLC is personal property.³¹⁰ Although a membership interest in an LLC is not generally evidenced by a certificate, the operating agreement may provide that the LLC can issue certificates evidencing each member's interest in the LLC.³¹¹ Unless otherwise provided in the articles of organization or the operating agreement, a member may not transfer its management or voting rights in the LLC without the consent of a majority-in-interest of the other members.³¹² However, a member may transfer its right to receive profits or distributions to a transferee, provided that such transferee shall have no vote, interest or claim in the LLC and shall not become a member of the LLC, unless otherwise provided in the articles of organization or the operating agreement.³¹³

An LLC is managed by either a manager(s), who need not be a member, or its members.³¹⁴ If the articles of organization vest management of the LLC in a manager(s), an operating agreement is the best means to limit and describe the manager's power and authority to make day-to-day decisions for the LLC.³¹⁵ The operating agreement can limit the power and authority of the manager(s) for specific decisions that will require the consent of a stated percentage of the members.³¹⁶ In a member-managed LLC, unless otherwise provided in the articles of organization, the members manage the LLC in proportion to their respective contributions of capital as adjusted from time-to-time.³¹⁷ Unless otherwise provided in the articles of organization or operating agreement, no debt can be contracted or liability incurred, by or on behalf of an LLC, by any person other than its manager(s), if manager-managed, or its members, if member-managed.³¹⁸

An LLC may have more than one class of members or managers with differing rights, powers, voting rights and duties as may be established from time-to-time, including, classes with rights, duties and powers senior to existing classes of managers and members.³¹⁹

Member contributions to an LLC may be in the form of cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property to, or to perform services for, the LLC.³²⁰ Profits, losses and distributions of an LLC are allocated among its members

pursuant to the terms of the LLC's operating agreement, and if the operating agreement does not specify, profits and losses will be allocated in proportion to the value of each member's unreturned contribution to the LLC as shown in the books and records of the LLC.³²¹

Unless otherwise required by the operating agreement, neither the managers nor the members have to conduct regular meetings. Meetings may be scheduled in order to conduct the LLC's business or to obtain consent for any action or business activity of the LLC. However, unless prohibited by the articles of organization or operating agreement, any action requiring member or manager consent may be accomplished by a written consent executed by the specified percentage of members and/or managers.³²²

Unless otherwise provided in the articles of organization, or in an agreement signed by the member or manager to be charged with the debt, no member or manager of an LLC is individually liable for the LLC's debts or liabilities.³²³ However, all persons who undertake to act as an LLC without the authority to do so are jointly and severally responsible for all debts of the LLC.³²⁴

A member that receives a distribution of profits and contributions from the LLC may be liable to return the distribution if the distribution is made in violation of statutory restrictions stating when a distribution cannot be made.³²⁵ For example, profits cannot be distributed if it would render the company incapable of paying its debts.³²⁶ This liability to return distributions of profits and contributions expires three years after the date of distribution, unless otherwise agreed among the members, or an action to recover the distribution is begun before the expiration of the three year period. Members are also liable to the LLC for any difference between the amount of capital pledged to the LLC and the actual amount contributed by the member.³²⁷ However, the liability of a member to the LLC for any capital contributions may be waived with the consent of all the members.³²⁸

Any member's judgment creditor may apply to a court of competent jurisdiction to charge a member's membership interest in the LLC with payment of any unsatisfied judgment plus interest.³²⁹ A judgment creditor will not become a member but will have the rights of an assignee of the membership interest charged.³³⁰

An LLC's ability to indemnify any person who was, or is, a party to an action, suit or proceeding because the person is, or was, a member,

manager, employee or agent of the LLC is identical to a corporation's right to indemnify such persons.

For Series LLCs, each series can have its own set of members who are granted different powers, rights or duties with respect to each series, including voting rights.³³¹ The articles of organization or the operating agreement may provide that any member associated with a series has voting rights that differ from other members or series, or provide that a member has no voting rights at all.³³² A series may have separate powers, rights or duties with respect to specified property or obligations of the company or profits and losses associated with the separate property or obligations.³³³ Thus, by using the series LLC, it is possible to keep real estate separate from business operations. Each series also may have a separate business purposes and or objectives.³³⁴

With a Series LLC, the debts and liabilities of a series are enforceable only against that series.³³⁵ This liability insulation only exists if the assets of each series are held separately, if the articles confirm that a series exists, and if the relative rights and duties of the different series are set forth in the operating agreement.

Because Series LLCs are relatively recent creations, there are questions as to how a Series LLC should be taxed, as the IRS has yet to issue any rulings on Series LLCs. In the absence of any rulings, practitioners are treating Series LLCs like normal LLCs.

DISSOLUTION

A Nevada LLC must be dissolved and its affairs wound up at the time, if any, specified in the articles of organization, upon the occurrence of an event specified in the operating agreement, upon the affirmative vote or written agreement of all members, or upon entry of a decree of judicial dissolution.³³⁶ A member, or a person acting on behalf of a member, may apply to district court for judicial dissolution of the LLC if not reasonably practicable to carry on the business of the LLC pursuant to the articles of organization or the operating agreement.³³⁷ Except as provided in the articles of organization or operating agreement, the death, retirement, resignation, expulsion, bankruptcy, dissolution, or disassociation of a member (including, a sole member) does not cause the dissolution and wind-up of the LLC.³³⁸ Further, except as provided in the articles of organization or operating agreement, upon the death of a natural person who is the sole member of an LLC, the status of the member and his or her

membership interest may pass to heirs or assigns by will or applicable law and such heir or assignee becomes a substituted member.³³⁹

Dissolution of a Series LLC is much like that of an LLC; however, it is possible to dissolve a series without dissolving the entire LLC.³⁴⁰

PROFESSIONAL ENTITIES

Persons who provide professional services may organize as any one of the following entities under Nevada law: (1) a professional corporation under Nevada Revised Statutes Chapter 89; (2) a professional LLC under Nevada Revised Statutes Chapter 89; (3) a professional association under Nevada Revised Statutes Chapter 89;³⁴¹ (4) a general partnership or registered limited-liability partnership under Nevada Revised Statutes Chapter 87; and (5) a limited partnership or registered limited-liability limited partnership under Nevada Revised Statutes Chapter 87A or 88. This section is limited to a discussion of professional entities under Nevada Revised Statutes Chapter 89.

A professional entity under Nevada Revised Statutes Chapter 89 is a distinct business entity that renders professional services and may be organized as a professional corporation or a professional limited-liability company.³⁴² Generally, each organizer of the professional entity must be authorized to perform the professional service for which the entity is organized.³⁴³

The articles of incorporation or organization of the professional entity must set forth: (1) the profession which is to be practiced; (2) the names and addresses of the original stockholders and directors for a corporation, or the names and addresses of the original members and managers for a LLC; and (3) a certificate from the regulating board of the profession demonstrating that the stockholders, directors, members and/or managers are licensed to practice the profession, unless a certain exception is met for which there need only be control and two-thirds ownership of the professional entity by registered or licensed individuals.³⁴⁴

A professional entity may not engage in any business other than the professional service for which it was organized, with the exception of owning real and personal property appropriate to its business and investing its money in real property, securities or other types of investments.³⁴⁵ The professional services for which a professional entity may be organized include architecture, engineering, landscape architecture, interior design,

residential design, medicine and mental health services.³⁴⁶ Only the individuals in a professional entity who are licensed or otherwise authorized by law may actually render these professional services.³⁴⁷

Generally, a professional entity may not issue any ownership or give certain rights associated with ownership to any person who is not licensed or authorized by law to perform the professional service for which the entity was formed, nor may any person who is not licensed or authorized act as an officer, director or manager of the professional entity.³⁴⁸ If an officer, stockholder, director, member, manager or employee of a professional entity becomes legally disqualified to continue rendering the professional service, he or she must terminate any financial interest in and professional service with the professional entity within a reasonable time.³⁴⁹

A director, officer or employee of a professional entity is not personally liable for the acts of others associated with the professional entity if the director, officer or employee did not personally participate in the act.³⁵⁰

Finally, to the extent not inconsistent with Nevada Revised Statutes Chapter 89, the same provisions applicable to corporations under Nevada Revised Statutes Chapter 78 and LLCs under Nevada Revised Statutes Chapter 86 also apply to professional corporations and professional LLCs, respectively.³⁵¹

SOLE PROPRIETORSHIPS

Sole proprietorships are not specifically covered by statute in Nevada. A person may conduct business in his or her name as a sole proprietor in Nevada. There are no filing requirements with the Secretary of State for a sole proprietorship. However, every person doing business in Nevada as a sole proprietor under an assumed or fictitious name must file a fictitious name certificate as discussed in Chapter 10 of this Guide. The fictitious name certificate must list the legal name of each person who owns an interest in the business operated as a sole proprietorship. A sole proprietor is personally liable for all debts and obligations of the sole proprietor's business and is potentially liable for the acts of the sole proprietorship's employees.

NON-PROFIT CORPORATIONS

IN BRIEF

Non-profit corporations (“non-profits”) are traditional entities for large and small ventures where the primary purpose of the entity is not economic gain. Although nearly identical to a for-profit corporation, non-profits usually may not have, or issue, shares of stock and may not be formed for any purpose intended to cause financial gain to its members.³⁵² Whether an entity qualifies as a non-profit corporation under Nevada law is not determinative of whether it qualifies as a non-profit for income tax purposes.

ORGANIZATION

Incorporation of a non-profit requires that one or more persons file articles of incorporation with the Secretary of State’s office.³⁵³ Articles of incorporation for a non-profit must contain: (1) the name of the non-profit that is distinguishable from any other name already on file with the Secretary of State;³⁵⁴ (2) the required information regarding the non-profit’s registered agent who can accept service of process; (3) a statement that the entity is a non-profit corporation; (4) a description of the non-profit’s business or purpose; (5) the number, names and mailing or street address of the first board of directors or trustees; (6) a description of any right to change the number of directors; and (7) the name and address of each incorporator executing the articles of incorporation.³⁵⁵ Articles of incorporation may also contain any provision not contrary to the laws of the State of Nevada related to various management, conduct, regulatory, and distribution issues.³⁵⁶ An incorporator’s only task is to file the articles of incorporation with all required information on the Secretary of State’s prescribed form, which form includes the certificate of acceptance of appointment of the registered agent.³⁵⁷ The initial board of directors is responsible for the initial non-profit organization, adopting bylaws and similar actions.

Similar to a for-profit corporation, the articles of incorporation for a non-profit corporation must be filed with the Secretary of State, along with filing fees and the required registered agent information.³⁵⁸ Many organizational and administrative matters related to non-profits are identical to those of a for-profit corporation, such as delivery of documents to the Secretary of State,³⁵⁹ proposed name of the non-profit,³⁶⁰ no requirement

for a corporate seal,³⁶¹ and the filing of the initial List of Officers, Directors and Registered Agent and annual lists thereafter.³⁶²

RECORD KEEPING

A non-profit must keep certain records at its registered office, which is the office maintained at the street address of its registered agent.³⁶³ The statutorily required records are a copy of the non-profit's articles and any amendments thereto certified by the Secretary of State; a copy of the non-profit's bylaws and all amendments certified by an officer of the non-profit; and, if the non-profit has members, an alphabetic ledger of all members, updated at least annually, including their residence address and class of membership.³⁶⁴ Instead of the alphabetic ledger, the non-profit could distribute a statement of the name of the person who keeps track of the member's ledger and that person's current residence, which must also be the address where the members' ledger is kept.³⁶⁵ Additionally, at its principal place of business or registered office, a non-profit must keep a current list of its "owners of record" or a statement indicating where such a list is maintained.³⁶⁶ The requirements regarding this list and the Secretary of State's rights in connection with a criminal investigation also apply to non-profits.³⁶⁷

Subject to statutory limitations, a director or any member of record for at least six months may, upon at least five days written demand, inspect the members' ledger and make copies of such ledger.³⁶⁸ The non-profit can refuse to let a member inspect the members' ledger if the person will not give the non-profit an affidavit stating that the inspection is related to his or her interest as a member of the non-profit.³⁶⁹

OFFICERS AND DIRECTORS GOVERNANCE ISSUES

Every non-profit corporation must be managed by a board of directors or trustees,³⁷⁰ all of whom must be at least 18 years of age.³⁷¹ The non-profit corporation must have at least one director,³⁷² a president or chairman of the board, a secretary, and a treasurer.³⁷³

Directors and officers of a non-profit must exercise their powers in good faith and with a view to the interests of the non-profit corporation.³⁷⁴ In performing their respective duties, directors and officers are entitled to rely on information, opinion, reports, books of accounts or statements, including financial statements and other financial data that are prepared or presented by certain persons reasonably believed to be reliable and

competent in the matters prepared or presented.³⁷⁵ However, neither a director nor an officer may rely on any such information if he or she has knowledge that the information is not reliable.³⁷⁶ Except as provided in the non-profit's articles of incorporation or by statute, officers and directors of a non-profit are not liable for their failure to exercise due care in the performance of their duties as an officer or director, unless the act or omission involves intentional misconduct, fraud or a knowing violation of the law.³⁷⁷

In the case of non-profits having members or delegates, directors of a non-profit are elected at the non-profit's annual meeting of members or delegates.³⁷⁸ Although by statute directors may be elected by vote at a meeting or by written consent of the members or delegates (unless written consents are prohibited by the non-profit's articles of incorporation or bylaws),³⁷⁹ if elections are by written consent, they must be done in the form of a written ballot pursuant to a statutory written ballot procedure.³⁸⁰ However, the non-profit can avoid the written ballot procedure if the written ballot procedure is prohibited or limited in the non-profit's articles or bylaws.³⁸¹ If elected at the annual meeting, the directors of a non-profit corporation are elected by the plurality of the votes cast at the election.³⁸² If the directors are elected by written consent, such consent must be executed by a plurality of the members or delegates holding the voting power, unless a higher percentage is required in the articles of incorporation or bylaws.³⁸³

Directors of a non-profit corporation may be split into different classifications and lengths of term of office.³⁸⁴ Directors may be elected by one or more authorized classes of members or delegates, or members or delegates of specific geographic regions, districts or precincts.³⁸⁵ The directors of a non-profit may create committees which, unless restricted by statute, the bylaws or the resolution creating the committee, have the same powers as the board of directors to manage the non-profit's business and affairs.³⁸⁶ Similar to a for-profit corporation, a non-profit's committees must have at least one member of the board of directors on the committee, but unless prohibited by the non-profit's articles of incorporation or bylaws, the board of directors may appoint natural persons who are not on the board of directors to serve on a committee.³⁸⁷ Also, similar to for-profit corporations, officers or board members may enter into contracts with the non-profit so long as certain statutory conditions are met.³⁸⁸

MEMBERS AND DELEGATES

A non-profit corporation is not required to have members or delegates. A non-profit corporation's members or delegates are similar to a corporation's stockholders; generally members or delegates pay dues and provide annual financial support to the non-profit.

Unless allowed by the non-profit corporation's articles of incorporation or bylaws, a non-profit has no members.³⁸⁹ Unless the articles of incorporation establish or authorize the board or members to establish more than one class, a non-profit with members only has one class of members.³⁹⁰ The non-profit's articles or bylaws may create membership procedures or criteria, otherwise, the non-profit may admit any person as a member.³⁹¹ A person may not be admitted as a member without his or her express or implied consent and payment of a membership fee if one has been prescribed by the board of directors.³⁹²

Only if authorized by a non-profit's articles of incorporation or bylaws may the non-profit charge dues, assessments or fees to its members.³⁹³ Fees and assessments may be the same, different, and even waived, for different classes of members.³⁹⁴ The non-profit's articles of incorporation or bylaws may authorize the board of directors to set or change the amount of dues, fees or assessments and to determine the collection method(s) to be used. Any enforcement to collect dues, fees or assessments or to cancel any membership for nonpayment, or the reinstatement of membership, must be specifically set forth in the non-profit's articles of incorporation or bylaws.³⁹⁵

If a non-profit has members, unless the non-profit's articles of incorporation or bylaws designate specific or limited voting rights, members may vote on all matters.³⁹⁶ A membership interest in a non-profit or any interest arising from the membership interest cannot be transferred or assigned to any person unless specifically allowed by the non-profit's articles of incorporation or bylaws.³⁹⁷ Members of a non-profit corporation are not liable for the acts, debts, liabilities or obligations of the non-profit.³⁹⁸

Generally, a member of a non-profit may resign unless restricted by the non-profit's articles of incorporation or bylaws or other statutory restrictions applicable to a non-profit which supplies services described in Nevada Revised Statutes Chapter 704 (governing the regulation of public utilities).³⁹⁹ Even if a member resigns, the resignation will not discharge any unfulfilled obligations the member has to the non-profit corporation, including, unpaid dues, fees, or assessments.⁴⁰⁰

A non-profit's articles or bylaws may authorize the non-profit corporation to have delegates.⁴⁰¹ Perhaps the most common example of delegates is a homeowners association for a large master planned development, within which there are usually smaller sub-associations which elect delegates for meetings of the larger master association. Delegates will have the rights, powers and obligations set forth in the non-profit's articles of incorporation or bylaws.⁴⁰² All provisions related to delegates and their meetings, qualifications and limitations of their participation in the non-profit, including, selection and removal, will be as set forth in the non-profit's articles of incorporation and bylaws.⁴⁰³

DISSOLUTION

The majority of the members or the board of directors may dissolve a non-profit and wind-up its business pursuant to statute.⁴⁰⁴ In the case of a non-profit with members, if the board of directors adopts a resolution that the non-profit should be dissolved, a majority of the members must approve such a resolution.⁴⁰⁵ In addition to any required vote of the members, if the articles of incorporation name any person or organization whose vote is required for dissolution, such person or organization's vote must be obtained as well.⁴⁰⁶ In order for a majority of the members to request the non-profit be dissolved, the members must deliver a written request to the board of directors stating why the non-profit should be dissolved.⁴⁰⁷ Any authorized request for dissolution by the members must name three members to act as trustees during the liquidation of the non-profit.⁴⁰⁸ Upon filing this written request with the board of directors and the Secretary of State, all powers of the non-profit's board of directors cease.⁴⁰⁹ However, if the non-profit is dissolved upon resolution of the board of directors, the directors are the trustees of the dissolved non-profit the act of a majority of such directors as trustees is needed for any action to be taken.⁴¹⁰

After the adoption, if applicable, and approval of the resolution, the board shall file a certificate with the Secretary of State with a statement that the dissolution was approved pursuant to the statute, and with a list of the current officers and directors.⁴¹¹

The actions which may be brought by, or against, a dissolved non-profit are the same as those available to a for-profit corporation.⁴¹² The members, directors, delegates and creditors of a dissolved non-profit, and the non-profit itself, have the same rights, duties and liabilities as if the dissolved non-profit were a for-profit corporation.⁴¹³

Creditors holding 10% of the outstanding indebtedness, or members holding 10% of the voting power to elect directors, may petition the district court of the county in which the non-profit's registered agent is located for a writ of injunction and appointment of a receiver or trustee of the non-profit.⁴¹⁴ If the court agrees with the petitioner that the non-profit is insolvent, or upon inquiry, the court determines that the non-profit's operations have been, or currently are conducted at a loss and in a manner greatly prejudicial to its creditors' or members' interests such that the non-profit cannot continue with financial safety to the public, the court may appoint a receiver to run the business until the court orders otherwise.⁴¹⁵ A receiver appointed by the court has broad statutory authority to conduct the non-profit's business.⁴¹⁶

In addition, although it appears inconsistent with the foregoing provisions for appointment of a receiver, there is another statute regarding involuntary dissolution of a non-profit pursuant to which members, directors, or the attorney general may apply to the court for an order dissolving a non-profit, and appointing a receiver until the non-profit's business affairs are wound up.⁴¹⁷

A federal bankruptcy court may take any action regarding a non-profit that it may take regarding a for-profit corporation.⁴¹⁸

BUSINESS TRUSTS

IN BRIEF

A business trust shares many organizational and management attributes of a corporation, limited liability company and limited partnership. A business trust offers limited liability for the equity holders just as do corporations, limited liability companies and limited partnerships (with regard to the limited partners only). A business trust offers flexible governance similar to that of a limited liability company or limited partnership. While the equity holders of a business trust need not be disclosed to the Secretary of State, the name and address, either residence or business, of at least one trustee must be included in the initial filing.⁴¹⁹ Nevertheless, business trusts are subject to certain disclosure requirements, including that business trusts that make certain political donations must make certain disclosures related to such donations to the Secretary of State.⁴²⁰

ORGANIZATION

A business trust is formed when one or more persons files a certificate of trust with the Secretary of State.⁴²¹ The certificate of trust must contain: (1) the name of the business trust which is distinguishable from any other name already on file;⁴²² (2) the name and address of at least one trustee; (3) the required information regarding the registered agent for service of process; (4) the name and address of each person signing the certificate of trust; and (5) any other information the trustee determines to include.⁴²³ All filings must be accompanied by a form prescribed by the Secretary of State.⁴²⁴ Nevada law makes it clear that an entity which owns a beneficial interest in a business trust does not, itself, need to qualify to do business in Nevada solely as a result of such entity's ownership interest in the business trust.⁴²⁵

A business trust will have perpetual existence unless a specified duration of existence is set forth in the certificate of trust or the governing instrument.⁴²⁶ Even upon the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner, the business trust will continue, unless provided otherwise in the certificate of trust or the governing instrument.⁴²⁷

Similar to a corporation's articles of incorporation, a certificate of trust for a business trust must be filed with the Secretary of State, along with filing fees and the required registered agent information.⁴²⁸

No later than the last day of the first month after the certificate of trust is filed, the business trust must file a document known as an Initial List of Trustees and Registered Agent containing certain information about the business trust on the Secretary of State's prescribed form.⁴²⁹ This initial list must be signed by at least one trustee and contain the required information regarding the registered agent in Nevada and at least one trustee and a statement, under penalty of perjury, that the business trust has complied with all provisions of Nevada Revised Statutes § 360.780 (regarding business licenses).⁴³⁰ An "annual list", which is nearly identical to the initial list, is filed with the Secretary of State each year by the last day of the anniversary month of the business trust's formation.⁴³¹

RECORD KEEPING

A business trust must maintain certain documents and records in the business trust's registered agent's office.⁴³² These required documents include a copy of the file stamped certificate of trust and any amendments thereto, a copy of the business trust's governing instrument certified by a trustee of the business trust, and an up-to-date listing of all the business

trust's beneficial owners.⁴³³ Additionally, the business trust must provide the Secretary of State with a duplicate ledger or a statement containing the name of the custodian of the ledger and the present address where the ledger is kept.⁴³⁴ The requirements regarding this list and the Secretary of State's rights in a criminal investigation are the same as those described above in this chapter for corporations.⁴³⁵

Subject to statutory limitations, any person who has been a beneficial owner of record of a business trust for at least six months, or a person holding or authorized by the holders of at least 5% of the beneficial interest of a business trust, may, upon at least five days written demand, inspect the business trust's ledger and make copies thereof.⁴³⁶ The business trust can refuse to let any such person inspect the ledger if the person will not give the business trust an affidavit stating that the inspection is related to the business of the business trust and that such person has not at any time sold or offered for sale any list of owners of any entity or aided or abetted any person in obtaining such a list.⁴³⁷

GOVERNANCE ISSUES

Unless otherwise provided in the certificate of trust or its governing instrument, the business of a business trust is governed by its trustee(s).⁴³⁸ A beneficial interest in a business trust is personal property, regardless of the nature of the property owned by the business trust.⁴³⁹ Unless otherwise provided in the certificate of trust or the governing instrument, a beneficial owner has no interest in the specific property of the business trust.⁴⁴⁰ A beneficial interest in a business trust may be evidenced by a certificate or by other means set forth in the certificate of trust or the governing instrument.⁴⁴¹

The beneficial owners of a business trust may adopt a governing instrument which provides for matters relating to the business of the business trust, the conduct of its affairs, its rights or powers and the rights or powers of the trustees, owners, agents or employees.⁴⁴² A governing instrument may be a single governing document or may consist of several agreements, instruments or other writings and may include or incorporate bylaws relating to the business of the business trust, the conduct of its affairs, and its authority or the authority of its trustees, beneficial owners, agents or employees.⁴⁴³ The governing instrument may also authorize a beneficial owner to serve as trustee.⁴⁴⁴

The governing instrument may contain any provision not contrary to statute related to the management of the business trust and the rights and

obligations of its beneficial owners and trustees.⁴⁴⁵ A governing instrument may provide for classes or series of trustees, beneficial owners or beneficial interests in the business trust, each of which such class or services may have any rights, powers and duties the governing instrument provides.⁴⁴⁶ The governing instrument may also provide for the future creation of any such classes, series or interests having any relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior or subordinate to existing classes, groups or series.⁴⁴⁷ The governing instrument may provide for series of trustees, each of whom has separate interests, powers, rights or duties as to specified property or obligations of the business trust.⁴⁴⁸ If voting rights are granted under the certificate of trust or governing instrument, provisions should be included in the governing instrument related to notice of the meeting, place or purpose of the meetings, setting record dates for establishing voting eligibility, quorum requirements, and any other voting rights issue.⁴⁴⁹

The contribution by a beneficial owner to a business trust may be any tangible or intangible property or benefit to the business trust, including cash, promissory note, services, contract for services to be performed, or a security of the business trust.⁴⁵⁰ A beneficial owner's failure to make a promised contribution may result in penalties, including reduction or forfeiture of the beneficial interest.⁴⁵¹ A beneficial owner participates in the profits and losses of the business trust in proportion to his or its beneficial interest, unless specifically stated otherwise in the governing instrument.⁴⁵² A person may also become a beneficial owner and may receive a beneficial interest in a business trust without making any contribution or any promise to contribute to the business trust.⁴⁵³

A person (including a beneficial owner) will not be deemed a trustee by merely having the power to give, or actually giving, directions to a trustee, unless the certificate of trust or governing instrument specifically states otherwise.⁴⁵⁴ Furthermore, neither the power to give, nor actually giving, direction to a trustee, will cause such a person to have duties or liabilities to the business trust or its owners, unless the certificate of trust or governing instrument provides otherwise.⁴⁵⁵

To the extent that a trustee has duties (fiduciary or otherwise) and liabilities to a business trust or its beneficial owners, a trustee relying in good faith on the provisions of the business trust's governing instrument will not be liable to the business trust or its beneficial owners for carrying out the trustee's prescribed duties.⁴⁵⁶ The protections available to trustees

discussed in the previous sentence are also available for officers, employees, or managers or other persons acting pursuant to the certificate of trust or governing instrument.⁴⁵⁷

Except as otherwise provided in the certificate of trust or governing instrument, neither a trustee nor any officer, employee, agent or manager of a business trust is personally liable to any person, other than the business trust or a beneficial owner, for any act or omission of the business trust or a trustee thereof.⁴⁵⁸ Further, neither a trustee nor any officer, employee, agent or manager is personally liable to the business trust or a beneficial owner for damages arising from breach of fiduciary duty while acting in their respective capacity as trustee, officer or employee, except for acts or omissions that involve intentional misconduct, fraud or a knowing violation of law, unless otherwise provided in the certificate of trust or the governing instrument.⁴⁵⁹

A business trust may indemnify and hold harmless a beneficial owner or any other person from and against all claims and demands subject to any restrictions or requirements that may be provided in the certificate of trust or the governing instrument.⁴⁶⁰ However, the absence of an indemnity provision in the certificate of trust or governing instrument does not deprive a trustee or beneficial owner of any statutory right of indemnification which may otherwise be available to such person.⁴⁶¹

DISSOLUTION

Upon the winding-up and termination of a business trust, a trustee must sign and file a certificate of cancellation with the Secretary of State.⁴⁶² The certificate of cancellation must include the name of the business trust, the date the initial certificate of trust was filed, the effective date if not effective upon filing, and any other information the trustee desires to include.⁴⁶³ Any issues regarding the winding-up of a business trust will be handled in accordance with the general laws applicable to trusts in a similar situation.⁴⁶⁴

MERGERS, CONVERSIONS, EXCHANGES AND DOMESTICATION

MERGERS AND EXCHANGES

In Nevada almost any entity can merge into another entity, or one or more entities can merge into a single entity, so long as when the merger

transaction is complete, there is only a single surviving or resulting entity.⁴⁶⁵ A merger does not have to be an equity for equity transaction.⁴⁶⁶

A merger must be done pursuant to a “plan of merger,” which has to be adopted by the statutorily designated bodies.⁴⁶⁷ The plan of merger must contain statutorily specified elements and may have other optional provisions.⁴⁶⁸

An alternative to a merger is a statutory exchange.⁴⁶⁹ In an exchange, an entity may acquire one or more, or all, classes or series of the owners’ interests of one or more foreign or domestic entities.⁴⁷⁰ The exchange concept exists so that only the shares or ownership interests in a business are acquired and not the entire business operation. Thus, unlike a merger, all previous entities remain in existence. An exchange does not require that the exchange take place on an ownership-interest-for-ownership-interest basis, only that the manner and basis of exchanging ownership interests be set forth in the plan of exchange.⁴⁷¹ Moreover, an exchange does not require that all classes or series of an owner’s interests be included in an exchange; rather, the interests to be exchanged are determined in the plan of exchange approved by the exchanging entities.⁴⁷² Also, it should be noted that the statutory requirements imposed on a plan of exchange do not limit the power of an entity to acquire an owner’s interests of another company through a voluntary exchange.⁴⁷³

Similar to a merger, an exchange must be accomplished pursuant to a “plan of exchange” which must be in writing and contain various statutorily required provisions.⁴⁷⁴ The plan of exchange must be approved by the acquiring entity and the entity whose shares are being acquired pursuant to the same statutory provisions governing approval of mergers.⁴⁷⁵

CONVERSION

Through conversion, an entity may change its state of organization, business type, or both.⁴⁷⁶ For instance, through conversion a Nevada corporation can convert into a Nevada limited liability company, or an Arizona corporation can convert into a Nevada corporation or a Nevada limited liability company, provided that the non-Nevada jurisdiction (in this case, Arizona) allows such a process to occur. Conversion does not end the existence of the original entity but continues its existence in a different form, or jurisdiction, as the case may be. The conversion procedure is similar to a merger in that it must be done pursuant to a “plan”; however, conversion does not require another entity to accommodate the process. After a written plan of conversion is adopted a domestic resulting entity

must file with the Secretary of State the articles of conversion, the charter document of the domestic resulting entity and the required information regarding the registered agent.⁴⁷⁷ Articles of conversion must contain the name and jurisdiction of both the new and old entities and a statement that the converting entity adopted a plan of conversion pursuant to the laws governing the converting entity prior to conversion.⁴⁷⁸

Following the applicable approval, articles of merger, exchange or conversion must be filed with the Secretary of State and unless effective upon filing, the articles must include an effective date for the merger, exchange or conversion, which must not be later than 90 days after the date the articles of merger, exchange or conversion are filed.⁴⁷⁹ Additionally, all filings must be accompanied by a form prescribed by the Secretary of State.⁴⁸⁰

The effectiveness of a plan of merger, exchange, or conversion may be dependent on facts outside of the plan of merger, exchange or conversion so long as the plan of merger, exchange, or conversion clearly and expressly sets forth the manner in which such facts shall take effect.⁴⁸¹

DOMESTICATION

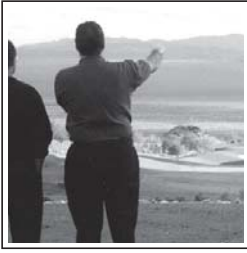
Domestication is a statutory process permitting the domestication of a foreign entity (an entity not organized pursuant to any United States law) in the State of Nevada.⁴⁸² Unlike conversion, after an entity domesticates in Nevada, the foreign entity continues to exist. If a foreign entity domesticates in Nevada it commences as a Nevada business entity while still existing and operating in the foreign jurisdiction.⁴⁸³ For example, a Canadian corporation that domesticates in Nevada as a limited liability company will also continue as a Canadian corporation. The procedure of domestication requires filing articles of domestication and the appropriate corporate, limited liability company, limited partnership, or other entity organizational documents for the new entity, including the required information regarding the entity's registered agent, with the Secretary of State.⁴⁸⁴ Before filing articles of domestication with the Secretary of State the domestication must be approved as required by the foreign entity's governing documents and any applicable foreign law related to the process of domestication.⁴⁸⁵ Domestication is not effective until articles of incorporation or organization or a certificate of trust or limited partnership for the Nevada entity has been filed with the Secretary of State.⁴⁸⁶ The domesticated Nevada entity is deemed to exist on the date it began its existence in the foreign jurisdiction in which it was first formed.⁴⁸⁷

DISSENTERS' RIGHTS

Nevada law provides an appraisal right for stockholders of corporations that oppose the corporation's entry into a merger, conversion or a share exchange.⁴⁸⁸ Such appraisal rights are also available to a stockholder who will be cashed out in a reverse stock split.⁴⁸⁹ Organizational documents and the merger agreement may provide additional rights to dissent in transactions involving corporations and other entities.⁴⁹⁰

The procedural requirements of the dissenters' rights statute are detailed and specific. Both the surviving entity and the dissenter must follow strict procedures or run the risk of losing their rights.

Dissenters who properly exercise their rights are entitled to receive "fair value" for their interest in the entity.⁴⁹¹ "Fair value" does not include either a minority discount or a control premium.⁴⁹² Stockholders who dissent lose their right to vote their shares for any purpose and to receive dividends or other distributions on their shares, unless the dividends or other distributions are payable to the stockholder before he or she dissented.⁴⁹³



Reporting Requirements for Foreign Direct Investment

All foreign investments in a United States business enterprise that result in a foreign (non-United States) person owning or controlling, directly or indirectly, a 10% or more voting interest (or its equivalent) in a United States business must report the transaction to the U.S. Department of Commerce, Bureau of Economic Analysis (the “BEA”).⁴⁹⁴ The BEA is concerned with ultimate business ownership and requires reporting down to an individual shareholder, member, partner, or other similar investor level.

The first time a foreign person or a U.S. affiliate of a foreign person acquires a 10% or more voting (or equivalent) interest in a U.S. business enterprise and the cost of such an acquisition exceeds \$3 million or involves more than 200 acres of land (for other than exclusively personal use) (a “Qualifying Transaction”), the U.S. enterprise must file an initial reporting form (BE-13) within 45 days after the transaction occurs.⁴⁹⁵ For the filing requirement, the same rules apply to forming a new entity as acquiring an interest in an existing entity. An additional BE-13 must be filed each time a Qualifying Transaction takes place. The purpose of these filings is to provide the BEA with select financial and operational data on the U.S. business enterprise acquired or established through foreign investment.⁴⁹⁶

Transactions in which a foreign person or a U.S. affiliate of a foreign person acquires a 10% or more voting interest in a U.S. business enterprise are exempt from the above-described reporting requirements if the total cost of the acquisition is \$3 million or less, involves 200 acres of land or less, or the acquired land is residential real estate and is to be held exclusively for personal use and not for profit making purposes. Nevertheless, if such an acquisition is exempt, the existing U.S. affiliate or the established or acquired U.S. business enterprise must file an “Exemption Claim, Form BE-13” to validate the exemption.⁴⁹⁷

In certain instances, a person who assists or intervenes in the Qualifying Transaction must file a BE-14 form with the BEA.⁴⁹⁸ A BE-14 must be filed by any United States person, including a broker, certified public accountant, or attorney if that person assists or intervenes in the sale to, or purchase

by, a foreign person.⁴⁹⁹ However, if the intervening person knows that the foreign person will file a BE-13 then a BE-14 does not need to be filed.

After the initial reporting of the qualifying transaction, the BEA requires an annual report regarding the continuing United States business interest.⁵⁰⁰ The BEA also requires a more extensive benchmark survey to be filed every five years.⁵⁰¹

There are several levels of exemptions from the BEA's long-form surveys for both the initial filing and subsequent annual filings.⁵⁰² Exemptions are determined based upon certain financial and asset data regarding the foreign investment in the United States, and also vary if there is more than one investment by the same foreign person within the United States.⁵⁰³ Consolidation is required at certain financial and asset levels and the exemptions and reporting requirements for those levels vary as well.⁵⁰⁴



Anti-Trust Law

Anti-trust laws are intended to protect consumers by restricting anticompetitive practices while preserving the free, open and competitive nature of our market system.⁵⁰⁵

Nevada anti-trust law, designated the “Unfair Trade Practices Act,” supplements the federal anti-trust laws, including the Sherman Act and Clayton Act.⁵⁰⁶ While Nevada’s Unfair Trade Practice Act adopts principles similar to the Sherman Act, as demonstrated below, the state legislature has also adopted several provisions specific to various business enterprises.⁵⁰⁷

Enforcement of Nevada’s antitrust laws is pursued largely through the Nevada Attorney General’s Bureau of Consumer Protection Antitrust Unit.⁵⁰⁸ This unit is authorized to bring action on behalf of the state and its citizens to enforce both federal and state antitrust laws.⁵⁰⁹

Certain entities and activities are exempt from the provisions of the Unfair Trade Practice Act.⁵¹⁰ These exempt entities or activities include certain non-profit organizations or conduct expressly authorized by governmental decision and specific types of covenants not to compete.⁵¹¹

In Nevada, price fixing, division of markets, allocation of customers, and tying arrangements, among other things, constitute unlawful restraints on trade.⁵¹² The Unfair Trade Practice Act provides a non-exclusive list of price fixing activities.⁵¹³

Under the Unfair Trade Practice Act, a business is liable for the acts of its officers, directors, representatives or agents, acting within the scope of their actual or apparent authority.⁵¹⁴ In addition to fines, criminal and civil liabilities exist for violations of the Unfair Trade Practices Act, and some civil actions remedies can include three-times actual damages.

Monopolistic finance practices in the automobile sales and financing industry are specifically prohibited as against public policy.⁵¹⁵ Additional penalties exist for monopolistic automobile financing in addition to any penalties under the Unfair Trade Practice Act.⁵¹⁶ Contracts that violate these provisions are void.⁵¹⁷ Each violation of these automobile financing provisions also constitutes a gross misdemeanor.⁵¹⁸

Bidding on public contracts is subject to strict rules and regulations and those bidding on public contracts are prohibited from restraining competition through collusion or entering into price fixing agreements.⁵¹⁹ Violations of these bidding rules may, among other penalties, void the respective bid.⁵²⁰



Consumer Protection Laws

Nevada has a number of laws intended to protect consumers. Some of these laws apply generally to all businesses while others apply only to specific types of businesses.

The Nevada Deceptive Trade Practices Act⁵²¹ is a comprehensive consumer protection act, many portions of which apply to all businesses and occupations. If a person makes false or misleading representations or uses deceptive practices in the course of his or her business or occupation, that person may be subject to restraining orders, fines, and criminal penalties.⁵²² This Act makes pyramid schemes,⁵²³ false or misleading solicitation of charitable contributions,⁵²⁴ and certain acts with respect to contests,⁵²⁵ door-to-door sales,⁵²⁶ and credit service organizations⁵²⁷ “deceptive trade practices” and subjects the person performing any such acts to the penalties listed above. In addition, a victim of deceptive trade practices under this Act can bring an action against the wrongdoer for damages, costs, and reasonable attorney’s fees.⁵²⁸

Nevada has a Consumer Reporting Act⁵²⁹ that requires credit reporting agencies to disclose to consumers upon their request the nature and substance of all information in the agencies’ files about the consumer, the sources of such information and the names of everyone who has requested this information within the past 2 years (for employment purposes) or 6 months (for other purposes).⁵³⁰ The consumer can dispute the accuracy of this information and require the reporting agency to perform an investigation and notify its institutional sources of such contested information.⁵³¹ If the information is inaccurate or cannot be verified, the reporting agency must correct its files.⁵³² Consumers can also request that a freeze be placed on their files to prohibit a reporting agency from releasing any information without the consumer’s express authorization.⁵³³

Nevada has a Bureau of Consumer Protection that is part of Nevada’s Attorney General’s Office.⁵³⁴ The head of the Bureau acts as a consumer advocate for Nevada residents and represents the public in select actions

before the Public Utilities Commission and in other proceedings where the public interest is at stake.⁵³⁵

To protect consumers against unscrupulous telephone solicitations, Nevada has enacted laws regulating telephone solicitations.⁵³⁶ Among other things, these laws require telephone solicitors to post bonds, letters of credit or certificates of deposit with Nevada's Division of Consumer Affairs.⁵³⁷ The Division of Consumer Affairs retains the right to draw on those funds held in trust for consumers who prove they were injured by a licensed solicitor.⁵³⁸ In addition to remedies against licensed solicitors, there are harsh penalties against persons who fail to register or otherwise violate these consumer protection statutes.⁵³⁹

To discourage abusive and improper collection methods, Nevada has enacted laws regulating collection agencies.⁵⁴⁰ Among other things, these laws prohibit collection agencies from using collection letters that simulate legal process, collecting unauthorized interest, charges, fees or expenses incidental to the principal obligation unless certain conditions are satisfied, assigning or transferring a collection claim without the customer's prior written consent, harassing a debtor's employer and publishing a public list of debtors.⁵⁴¹ In addition, no one can act as both a collection agency and a debt adjuster for a debtor who has incurred personal, family or household debt.⁵⁴²

Nevada has also enacted laws regulating check-cashing services and the "payday loan" industry.⁵⁴³ Persons offering deferred deposit loans (loans where a customer deposits a check or authorizes electronic withdrawal from an account and the lender agrees not to cash such check or withdraw such funds for a certain period of time),⁵⁴⁴ high-interest loans (loans with an annual percentage rate of more than 40% that are not deferred deposit, high interest, refund anticipation or title loans),⁵⁴⁵ title loans (loans with an annual percentage rate of more than 35% that are secured by title to a vehicle),⁵⁴⁶ or operating check-cashing businesses (the business of cashing checks for a fee, service charge or other consideration)⁵⁴⁷ must be licensed by the Commissioner of Financial Institutions.⁵⁴⁸ A person may not make (i) a deferred deposit loan that exceeds 25% of the expected gross monthly income of the customer when the loan is made or (ii) a high-interest loan that requires the borrower to make monthly payments that exceed 25% of the borrower's expected gross monthly income.⁵⁴⁹

Additionally, such businesses are required to disclose the types of loans they offer and the associated fees.⁵⁵⁰ Before making any loan, the customer must be provided a written loan agreement, which must disclose several

items, including the date and amount of the loan, the amount financed, the annual percentage rate, the finance charge, the payment schedule, and payment total.⁵⁵¹ In the event that a customer defaults on a loan, the licensee must offer a repayment plan to the customer before commencing any civil action or before repossessing any vehicle.⁵⁵² Additionally, where the customer is a member of the U.S. military, licensees may not garnish or threaten to garnish the wages of the customer or his or her spouse, and may not contact or threaten to contact the military chain of command in any effort to collect on a loan.⁵⁵³ The number of loans made to any one customer, the total amount loaned, and the interest rate are also regulated.⁵⁵⁴ Licensees are required to maintain certain records for inspection by the Commissioner of Financial Institutions for at least two years, and are subject to various fees, fines, or license revocation for failure to comply with the statutes.⁵⁵⁵

Retail installment contracts for goods and services are regulated by Nevada law.⁵⁵⁶ The terms of each contract must be contained in a single document (unless the obligation is secured), and the contract must contain the names and addresses of seller and buyer and a description of the goods or services.⁵⁵⁷ The statute contains detailed requirements regarding such contracts, including requirements that the sales price, down payment, number of installments and finance charges be included.⁵⁵⁸ There are also specific requirements for credit applications and contracts for the sale of cars.⁵⁵⁹

Nevada's Uniform Commercial Code governs warranties for the sale and lease of consumer goods, which are goods used or bought for use primarily for personal, family or household purposes.⁵⁶⁰ Express warranties for the lease and sale of consumer goods can be created by the seller/lessor making express promises relating to the goods or describing the goods.⁵⁶¹ The seller/lessor does not have to use the words "warrant" or "guarantee" to create an express warranty, but must do more than merely state the value of the item or give the seller's/lessor's statement or opinion of the goods.⁵⁶² The seller's/lessor's statements and representations must be part of the basis of the bargain and be more than opinion or recommendation.⁵⁶³ Unless properly excluded or modified,⁵⁶⁴ the sale and lease of consumer goods by a merchant may also contain implied warranties of merchantability and fitness for a particular purpose.⁵⁶⁵ The Nevada Uniform Commercial Code provides remedies for a buyer/lessee of consumer goods in the event of a breach of these warranties.⁵⁶⁶

Nevada law also provides certain protections for consumers who join health clubs,⁵⁶⁷ enter into campground memberships,⁵⁶⁸ enter into personal property leases with options to purchase,⁵⁶⁹ purchase a device which enhances a person's ability to perform major life activities,⁵⁷⁰ and for those who obtain automotive repairs.⁵⁷¹

Consumer protection laws are also incorporated into Nevada's laws that govern insurance companies,⁵⁷² financial institutions,⁵⁷³ sales of residential homes,⁵⁷⁴ sales of time share interests,⁵⁷⁵ leases and sales of cars and manufactured homes,⁵⁷⁶ in addition to other areas that typically involve the safety and welfare of consumers.⁵⁷⁷



CHAPTER 6

Regulation of Franchises

Nevada does not have a franchise law of general applicability. However, certain Nevada statutes specifically address the franchising of vehicle dealerships,⁵⁷⁸ liquor wholesalers⁵⁷⁹ and service stations.⁵⁸⁰ These laws were enacted to protect the rights of franchisees and deal with such things as franchise termination, the franchisee's right to protest and cure deficiencies, the definition of "good cause" for franchise termination or non-renewal, and the transfer or succession of the franchise.⁵⁸¹

Nevada also has not adopted a uniform act to regulate the sale of "business opportunities." For the most part, a franchise relationship is governed by the terms of the franchise agreement and general contract principles. However, any franchise transaction in Nevada may potentially be subject to Nevada's Securities Act,⁵⁸² Nevada's consumer protection laws,⁵⁸³ as well as other state laws and federal franchise laws.



Taxation

Nevada does not have a state corporate income tax, personal income tax, franchise tax, admissions tax, nor unitary tax, and has minimal estate taxes.⁵⁸⁴

PERSONAL INCOME TAX

Under its constitution, Nevada cannot impose a personal income tax.⁵⁸⁵

BUSINESS TAX / STATE BUSINESS LICENSE

Business Tax: Nevada imposes a tax on businesses applied against gross wages paid during each calendar quarter.⁵⁸⁶ Total gross wages are defined to include all gross wages and reported tips for a calendar quarter which are reportable for unemployment compensation.⁵⁸⁷ Generally, this modified business tax is levied upon every employer that is subject to the Nevada unemployment compensation laws.⁵⁸⁸ However, financial institutions, nonprofit organizations, Indian tribes, political subdivisions, and any person who does not supply a product or service but only consumes a service are not considered employers under this section, and are not subject to this tax.⁵⁸⁹ The employer is not allowed to deduct the tax, in whole or in part, from the wages of the employee.⁵⁹⁰ However, a deduction against total gross wages is allowed for payments made by the employer for employee health insurance and employee health benefit plans.⁵⁹¹ A new or expanding business may qualify for a partial abatement of the business tax.⁵⁹²

Business Licensing: The State of Nevada also requires most businesses, including sole proprietors, corporations and partnerships performing a service or engaging in a trade for profit in Nevada to have a state business license issued by the Department of Taxation.⁵⁹³ All new businesses must show proof of having a state business license, or sign a certificate of compliance stating that they have the state business license or are not subject to the requirement, before any other license required by a state or local government agency or department is issued. The application may be obtained from the Nevada Department of Taxation, and when submitted, must be accompanied by the \$100.00 fee.⁵⁹⁴ The annual business license fee is \$100.00.

Businesses not required to obtain the state business license include (1) government entities, (2) non-profit religious, charitable, fraternal, or other organizations that qualify as tax exempt under Internal Revenue Code § 501(c), and (3) a business whose primary purpose is to produce motion pictures.⁵⁹⁵ There is also a limited exception for a home based business. If a home based business does not earn more than 66 2/3 % of the average annual wage in any year, it is not required to acquire the business license for the following year.⁵⁹⁶

BANK EXCISE TAX

Nevada imposes a quarterly excise tax of \$1,750 per bank branch that is maintained within the state with the exception of the first bank branch.⁵⁹⁷ Credit unions are exempt from this tax.⁵⁹⁸ Automated teller machines are not considered branches for this purpose, and only “brick and mortar” bank facilities are counted.⁵⁹⁹ The tax is levied on each branch open for business as of the first day of each calendar quarter.⁶⁰⁰ Financial institutions also must pay a payroll tax, which taxes at a rate of 2% of wages.⁶⁰¹

PROPERTY (AD VALOREM) TAX

Property taxes in Nevada are imposed on all real and personal property located within the state, unless exempted.⁶⁰² Generally, the maximum rate of property tax is a total of \$3.64 for each \$100 of assessed valuation.⁶⁰³ Property taxes are comprised of various types of taxes within each tax district in Nevada. The result of the various taxes within each tax district is that property taxes can vary within a single county based on the location of the property assessed.

Real property includes land, buildings, and improvements on land which are not normally removable.⁶⁰⁴ Real property is assessed at 35% of its taxable value.⁶⁰⁵ Taxable value is the full cash value of the land, unless the land is improved, where value is instead based on its actual use.⁶⁰⁶ For improvements, value is replacement cost less depreciation at 1.5% per year up to 50 years.⁶⁰⁷

The definition of “personal property” includes most items that intuitively appear to constitute personal property, with the exception of vehicles.⁶⁰⁸ Personal property is assessed at 35% of its original cost less depreciation.⁶⁰⁹

All real and personal property is assessed on July 1. For property that is assessed a personal property tax that exceeds \$10,000, taxpayers can pay the tax in four equal installments on the 3rd Monday of August, and the 1st

Monday of October, January and March.⁶¹⁰ Real property taxes exceeding \$100 may also be paid on a quarterly basis.⁶¹¹ Property tax is generally paid to the county in which the real and personal property is situated.

Numerous real and personal property tax exemptions, including exemptions accorded to certain governmental, religious, educational and charitable organizations, are available.⁶¹² Other exemptions include personal property in transit, all personal property stored, assembled or processed for interstate transit, all raw materials and supplies utilized in the manufacturing process, personal property held for sale by a merchant or manufacturer, and all real and personal property that qualifies and is used for the purpose of air or water pollution control.⁶¹³

Nevada provides tax relief to its property owners by capping annual property tax increases at 3% on an individual's primary residence and 8% on all property which is not the owner's primary residence.⁶¹⁴ This 8% cap on the increase in property tax is applicable to property such as land, commercial buildings, and most business personal property.⁶¹⁵

PROPERTY TRANSFER TAX

A transfer tax is imposed on each deed conveying real property with a market value of more than \$100.⁶¹⁶ The tax is collected at the time of recording the deed, which must be presented with a standardized declaration of value form for calculation of the tax.⁶¹⁷ The basis for the tax is the actual selling price or the estimated fair market value of the property

The transfer tax rate in a county whose population is 400,000 or more (i.e. Clark County) is \$1.25 for each \$500 of value or fraction thereof, and 65 cents for each \$500 of value or fraction thereof in a county whose population is less than 400,000.⁶¹⁸ An additional tax is imposed state-wide at a rate of \$1.30 on each \$500 of value or fraction thereof on each deed or conveyance.⁶¹⁹ This results in a total tax in counties of 400,000 or more (i.e. Clark County) of \$2.55 for each \$500 in value or fraction thereof transferred, and for counties with less than 400,000, a total tax of \$1.95 for each \$500 in value or fraction thereof transferred. Furthermore, in addition to all other taxes imposed on transfers of real property, counties whose population is less than 400,000 may impose a tax at the rate of up to 5 cents for each \$500 of value, or fraction thereof, on each deed or conveyance.⁶²⁰ The buyer and seller in the transaction are jointly and severally liable for the payment of the transfer tax.⁶²¹

The key categories of transfer tax exemptions include transfers between a business entity and its parent or subsidiary, a transfer between a business entity and an affiliated business entity if the affiliated business entity has identical common ownership with the transferor, transfers to the United States, any territory, state or political subdivision thereof, transfers in bankruptcy, transfers of title between certain spouses, including gifts and property settlements or divorce decrees, transfers to or from a trust, transfers between joint tenants or tenants in common without consideration, and transfers of real property to a business organization if the person conveying the real property owns 100% of the organization to which the conveyance is made.⁶²²

SALES AND USE TAX

Sales tax is imposed on all retailers for the privilege of engaging in the sale of tangible personal property in the State of Nevada. The current combined maximum rate that may be levied is 7.75%.⁶²³ Retailers are required to report and remit sales and use collections on a monthly basis,⁶²⁴ except that quarterly reports and payments are permitted for accounts with taxable sales of less than \$10,000 per month and annual reports are permitted for a taxpayer that would otherwise report on a quarterly basis from whom no tax is due or whose taxable sales do not exceed a total amount of \$1500.⁶²⁵ New or expanding businesses may be granted a partial abatement from the payment of taxes in certain instances. Every retailer that sells tangible property for storage, use, or other consumption in Nevada must register with the Department of Taxation for a Use Tax Account and pay a fee to obtain a “sales and use tax retailer and seller license”.⁶²⁶ This should be done at the same time when applying for the business license described above.⁶²⁷

Use tax is assessed on tangible personal property purchased outside of Nevada and stored, used or consumed within Nevada by any individual, business, corporation, or other entity.⁶²⁸ Because the sales tax and use tax are complimentary, a single transaction will only be subject to one, but not both, taxes.⁶²⁹ Use tax applies to mail order and other out-of-state purchases of tangible personal property on which Nevada sales tax has not been paid.

Use tax is paid by submitting a one-time use tax return available from the Department of Taxation upon request. A taxpayer may instead send a copy of their transaction invoice, or a letter describing the transaction, to the Department of Taxation and remit the related tax. Those taxpayers who regularly incur use tax should obtain a use tax permit from the

Department of Taxation and file regular returns. There is no charge for the permit.

The Nevada statutes provide a significant number of exceptions to the imposition of the sales and use tax.⁶³⁰ Exemptions include sales to governmental and other tax-exempt organizations, occasional sales, newspapers, prescription drugs/prosthetic devices, utilities, food for human consumption, fuels used to propel motor vehicles and domestic fuels, among others.⁶³¹ In addition, any sale made to a person who intends to re-sell the items is exempt from sales tax, provided certain statutory requirements are met.⁶³²

In an effort to encourage the establishment and expansion of certain businesses in Nevada, deferral and/or abatement of sales and use tax may be available.⁶³³ The availability of an abatement and the length of the deferral is calculated based upon gross sales price.⁶³⁴ Qualified new businesses and existing Nevada businesses that are expanding, may be able to abate all but the 2% state sales tax on certain capital equipment and machinery.⁶³⁵ Such businesses may also defer sales and use tax up to 60 months, interest free, on capital purchases exceeding \$100,000.⁶³⁶ Further discussion of this topic is also available in Chapter 13 of this Guide.

LIVE ENTERTAINMENT TAX

Nevada has a live entertainment tax which taxes admission fees and sales related to certain live entertainment including activities performed before live audiences.⁶³⁷ The live entertainment tax is administered by the Nevada Gaming Control Board for events taking place within licensed gaming establishments.⁶³⁸ The Department of Taxation administers the tax for events taking place at non-gaming facilities.⁶³⁹

The live entertainment tax is based on the maximum seating capacity of the venue. No tax is imposed for live entertainment at non-gaming and limited gaming venues with maximum occupancies of less than 200 persons.⁶⁴⁰ In the case of live entertainment at a facility having a maximum occupancy of less than 7,500 persons, the rate of tax is 10% on the admission charge plus 10% of any amounts paid for food, refreshments and merchandise purchased at the facility.⁶⁴¹ In the case of facilities with a maximum occupancy of at least 7,500 persons, the tax rate is 5% of the admission charge.⁶⁴² A ticket must state whether the tax is included in the ticket price or not; if the ticket does not so state, the business or casino is responsible for paying the tax.⁶⁴³



CHAPTER 8

Labor and Employment Law

The field of labor and employment law is a broad area. This field of law is governed by federal law, state law, administrative regulations, and judicial decisions.

AT-WILL EMPLOYMENT

There is a strong common law presumption of at-will employment in Nevada. Absent a statute or an express or implied agreement to the contrary, employers are free to terminate employees at any time, with or without notice or cause.⁶⁴⁴

LABOR COMMISSIONER

Matters pertaining to state labor laws, rules and regulations are enforced by the Nevada Office of the Labor Commissioner (the “Labor Commissioner”).⁶⁴⁵ The Labor Commissioner or other designated agents may take assignments of wage and commission claims and prosecute an employer for collection of wages, commissions and other demands of any person.⁶⁴⁶

RIGHT TO WORK

Nevada is a right to work state.⁶⁴⁷ Nevada’s right to work laws are not preempted by federal law.⁶⁴⁸ The right to work laws protect employees from federal labor law provisions that authorize mandatory union dues. Employees covered by these laws cannot be fired for refusing to pay such dues. Agreements requiring membership in a labor organization as a condition of employment are also prohibited.⁶⁴⁹ Non-union members within a bargaining unit may be charged a fee if such members elect union representation in grievances, hearings, and arbitrations; however, a non-union employee may opt out of such union representation and instead elect to hire independent counsel in such matters.⁶⁵⁰

GAMING CASINO EMPLOYEES

Every labor organization representing or seeking to represent gaming casino employees must file certain information with the Nevada State Gaming Control Board regarding personnel who perform supervisory roles or who are directly involved in employer - employee relations.⁶⁵¹ The Nevada Gaming Commission may disqualify any such person from serving in a listed role upon a determination of unsuitability under certain circumstances.⁶⁵² Such personnel must submit specified information to satisfy disclosure requirements.⁶⁵³ Failure to comply with these requirements constitutes a sufficient basis for disqualification from the job with potential regulatory consequences to the company.⁶⁵⁴ The purpose of these statutes is to determine the suitability of persons who are involved in key positions affecting the gaming industry.⁶⁵⁵

CHILD LABOR

Employment of children under the age of 16 is limited to an 8-hour day and no more than 48-hours in any week (with certain exceptions), and is further regulated according to age and occupation.⁶⁵⁶ A child between the ages of 14 and 18 who has completed eighth grade may be excused by the school district's board of trustees from the full-time attendance of school to enter employment or an apprenticeship; any such authority must be in writing and state the reason for the excuse.⁶⁵⁷ The employer of such a child must keep the written authorization from the school district's board of trustees on file during such child's employment or apprenticeship, and upon the termination or expiration of the employment or apprenticeship, the written authorization must be returned to the board of trustees.⁶⁵⁸ When contracting with a minor (defined as a person of less than 18 years of age who has not been emancipated)⁶⁵⁹ for creative or athletic services, an interested party to such contract may petition the district court in which the minor resides for approval of the contract.⁶⁶⁰ Upon court approval, the minor may not rescind, avoid or disaffirm the provisions of the contract because he or she is a minor.⁶⁶¹

Children under the age of 14 must have written permission from the district court of the county in which the child resides to be employed in any labor whatsoever, except for farm work, housework or employment as a performer in a motion picture.⁶⁶² Any person violating this requirement is guilty of a misdemeanor.⁶⁶³ In addition, in order for a child under the age of 14 to be employed (except for as a performer in a motion picture)

during school hours, there must be an excuse from attendance by the school district or the family court having jurisdiction over the child.⁶⁶⁴

MEAL AND REST PERIODS

Employers must generally permit employees to take at least one 30-minute meal period and two 10-minute rest periods during a continuous work period of 8-hours.⁶⁶⁵ Rest periods are counted as hours worked.⁶⁶⁶ Additional regulations related to meal and rest periods apply if an employee works in excess of 8 hours in one day.⁶⁶⁷ No rest period is required if total daily work time is less than 3 ½-hours.⁶⁶⁸ Meal and rest periods are not required for businesses with a single employee or employees who are included within a collective bargaining agreement.⁶⁶⁹ Although an employee may voluntarily agree to forego any rest or meal period, the employer has the burden to prove the existence of such an agreement.⁶⁷⁰

TIME AND MANNER OF PAYMENT OF WAGES

Under Nevada law, wages are the “amount which an employer agrees to pay an employee for the time the employee has worked, computed in proportion to time, and commissions owed the employee, but excludes any bonus or arrangement to share profits.”⁶⁷¹ If an employee is to be paid by commission, the employer must pay commissions to the employee according to the terms of the commission agreement, or if no formal agreement exists, then as determined by their course of dealing.⁶⁷² Commissions paid may be used to meet the minimum wage requirement.⁶⁷³

Subject to specified exceptions, every employer must pay employees at least twice a month on regular paydays designated in advance.⁶⁷⁴ Employers may, without the employee’s consent, withhold from an employee’s wages any amount required by law or an employee’s contribution to an employer’s benefit plan.⁶⁷⁵ Additionally, under certain circumstances, an employer may withhold other amounts from an employee’s pay if the employee gives written consent.⁶⁷⁶

Moreover, an employee’s wages may be garnished under certain circumstances. For example, a court order for the payment of child support may require garnishment of an employee’s wages.⁶⁷⁷ If an employer fails to garnish an employee’s wages for child support pursuant to a court order, the employer may be held liable for the payment.⁶⁷⁸

Employers must post and maintain a notice of paydays and cannot change the paydays without providing the affected employees with

sufficient notice.⁶⁷⁹ Likewise, an employer cannot reduce an employee's compensation rate without providing written notice at least seven days in advance of when the employee first performs work at the reduced rate.⁶⁸⁰

Payment must be made in cash or with checks drawn on banks where suitable arrangements are made for cashing checks without difficulty.⁶⁸¹ The use of debit cards or paycards as an alternative to paychecks for the payment of wages and compensation is allowed at the election of the employee, provided that such payment meets specific requirements, including that the employee may obtain immediate payment in full at an alternative payment location that is readily accessible to the employee.⁶⁸² An employer who knowingly issues a negotiable instrument for wages for which there are insufficient funds must reimburse the employee for any penalty or charge incurred.⁶⁸³ Furthermore, it is unlawful for an employer to require an employee to refund any wages earned by and paid to the employee.⁶⁸⁴

Discharged employees are entitled to earned and unpaid wages and compensation immediately.⁶⁸⁵ Employees who resign are entitled to earned and unpaid wages and compensation no later than the day the employee would have been regularly paid or seven days after resignation, whichever is the earliest date.⁶⁸⁶ If an employer fails to pay a discharged employee within three days after wages become due or a resigning employee on the day the wages are due, the wages continue to accrue at the same rate until paid or for 30 days, whichever is less.⁶⁸⁷ An employee intentionally avoiding or refusing payment of wages is not entitled to the penalty payment.⁶⁸⁸ Unless otherwise agreed to by the employer, Nevada employers are not required to pay terminated employees for accrued and unused vacation or sick time at the time of termination.⁶⁸⁹

An employer must establish and maintain records reflecting the gross wage or salary, deductions, net cash wage or salary, and the total hours employed of each employee for each pay period.⁶⁹⁰ Within 10 days of an employee's request, an employer shall provide an employee with a record of wages, which must include the gross wage or salary for the pay period, deductions, total hours worked per day, and the date of payment.⁶⁹¹

MINIMUM WAGE

Subject to certain exceptions, the minimum wage is \$5.85 per hour for employees to whom qualifying health benefits have been made available by the employer and \$6.33 per hour for all other employees in private employment.⁶⁹² These rates are subject to adjustment by the amount

of increase in the federal minimum wage over \$5.15 per hour or by the cumulative increase in the cost of living, not to exceed 3% in any one year, if greater than the federal minimum wage increase.⁶⁹³

There is no distinction between full time, permanent, part time, probationary or temporary employees for minimum wage purposes.⁶⁹⁴ The only exceptions to the minimum wage are for persons who are: (1) under the age of 18; (2) employed by a nonprofit organization for after school or summer employment; (3) employed as trainees for a period not longer than ninety days; or (4) employed under a valid collective bargaining agreement.⁶⁹⁵

Tips or gratuity may not be used to offset the minimum wage or its requirements.⁶⁹⁶ However, commissions paid to an employee may be credited toward satisfying the minimum wage requirement.⁶⁹⁷

OVERTIME

Nevada and federal law govern the payment of overtime wages to non-exempt employees.⁶⁹⁸ Under Nevada law, unless an employee is exempt from overtime, an employer must pay one and one-half times an employee's regular wage rate whenever an employee works more than 40 hours in any scheduled work week or more than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days.⁶⁹⁹ However, this exception from the daily overtime provision does not exempt an employer from the weekly overtime provision for an employee's hours worked in excess of 40 hours a week. Additionally, an employer cannot substitute compensatory time in place of a wage payment for overtime worked by an employee.⁷⁰⁰

Under Nevada and federal law, certain employees are categorized as "exempt" and, therefore, are not entitled to overtime pay.⁷⁰¹ Under Nevada law, outside buyers, employees covered by collective bargaining agreements, employees subject to the Motor Carrier Act of 1935, agricultural employees, employees of a railroad or air carrier, drivers of taxicabs or limousines, drivers making local deliveries paid on a trip-rate basis, salespersons or mechanics engaged in selling or servicing vehicles, employees of a business with gross annual sales volume less than \$250,000, employees who are employed in bona fide executive, administrative or professional capacities and specified others are exempt from overtime.⁷⁰² In determining whether an employee is employed in a bona fide executive or administrative capacity under Nevada law, the Labor Commissioner will refer to federal regulations.⁷⁰³

PUBLIC WORKS CONTRACTS

A contract with the State of Nevada or its political subdivisions must provide that all laborers and mechanics employed shall be paid at least the prevailing rate of wages for similar work in the locality.⁷⁰⁴ The Labor Commissioner establishes the prevailing rate.⁷⁰⁵

RECORDS REGARDING EMPLOYMENT

Upon the request of any employee, an employer must give the employee a reasonable opportunity during the employer's usual business hours to inspect certain "records of employment" (commonly understood to mean personnel records).⁷⁰⁶ Notwithstanding such employee inspection rights, an employer may withhold from the employee's inspection: (i) confidential reports from previous employers, (ii) confidential reports from investigative agencies, (iii) any other confidential investigative files concerning the employee, and (iv) information concerning the investigation, arrest, or conviction of that person for a violation of any law.⁷⁰⁷

Although any employee may access their personnel records, employees who have been employed for more than 60 days are also entitled to copies of such records (unless the records are exempt from disclosure under the statute, as discussed above).⁷⁰⁸ Following termination of employment, an employee who was employed for more than 60 days may inspect and receive a copy of the records if a request is made within 60 days after termination.⁷⁰⁹ Employers may charge employees a fee, in an amount equal to the actual cost incurred by the employer, for providing access to and copies of the requested personnel records.⁷¹⁰

In applying the statutory provisions related to an employee's inspection rights, it is generally understood that investigative reports into allegations of employee misconduct such as sexual harassment are not included in an employee's personnel records or files, but instead are kept in confidential investigative files which, by statute, are not required to be disclosed or released to the employee. However, employers cannot keep a "secret record" of any employee's employment.⁷¹¹ A secret record, as distinguished from a confidential report, is information kept by an employer that is not a part of a confidential report or investigation and should otherwise by law be disclosed to an employee, but is withheld from the employee. Therefore, all non-statutorily exempt records contained in an employee's personnel file are generally subject to inspection.⁷¹²

An employee is entitled to submit a reasonable written explanation in direct response to any written entry in the personnel file.⁷¹³ An employee further must notify his employer in writing if the employee contends that any information contained in the records is inaccurate or incomplete.⁷¹⁴ If the employer finds that the contention of the employee is correct, the employer must change the information accordingly.⁷¹⁵

BLACK LISTS

It is unlawful for any person to blacklist or publish an employee's name with the intent to prevent the employee from securing similar or other employment.⁷¹⁶ An employer shall, if an employee was employed for at least 60 days, provide upon demand from the terminated employee a truthful written statement of the reason for termination of employment.⁷¹⁷ Only one such statement may be issued to any employee.⁷¹⁸

NON-COMPETE AGREEMENTS

Employers are prohibited under Nevada law from willfully doing anything intended to prevent a terminated or discharged employee from obtaining subsequent employment with another employer.⁷¹⁹ However, this statute does not prohibit an employer from enforcing an agreement with an employee that bars the employee from engaging in a similar vocation and competing with the employer following the termination of employment,⁷²⁰ nor does the statute prohibit an employer from entering into an agreement with an employee which restricts the employee's post-employment disclosure of trade secrets and other confidential business information obtained during employment.⁷²¹ In the context of at-will employment, initial or continued employment is sufficient consideration to support such restrictive covenants; independent consideration is not required.⁷²² However, in some circumstances, an employer may only assign its rights in an employee's covenant not to compete to a successor with the employee's consent and upon the payment of additional consideration.⁷²³

Nevada courts will not enforce non-compete agreements unless the terms of the restrictions on employment are reasonably necessary to protect the business and goodwill of the employer.⁷²⁴ A restraint of trade is unreasonable if it is greater than is required for the protection of the person for whose benefit the restraint is imposed or imposes undue hardship upon the person restricted.⁷²⁵

The period of time and the territory subject to restriction are important factors in determining the reasonableness of a covenant not to compete. Although the reasonableness of the restriction is a fact-intensive inquiry, the Nevada Supreme Court has held, in at least one case, that a 2-year duration for a non-compete restrictive covenant is enforceable.⁷²⁶ The Nevada Supreme Court has further held that the geographic scope of a restrictive covenant must be limited to the territory in which the former employer established customer contacts and goodwill or took concrete steps to set up operations (for example, signing a lease agreement or commencing store construction).⁷²⁷ A non-competition agreement prohibiting employment in a location that a former employer has merely “targeted for expansion” is not reasonable.⁷²⁸

LAW AGAINST DISCRIMINATION

Federal and Nevada law govern prohibited employment discrimination against individuals who are members of certain protected classifications. Under Nevada law, generally, employers with 15 or more employees are prohibited from discriminating in employment because of race, color, religion, gender, sexual orientation,⁷²⁹ age if 40 years old or older, disability, or national origin.⁷³⁰ These provisions, however, do not apply to some employers, such as religious institutions and certain organizations exempt from federal taxation.⁷³¹

It is further illegal for an employer to discriminate in the rate or payment of wages because of sex.⁷³² In addition, federal and Nevada law protect employees from discrimination based on their membership in a uniformed service, including the National Guard.⁷³³

Employees who exercise their rights under anti-discrimination statutes are protected under federal and Nevada law. It is illegal for an employer to terminate or otherwise discriminate against employees for opposing a discriminatory practice or participating in an investigation, hearing or other proceeding related to prohibited discrimination.⁷³⁴

The Nevada Equal Rights Commission shares concurrent investigatory jurisdiction with the federal Equal Employment Opportunity Commission (“EEOC”) in enforcing some of these laws against discrimination and retaliation. An employee usually must exhaust administrative remedies before bringing a discrimination or retaliation lawsuit in court.⁷³⁵ A charge of discrimination generally must be filed administratively by an employee within 300 days of the last discriminatory event constituting the

alleged violation.⁷³⁶ Upon completion of the administrative process and the EEOC's issuance of a Notice of Right to Sue, an employee has 90 days within which to bring a lawsuit in federal or state court.⁷³⁷

FEDERAL FAMILY AND MEDICAL LEAVE ACT AND OTHER STATE AND FEDERAL LEAVE LAWS

The federal Family and Medical Leave Act ("FMLA") applies to employers with at least 50 or more employees in a 75-mile radius and mandates certain unpaid leaves of absence for up to 12 weeks.⁷³⁸ Nevada does not have a supplemental statute to the FMLA. However, under Nevada law, if an employer grants leave with or without pay or leave without loss of seniority to an employee for sickness or disability related to a medical condition, it is an unlawful employment practice for that same employer to refuse to grant a female employee the same benefits if she is pregnant.⁷³⁹

Nevada requires employers to provide leave in other special circumstances. For example, an employer is required to provide leave time for an employee to vote at a time to be designated by the employer if it is impracticable for the employee to vote before or after the regular hours of employment.⁷⁴⁰ Nevada employers also must grant time off to employees who have been summoned to appear for jury duty and may not dissuade employees from serving as jurors.⁷⁴¹ Nevada's jury duty statute prohibits an employer from requiring that an employee use vacation or sick leave while out on jury duty leave and, under certain circumstances, prohibits an employer from requiring that an employee report to work while performing jury duty.⁷⁴² Nevada law further prohibits employers from interfering with an employee's obligation to serve as a witness in judicial or administrative proceedings.⁷⁴³

Nevada law also requires employers to provide leave to employees who are parents, guardians or custodians of school-aged children to appear at a school conference or upon being notified of a school emergency.⁷⁴⁴ Employers may not terminate or threaten an employee as a result of such school-related absences.⁷⁴⁵ In addition, Nevada law bars discrimination against National Guard members and prohibits an employer from terminating a member of the National Guard because he or she has been ordered to active service or duty.⁷⁴⁶

NEVADA OCCUPATIONAL SAFETY AND HEALTH ACT

The Nevada Occupational Safety and Health Act requires every employer to provide a safe and healthful place of employment for employees.⁷⁴⁷ Among

other requirements, employers must post notices and posters, provided by the Nevada State Department of Industrial Relations, informing employees of their rights and obligations.⁷⁴⁸ Newly hired employees must receive an orientation setting forth the rights and responsibilities of employers and employees to promote safety in the workplace.⁷⁴⁹ Every employer with at least 11 employees must establish and maintain a written safety program.⁷⁵⁰ Employers with more than 25 employees and employers manufacturing explosives must establish a safety committee.⁷⁵¹

WORKERS' COMPENSATION ACT

Workers' compensation is specialized insurance purchased by employers to provide medical care, disability compensation payments, and rehabilitation services for their workers who are injured on the job. Under the Nevada Industrial Insurance Act, matters relating to workers' compensation are regulated and enforced by the Division of Industrial Relations of the Department of Business and Industry.⁷⁵² Except where otherwise provided in the Nevada Industrial Insurance Act, employees' rights and remedies against an employer for work-related injuries are limited to those provided by the workers' compensation scheme.⁷⁵³ An employer can obtain workers' compensation insurance from a private insurer or can (subject to certain statutory requirements) maintain self-insurance.⁷⁵⁴

The Nevada Industrial Insurance Act requires workers' compensation insurance for all employees,⁷⁵⁵ which insurance may, in appropriate cases, entitle injured workers to medical expenses, partial income replacement, vocational rehabilitation expenses, permanent disability compensation, or death benefits.⁷⁵⁶ Every employer must post and maintain, in a conspicuous place, a notice identifying its industrial insurer and the type of industrial insurance it maintains.⁷⁵⁷

To be covered, injuries must arise out of and in the course of employment.⁷⁵⁸ Written notice of an injury or death normally must be provided to the employer within 7 days of the accident.⁷⁵⁹ A claim for compensation must be filed with the insurer within 90 days after an accident if the employee sought medical treatment, or if the employee missed work as a result of the injury.⁷⁶⁰ In the event of death, the dependent or person acting on the employee's behalf must file a claim within 1 year after the employee's death.⁷⁶¹ Although there are numerous exceptions, recovery of compensation is barred if notice of injury or claim for compensation is untimely filed.⁷⁶² If the employee disagrees with a decision of the employer,

the employee must file an appeal within 70 days.⁷⁶³ After a claim is closed, it may be reopened if the employee suffers a change in circumstances that would warrant an increase or rearrangement of compensation.⁷⁶⁴

It is unlawful for an employer to retaliate against an employee for filing a workers' compensation claim.⁷⁶⁵

NEVADA OCCUPATIONAL DISEASES ACT

Generally, the Nevada Occupational Diseases Act is the exclusive basis for compensation for occupational diseases arising out of and in the course of employment.⁷⁶⁶ Subject to certain exceptions, a claimant must show that there is a direct causal connection between the conditions under which the work was performed and the occupational disease.⁷⁶⁷ A claim must be filed within 90 days after the date the employee knew the nature of the disease and relation to employment.⁷⁶⁸ In the event of death due to an occupational disease, a dependent or person acting on the employee's behalf must file a claim within 1 year after the employee's death.⁷⁶⁹ Virtually all other procedures relating to occupational diseases are the same as for accidental injuries under the Nevada Industrial Insurance Act.

UNEMPLOYMENT COMPENSATION

Subject to certain limited exceptions, Nevada employers are subject to federal and state unemployment taxes to fund unemployment compensation benefits for employees who have lost their jobs.⁷⁷⁰ Under Nevada law, an employee is generally entitled to receive those unemployment benefits for a specified period of time if he or she: (1) has received sufficient earnings for a requisite period of time prior to submission of the claim for unemployment; (2) is wholly unemployed or employed less than full-time and has earnings less than his or her weekly entitlement; (3) has properly made a claim for benefits; (4) has properly registered and reported for work at a division office of the Nevada Employment Security Division of the Department of Education, Training and Rehabilitation; (5) is able and available to seek and accept work; and (6) does not refuse suitable work.⁷⁷¹

Employees who leave employment without good cause or who are discharged for various crimes or misconduct related to employment are not eligible for unemployment benefits.⁷⁷² For example, among the many circumstances justifying the denial of a claim for unemployment compensation, the Nevada Supreme Court has ruled that unemployment compensation was properly denied when an employee refused to take

a drug test where the employer had the right to expect the employee to consent to the drug test based on a union-employer contract.⁷⁷³

EMPLOYEE PRIVACY RIGHTS

Nevada law contains several unusual provisions implicating employee privacy rights. For example, if an employee engages in lawful use of substances (such as alcohol) outside of work during nonworking hours, a Nevada employer may not: (1) refuse to hire, (2) discharge, or (3) otherwise discriminate against an employee or prospective employee, so long as such use does not adversely impact the employee's job ability or the safety of other employees.⁷⁷⁴

Under Nevada law, employers are prohibited from interfering in their employees' political activity. Specifically, employers may not make any rule or regulation prohibiting or preventing an employee from engaging in politics or becoming a candidate for public office.⁷⁷⁵

Nevada law further provides certain protections to employees who are subject to discipline or discharge based on an outside investigation involving a question of integrity, honesty, or a breach of the employer's rules.⁷⁷⁶ Specifically, Nevada's "spotter statute" prohibits an employer from disciplining or discharging an employee based upon a report from a special agent, detective, or person hired by the employer (commonly known as a "spotter") unless the employer gives notice and a hearing to the employee, when requested by the employee, and, at the hearing, the employee is given the opportunity to furnish testimony on his or her behalf and to confront the individual making the report.⁷⁷⁷

It is also unlawful for an employer to request, require, administer, or encourage a prospective or current employee to submit to a genetic test as a condition to employment or to deny, alter, or terminate employment based on an employee's genetic information obtained from a genetic test.⁷⁷⁸ Employers are, however, permitted to test their employees for drugs.⁷⁷⁹ An employer may require prospective employees to take a drug test as a prerequisite to employment,⁷⁸⁰ and an at-will employee may be terminated for refusing to sign a substance abuse employment agreement,⁷⁸¹ testing positive for illegal substances during random drug testing,⁷⁸² or, under certain circumstances, refusing to undergo an immediate drug test if suspected of being under the influence.⁷⁸³

Federal law imposes significant restrictions and requirements on the use of lie detector tests in employment.⁷⁸⁴ Additionally, under Nevada

law, employers are prohibited from discriminating against, discharging, or disciplining employees who refuse to take a lie detector test or on the basis of the results of a lie detector test.⁷⁸⁵ An employer is further prohibited from directly or indirectly requiring, requesting suggesting or causing an employee to take a lie detector test.⁷⁸⁶ However, there are some exceptions to these statutory prohibitions.⁷⁸⁷ For example, an employer is exempt from the prohibition on the use of polygraph examinations if the polygraph examination relates to an ongoing investigation involving economic loss or injury to the employer's business (including theft, embezzlement, misappropriation or an act of unlawful industrial espionage or sabotage).⁷⁸⁸ The employer must have a reasonable suspicion that the employee was involved in the incident and the employee must have had access to the property that is the subject of the investigation.⁷⁸⁹ Prior to such an examination, the employer must provide the employee with a written statement that provides certain information required by statute.⁷⁹⁰ Moreover, the exam must be administered by a licensed or qualified polygraph examiner or intern, and the result of the lie detector test (or an employee's refusal to test) may not be used as the sole basis for an adverse employment action against the employee.⁷⁹¹

Both federal and Nevada law require an employer to post a mandatory notice in a conspicuous location in the workplace regarding the use of lie detector tests.⁷⁹² Employers may not retaliate (or threaten to retaliate) against employees or prospective employees who exercise their rights, make a complaint, or institute or testify in legal proceedings under the lie detector statute.⁷⁹



Environmental Law / Endangered Species

Nevada's system of environmental laws, regulations, and ordinances is administered by a number of state and local entities. While there exists a significant body of state and local law, environmental regulation in Nevada relies heavily on federal law.

Most Nevada state environmental laws are administered by the Nevada Division of Environmental Protection ("NDEP"), a division of the Nevada Department of Conservation and Natural Resources. NDEP is comprised of seven bureaus and the Small Business Assistance Program.⁷⁹⁴

AIR QUALITY

Nevada's air pollution statute⁷⁹⁵ prescribes a comprehensive statutory scheme for prevention and abatement of air pollution. Two bureaus within NDEP, the Bureau of Air Pollution Control and the Bureau of Air Quality Planning (together, the "BAQ") are responsible for air quality for citizens of the state.⁷⁹⁶ The BAQ has jurisdiction over all counties in the state with the exception of Washoe and Clark Counties, which have their own regulations and enforcement authority.⁷⁹⁷ In Clark County, air is governed by the Air Quality Regulations of the Department of Air Quality and Environmental Management ("DAQEM"), and the governing board is the Clark County Air Quality Management Board. The Washoe County District Health Department has established air quality regulations for that county, while enforcement of those regulations is controlled by the Washoe County Board of Health.

The BAQ and Clark and Washoe County air enforcement agencies achieve their goals by issuing permits to regulate air pollutant sources, developing and implementing air pollution control systems, conducting inspections and enforcement actions as necessary, monitoring and mitigating the effects of prescribed burning, as well as planning and implementing other programs to improve air quality.⁷⁹⁸

Nevada has developed the Nevada Clean Air Mercury Rule State Plan ("Nevada Plan") to address greenhouse gases. The Nevada Plan involves

joining the EPA trading program with a state-administered allowance allocation program. In addition, greenhouse gas emissions must be reported to the State Environmental Commission, which keeps a registry of all sources of greenhouse gases and will produce every four years, an inventory of all greenhouses in the State of Nevada.⁷⁹⁹

WATER POLLUTION CONTROL

The fact that Nevada is one of the driest states in the nation, coupled with Nevada's exponential growth in population makes protection of the state's waters and assurance of a continuous water supply a paramount environmental concern.

Nevada's Water Pollution Control Law⁸⁰⁰ supplements the Federal Clean Water Act and the Federal Safe Drinking Water Act. NDEP's Bureau of Water Pollution Control ("BWPC") is charged with protecting the waters of the state from the discharge of pollutants.⁸⁰¹ The BWPC accomplishes this objective through the issuance of discharge permits including National Pollutant Discharge Elimination System ("NPDES") permits, Underground Injection Control ("UIC") permits, and stormwater permits. In addition, the BWPC regulates drinking water supplies, the development of individual septic tank systems, and provides financial and technical assistance to dischargers.⁸⁰²

WASTE MANAGEMENT

It is the responsibility of the Bureau of Waste Management, a bureau within the NDEP, to promulgate regulations to protect the public health and conserve natural resources through the safe management of solid and hazardous wastes. Implementation of the statutes and regulations is performed on a local level.⁸⁰³

Hazardous Waste and Materials

Nevada has primary enforcement responsibility for hazardous waste regulations under the federal Resource Conservation and Recovery Act.⁸⁰⁴

Nevada Revised Statutes Chapter 459 contains a cradle-to-grave regulatory scheme analogous to that of the federal Resource Conservation and Recovery Act, to regulate hazardous waste from generation until disposal.

Hazardous materials are defined in Nevada as "any substance or combination of substances, including any hazardous material, hazardous waste, hazardous substance or marine pollutant" of a type which must

be placarded or manifested under federal law.⁸⁰⁵ Examples are nuclear projects,⁸⁰⁶ radiation,⁸⁰⁷ mills and their by-products,⁸⁰⁸ explosives,⁸⁰⁹ and storage tanks.⁸¹⁰

The Hazardous Waste Management Program within the Bureau of Waste Management has overall responsibility for hazardous waste generators, and accomplishes its objectives by permitting and inspecting hazardous waste disposal, transfer, storage, and recycling facilities⁸¹¹ and bringing enforcement actions, as appropriate.

Solid Waste

Local governments perform a significant portion of the management of solid waste in Nevada. “Solid waste” includes all refuse in semisolid form, including, but not limited to, garbage, rubbish, refuse and solid and semisolid commercial and industrial waste.⁸¹² Solid waste does not include hazardous waste.⁸¹³

The Solid Waste Branch (“SWB”) of NDEP’s Bureau of Waste Management regulates the collection and disposal of solid waste in a manner which protects public health and welfare, prevents water and air pollution, prevents the spread of disease, conserves natural resources, and enhances the beauty and quality of the environment.⁸¹⁴ The SWB has the authority to carry out the provisions of Nevada statutes governing solid waste pursuant to a solid waste management system, which includes the entire process of storage, collection, transportation, processing and disposal of solid waste.⁸¹⁵ In addition to governing the collection and disposal of solid waste, this branch also has responsibility for recycling programs.⁸¹⁶

Special Waste

The SWB also regulates wastes known as “special wastes.” Special wastes include sewage sludge, waste tires, waste oils, medical waste, construction and demolition waste, and raw sewage.⁸¹⁷ Nevada regulations govern transport, disposal, and in some cases, the permitting of special wastes.⁸¹⁸

Although these solid waste and special waste regulations are based on state statutes and regulations are promulgated by the SWB, the implementation of the statutes and regulations is performed by the respective local governments throughout Nevada.

Radioactive Waste

Guidelines for the disposal of radioactive waste in Nevada are found

in Nevada Revised Statutes Chapter 459. The statute requires licensing of disposal areas,⁸¹⁹ creation of a fund for care and disposal sites,⁸²⁰ and parameters for disciplinary actions.⁸²¹

MINING

Nevada has adopted a comprehensive set of regulations to control mining activities within the state. The State Bureau of Mining Regulation and Reclamation (“BMRR”), along with other state, federal and local agencies is tasked with the implementation of these regulations.⁸²² The objectives of the BMRR are to protect the state’s water from degradation by mining activities and to ensure that lands disturbed by mining operations are reclaimed to safe and stable conditions. The BMRR is comprised of three distinct branches: regulation, closure and reclamation.⁸²³

The Regulation Branch oversees the protection of the waters of the state by means of implementation of water pollution permitting and inspection regulations. The Closure Branch assists facilities at the cessation of operations to ensure that all components are left in a chemically stable condition. The Reclamation Branch issues permits for exploration and mining operations to ensure that disturbed areas are returned to a safe and stable condition.⁸²⁴ A reclamation permit is required prior to the undertaking of any exploration, mining or milling activity that creates a disturbance of greater than five acres or removes more than 36,500 tons of material from the earth. In addition, water pollution control permits are required to prevent degradation of the waters of the state from leach pads, tanks, ponds and other mining operations.⁸²⁵ Operating permits are also required for mines that have the potential to emit mercury.⁸²⁶

CORRECTIVE ACTION

Nevada law provides mechanisms for the clean up of pollutants that have been released into the environment. The NDEP’s Bureau of Corrective Actions (“BCA”) is tasked with overseeing diverse clean up programs for all environmental waste/hazardous materials releases, including statutes and regulations specifically promulgated for the clean up of underground storage tanks and Brownfield Sites.⁸²⁷

Underground Storage Tanks

The underground storage tank program involves the inspection, permitting, remediation and closing of underground storage tanks. The

underground storage tank program is administered by the BCA, but the state has contracted with Clark and Washoe Counties to oversee programs in their counties. In all other Nevada jurisdictions, a case officer within the BCA staff oversees both leaking underground storage tank and corrective action cases. The Southern Nevada Health District and Washoe County District Health Department implement the underground storage tank inspections in their jurisdictions.⁸²⁸ However, in certain circumstances, Clark or Washoe County may refer any of these steps, actions, or cases to the BCA.

Brownfield Sites

Brownfield sites are typically industrial or commercial properties that are abandoned, vacant, or underutilized due to perceived hazardous substance contamination resulting from a prior use of the property. Under the Brownfield concept, contamination can be mitigated depending upon the new use of the property. The scope of any such mitigation varies depending upon the situation, property, and other factors identified by the regulating authority. As such, a previously unattractive property may become attractive to potential developers, investors, and other interested parties.⁸²⁹

Section 104(d)(1) of the Federal CERCLA program provides funding for Brownfield projects. Nevada has received funding for Brownfield projects through a cooperative agreement with the U.S. EPA. The state's Brownfield laws are implemented through Nevada Revised Statutes Chapter 459,⁸³⁰ and establish a revolving fund, administered by NDEP, to finance the remediation of Nevada's Brownfield sites.⁸³¹

The NDEP determines whether projects which receive assistance from the fund comply with the Brownfields Restoration Act,⁸³² and is authorized to collect a fee from each recipient of financial assistance to defray the costs of administering the fund.⁸³³ The State Environmental Commission may adopt such regulations as it deems necessary to carry out the provisions of the state Brownfield laws.⁸³⁴

ENDANGERED PLANTS AND ANIMALS

The economic growth of the state of Nevada has resulted in the extinction or endangerment of several species of native flora and fauna. Nevada Revised Statutes § 503.585 provides for the creation of a list of native fish, wildlife and other fauna whose existence is endangered due to over-exploitation, disease, or threat to habitat. The Nevada Division of Wildlife promulgated this list.⁸³⁵ The regulations provide that there is no

hunting season for protected animals,⁸³⁶ and impose various permitting and licensing requirements for the protection of these species.⁸³⁷

Nevada law mandates the creation of a list of native flora threatened with extinction.⁸³⁸ The Nevada Division of Forestry of the State Department of Conservation and Natural Resources has adopted a list of protected species of native flora.⁸³⁹ It is a criminal offense to remove or destroy any plant on the list of fully protected species without a permit authorized by the Nevada State Forester.⁸⁴⁰



Intellectual Property

TRADEMARKS

Trademark law is essentially marketplace identity law. A trademark is any symbol, including sounds, words, logos and colors, used to identify and distinguish goods or services in the marketplace as coming from or being associated with a common source. Nevada statutes defines the term “trademark” as any word, name, symbol or device or any combination of such elements adopted and used by a person to identify and distinguish goods made or sold by him from those made or sold by others.⁸⁴¹ While trademarks identify products, Nevada statutes use the term “service mark” to identify services,⁸⁴² and “trade name” to identify businesses, vocations, or occupations.⁸⁴³ Nevada case law and related statutory provisions give trademarks, trade names, and service marks the same protections and apply the same general law to both. In this chapter they will be called “trademarks” or “marks.”

Nevada courts recognize common law trademark infringement as a subset of the broader common law doctrine of unfair competition.⁸⁴⁴ The concept of unfair competition protects the first user of a trademark from subsequent competing uses that are likely to cause consumers to confuse the source or affiliation of goods or services. Statutory provisions also protect those who first register their marks with the Nevada Secretary of State. The mere registration of a mark or name does not give the registrant all rights to the mark; at common law, the first person to use a mark has rights superior to subsequent users of the same (or a confusingly similar) mark. The statutory registration provisions serve as public notice of a claim of rights and give a registrant certain statutory remedies against unauthorized subsequent uses of their mark.⁸⁴⁵

Nevada courts have generally followed common law trademark doctrines, and it is likely that federal trademark law, Nevada statutes, and common law can be applied concurrently with little conflict. For instance, the United States District Court for the District of Nevada and the Nevada Supreme Court have applied the same test in similar circumstances,⁸⁴⁶

and the U.S. District Court for the District of Nevada has noted that the elements of Nevada common law trademark infringement are identical to those of the Lanham Act, the federal trademark statute.⁸⁴⁷

Protectable Trademarks

Not all marks are protectable. A trademark must be distinctive to be protected. That is, a mark must be capable of distinguishing one company's goods or services from those of another before the mark can be registered with the State of Nevada or before the mark can be protected against infringement.⁸⁴⁸ Because the distinctiveness of a mark varies, its protectability against infringement and its ability to be registered also varies.

The protectability of marks can be thought of as a continuum of strength, with weak marks being generic or descriptive and strong marks being arbitrary or fanciful. A generic mark consists solely of commonly used names for a product or service, like BAR & GRILL for a bar and grill, .COM for internet services, or CASINO for a casino. In Nevada and at common law, generic marks are not entitled to protection from infringement and are not eligible for protectable registration.

Descriptive marks are those with geographic designations, surnames, and any symbol or word that conveys information about the contents, ingredients, use or character of the underlying goods or services. For example, ARTHICARE was deemed descriptive of arthritis pain treatment gel, FORUM was deemed descriptive for business training seminar services, LA was deemed descriptive for light alcohol beer, and ICE was deemed descriptive for ice filtered beer. Descriptive marks are weak marks that are protectable and registerable only after they have been used for a sufficient period of time for the public to associate the mark with a product from a particular source or origin, whether or not the public knows that source or origin. This is known as "secondary meaning." For example, MCDONALD'S for restaurant services was initially a descriptive mark because it was a surname. Through extensive use and promotion, the public eventually associated the surname MCDONALD'S with a common source or affiliation for restaurant services, and thus the surname as a mark became protectable for restaurant services.

The use of common words for marks may either be an arbitrary use, a descriptive use, or a generic use. For example: (i) when the mark APPLE is used in connection with computers, it is an arbitrary mark entitled to protection; (ii) when the word APPLE is used in connection with the sale

of breakfast cereal, the mark may be descriptive of the ingredients of the goods and may only be protectable when the market recognizes the word as distinctively used by a single cereal marketer; and (iii) when the word APPLE is used with the retail sale of apples, the word is generic and entitled to no protection.

A fanciful mark is usually a coined term that did not exist and had no meaning or dictionary definition before its creation. Examples include KODAK for film, ROLEX for watches, and EXXON for gasoline. Arbitrary marks consist of common terms that bear almost no relationship to the products or services with which they are used. For example, the common word APPLE is arbitrarily used for computers and the common word MATH might be used for cookware. In Nevada and at common law, arbitrary and fanciful marks are protectable and are eligible for protectable registration.

Besides prohibiting the registration of descriptive marks absent secondary meaning, Nevada statutes also prohibit the registration of a mark if it: (i) contains immoral, deceptive or scandalous matter; (ii) contains matter that may disparage, falsely suggest a connection with, or bring into contempt or disrepute, persons (living or dead), institutions, beliefs, or national symbols; (iii) resembles or simulates the flag or other insignia of the United States or of any state, municipality, or foreign nation; (iv) contains the name, signature or portrait of any living person unless written consent has been obtained; or (v) so resembles a mark currently registered in Nevada that it is likely that confusion, mistake or deception may result.⁸⁴⁹

Nevada Registration Process

A person who has adopted and is using a mark in Nevada is entitled to register the mark with the State. Nevada requires actual, “trademark” use of a mark in Nevada commerce before it can be registered.⁸⁵⁰ In other words, the mark must be used in a way that is sufficiently public to identify or distinguish the goods or services in the public’s mind as goods or services of the owner of the mark. A trade name or corporate name used merely to identify a business entity is not protectable as a trademark. For example, the trade name of the company that markets SIDEWINDER brand of wood cutting heads is North American Products, Inc. SIDEWINDER is, most likely, a protectable trademark. The mere trade name “North American Products” most likely is not, absent some proof that consumers identify North American Products with a particular unique source of goods.

Registration is accomplished by filing a form with the Nevada Secretary of State and providing a variety of information related to the mark, along with a filing fee.⁸⁵¹ Registration of trademarks, trade names and service marks lasts for 5 years in Nevada.⁸⁵² Registration of a mark can be renewed subject to certain requirements and timelines.⁸⁵³ If a business has a registered mark, it may be assigned with the goodwill of the business subject to certain statutory and regulatory provisions.⁸⁵⁴

If a person only registers their mark in Nevada and does not register their mark with the United States Patent and Trademark Office, the mark is protected only in Nevada and only if there is no preceding federal registration. For example, if on March 1st, person “A” validly registers the name “NEV-MTN” in Nevada, and on March 2nd, person “B” validly registers the name “NEV-MTN” with the United States Patent and Trademark Office, the result will be that person “A” will have the mark rights in Nevada and person “B” will have the mark rights in all other states (assuming no other similar filings in other states). Person “A” will be limited to use of the mark “NEV-MTN” in Nevada and will be restricted from using that mark in any form of media outside of the State of Nevada. Therefore, it is a good practice to have a search performed prior to any mark registration to confirm that the mark can be registered, and to federally register the mark.

The Secretary of State must cancel registration of a trademark that is not properly renewed or when a court of competent jurisdiction finds that: (1) the mark has been abandoned; (2) the registrant is not the owner of the mark; (3) the registration was improperly granted; (4) the registration was obtained fraudulently; or (5) the registered mark is likely to confuse or deceive because of its similarity to a mark that was registered by another person in the United States Patent and Trademark Office prior to the registrant’s Nevada trademark filing.⁸⁵⁵

Trademark and Service Mark Notice

Nevada does not require any specific form for designating registered marks, and users typically use the unregistered mark notices discussed below. Owners of a mark that is either not registered or only registered with the State of Nevada may desire to use the abbreviations TM for trademarks, and SM for service marks, at the upper right-hand corner of the marks when in use. Such a designation serves as public notice that rights are claimed in the mark and may deter unauthorized uses. Owners

of a mark that is either not registered or only registered with the State of Nevada may not use the federal registered trademark symbol - ® - or otherwise suggest that they own a federal registration unless the owner has obtained federal registration for the mark.⁸⁵⁶ If the owner of an unregistered or state-registered mark uses the federal registered trademark symbol - ® - or otherwise suggests the mark is federally registered, the United States Patent and Trademark Office may deny a subsequent federal application to register the mark and a court may refuse to enforce the mark against an infringer.⁸⁵⁷

FICTITIOUS NAMES

Any person, general partnership or other business may conduct business under an assumed or fictitious name. However, before conducting business under any assumed or fictitious name, the entity or person must file a certificate with the county clerk of each county in which the name is used.⁸⁵⁸ For example, if RICOM, Inc. of Henderson, Nevada does business as ComputAbility, then RICOM must file a certificate with the county clerk in Clark County, Nevada. County clerks are required to keep an alphabetical index of all fictitious names registered in the county.⁸⁵⁹ A person may register, adopt or use a fictitious name that is deceptively similar or even identical to the trade name of an existing company, but such person may be subject to the statutory or common law claims of trademark infringement, service mark infringement, trade name infringement, mark dilution, and unfair competition.

A business cannot use a fictitious name that includes the terms “Corporation,” “Corp.,” “Incorporated,” or “Inc.”; “Limited-Liability Company,” “Limited Liability Company,” “Limited Company,” “L.L.C.,” “L.C.,” “LLC” or “LC”; “Business Trust,” “B.T.” or “BT”; “Professional Corporation,” “Prof. Corp.,” “P.C.” or “PC”; “Chartered,” “Chtd.”; “Professional Association,” “Professional Organization,” “Prof. Ass’n” or “Prof. Org.”; or “Limited” or “Ltd.” in its name unless that business actually qualifies as the applicable entity.⁸⁶⁰ However, the term “Company” may be used by a business if it is not a corporation.

Use of a nonregistered fictitious name is prohibited by statute.⁸⁶¹ The isolated or occasional use of a fictitious name by a business is permitted without filing a certificate of fictitious name, however, because such use does not equate to “doing business” under that fictitious name.⁸⁶²

A business using a nonregistered fictitious name is also prohibited by statute from commencing a court action.⁸⁶³

TRADE SECRETS

Nevada has adopted the Uniform Trade Secrets Act, which governs and regulates the misappropriation of trade secrets.⁸⁶⁴ There are two requirements for information to be considered a trade secret. First, the information must have independent economic value derived from the information not being generally known or available to the public or any other persons who might be able to obtain commercial or economic value from its disclosure or use.⁸⁶⁵ Second, the trade secret owner must take reasonable efforts to keep the information secret.⁸⁶⁶ Examples of information that may be a trade secret include, but are not limited to, formulas, patterns, compilations, programs, devices, methods, techniques, products, systems, processes, designs, prototypes, and computer programming instructions or code. Whether or not a customer list will be deemed a “trade secret” depends on the individual facts and situations surrounding the particular customer list.

“The owner of a trade secret is presumed to make a reasonable effort to maintain its secrecy if the word ‘Confidential’ or ‘Private’ or another indication of secrecy is placed in a reasonably noticeable manner on any medium or container that describes or includes any portion of the trade secret.⁸⁶⁷ This presumption may be rebutted only by clear and convincing evidence that the owner did not take reasonable efforts to maintain the secrecy of the trade secret.”⁸⁶⁸

If someone improperly uses the trade secrets of another, remedies for misappropriation of trade secrets include both injunctive relief and damages.⁸⁶⁹ Damages for misappropriation include not only the plaintiff’s loss caused by the defendant’s actions, but also disgorgement of any unjust enrichment that the defendant would otherwise enjoy.⁸⁷⁰ Attorneys’ fees are also available to defendants for bad faith claims and to plaintiffs for willful or malicious misappropriation.⁸⁷¹ Finally, the statutes also provide for criminal penalties against a person who misappropriates a trade secret under certain circumstances.⁸⁷²

COPYRIGHT

Copyrights protect original works of authorship fixed in any tangible medium including literary and dramatic works, visual arts, graphics,

audiovisual works and computer programs. Copyright protection is often available for artwork, books, magazines, photographs, sculpture, films and videos, advertisements, original labels, original designs, compilations of information, and other similar items.

Copyright matters are exclusively matters of federal law governed by the Federal Copyright Act.⁸⁷³ Nevada has no copyright statutes as such (but see WORKS OF ART below), and Nevada case law on copyright issues is almost nonexistent.⁸⁷⁴

WORKS OF ART

Nevada has a statutory framework providing for the protection of certain original visual and graphic arts.⁸⁷⁵ As a result, statutory protection in Nevada may be available for works of art in addition to federal copyright law. An artist may waive his or her rights under the statute if done in writing.⁸⁷⁶

The statute protects original creations of visual or graphic art in any medium such as a “painting, drawing, photographic print or sculpture of a limited edition of not more than 300 copies.”⁸⁷⁷ “[S]equential imagery such as that in motion pictures,” works “prepared under contract for commercial use by the purchaser,” works “prepared by the employee of a publisher during the course of employment,” and works “submitted for publication at no charge” are not protected as “works of art.”⁸⁷⁸

Under the statute, artists are entitled to claim authorship of the work of art, which includes the right of the artist to have his name appear on or with the work of art.⁸⁷⁹ Under certain circumstances, an artist may also disclaim authorship to protect the artist’s reputation from reasonably foreseeable damage caused by the display, publication or reproduction of the work in a defaced, mutilated or altered form, or may prevent such display of the artist’s work.⁸⁸⁰ An artist claiming injury by display of his or her work in such a manner may bring an action for damages, together with attorneys’ fees and costs.⁸⁸¹

When ownership of a work of art is sold or transferred, the artist or the artist’s heirs are presumed to retain the right to reproduce, display and distribute copies of the work of art.⁸⁸² Similarly, when an exclusive or nonexclusive right to reproduce, display or distribute copies of a work of art is sold or transferred, it is presumed that ownership of the physical work of art remains with the owner of the work of art.⁸⁸³

RIGHT OF PUBLICITY

Pursuant to statute, there is a right of publicity in every person's name, voice, signature, photograph or likeness (collectively, a "persona").⁸⁸⁴ Generally, commercial use of a persona requires the written consent of either the person or the person's successor in interest.⁸⁸⁵ A person's right of publicity lasts throughout his lifetime and can be claimed by a successor in interest for 50 years after a person's death.⁸⁸⁶

Those wishing to use a deceased person's persona for commercial use must make a reasonable and good faith effort to investigate and discover successors in interest.⁸⁸⁷ A successor in interest or licensee of a deceased person's persona must file their claim to commercial use of the decedent's persona with the Nevada Secretary of State or their right to bring legal action against any allegedly unauthorized commercial use may be foreclosed.⁸⁸⁸ If an unauthorized commercial use is made of a deceased person's persona, the successor in interest to the deceased person must file a claim within 6 months after the date he or she becomes aware or should reasonably have become aware of the unauthorized use.⁸⁸⁹ If a deceased person has not transferred his rights and has no surviving beneficiary or successor in interest upon his or her death, the commercial use of the deceased person's persona does not require consent.⁸⁹⁰

A person or a person's successor in interest may seek injunctive relief and damages for the unauthorized commercial use of a persona.⁸⁹¹ However, owners and employees of any medium used for advertising are not liable for unauthorized uses of a persona in such advertising unless it is established they had actual knowledge of the unauthorized use.⁸⁹²

Commercial uses of a persona which do not require consent include "use in an attempt to portray, imitate, simulate or impersonate a person in a live performance"; "use in connection with a news, public affairs or sports broadcast or publication"; "use in an attempt to portray, imitate, simulate or impersonate a person in a play, book, magazine article, newspaper article, musical composition, film, or a radio, television or other audio or visual program, except where the use is directly connected with commercial sponsorship"; "use in connection with an original work of art, except that multiple editions of such a work of art require consent"; "uses contained in material which is commercially sponsored, but the use is not directly connected with the commercial sponsorship"; and uses "in connection with the efforts of a governmental agency to promote travel and tourism in this state, portray historical events or commemorate persons or physical

sites that are significant in the history of this state, except where the use is directly connected with commercial sponsorship.”⁸⁹³ The statutes provide little guidance on how to determine whether a use is directly connected with commercial sponsorship, stating only that it is a question of fact, to be determined by the trier of fact.⁸⁹⁴

PATENTS

Patents protect any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.⁸⁹⁵ Most patent matters are governed exclusively by federal law.⁸⁹⁶ However, patent ownership issues are subject to state and common law influence.

In Nevada, unlike most states, unless otherwise provided by written agreement, an employer is the sole owner of any patentable invention developed by its employees during the course of his or her employment and related to any work performed by the employee during the course and scope of his or her employment.⁸⁹⁷



Electronic Transactions

Nevada has adopted the Uniform Electronic Transactions Act (“UETA”)⁸⁹⁸ to define the legal status of electronic documents and signatures in Nevada. UETA generally provides that when a law requires a record or a signature, an electronic record or electronic signature will satisfy the requirements of that law unless the law requires a particular non-electronic type of record or form of signature.⁸⁹⁹ UETA also enables consenting private parties to use legally binding electronic records and electronic signatures in many transactions.⁹⁰⁰

An electronic record is defined as any record sent, generated, created, stored or communicated via electronic means.⁹⁰¹ For example, the text of an e-mail or an e-mail attachment would be considered an electronic record.

An electronic signature is defined as any sound, symbol or process that is attached to or logically associated with a record provided the signing party had the intent to sign the record.⁹⁰² This may include a digital signature certificate, typing a name or symbol on an e-mail, using a personal identification number, using a password or checking an “I accept” box on a web site. Additionally, Nevada recognizes that a digital signature using public key and private key technology issued by a certification authority licensed by the Secretary of State automatically has a legal presumption of validity.⁹⁰³

UETA also contains basic rules for attributing a signature to a person and for when an error occurs in an electronic transaction.⁹⁰⁴ If the parties agreed to use a security procedure that is designed to identify errors or unauthorized changes in a signed document (such as public key encryption measures), and one party has failed to use such measures when such measures would have revealed the error or unauthorized change, then the party who correctly followed the agreed-upon procedures is not required to abide by the effects of the error or the unauthorized change.⁹⁰⁵ If the parties have not agreed to security procedures, then a party may avoid the effects of an error or unauthorized change in an electronic document or signature if (i) the signing party promptly informs the other party of the error or unauthorized change, (ii) has taken reasonable steps to follow

the instructions of the other party to destroy or return any consideration received, and (iii) has not retained any valuable consideration from the other party.⁹⁰⁶ In other circumstances, general contract law applies, including the law of mistake and the terms of the parties' contract.⁹⁰⁷

UETA encourages government agencies to accept and engage in electronic transactions, but does not require such agencies to do so. Government agencies are slowly beginning to accept electronic filings, but in many cases, they still do not.

Some transactions are now required to be conducted electronically, including certain hospital billing forms for discharged patients,⁹⁰⁸ and certain bids for contracts in connection with public works.⁹⁰⁹ Additionally, effective July 1, 2008, payments of money owed to many state agencies for taxes, interest, penalties, or other obligations that, in the aggregate, amount to \$10,000 or more must be filed electronically.⁹¹⁰



Dispute Resolution

The primary Nevada state trial courts are the District Courts and Justice Courts.⁹¹¹ In counties with a population of 100,000 or more, a separate subdivision of the District Court, the Family Division, exists as well.⁹¹² The Nevada Constitution also allows for the creation of Municipal Courts in incorporated cities and towns to handle strictly municipal matters.⁹¹³ Judges in all trial courts are popularly elected.⁹¹⁴

DISTRICT COURTS

The District Court is Nevada's court of general jurisdiction for all matters "excluded by law from the original jurisdiction of the Justices' Courts" (including landlord/tenant matters with an amount in controversy greater than \$10,000).⁹¹⁵ The District Courts also have final appellate jurisdiction over appeals from Justice Courts as well as other inferior tribunals.⁹¹⁶ Thus, District Court jurisdiction is determined by negative implication: if a particular matter does not fall within the jurisdiction of the Justice Courts (or, as provided by statute, the jurisdiction of an administrative body), then it is within the jurisdiction of the District Courts. Generally, Justice Court has jurisdiction over all matters with a value, exclusive of interest, of \$10,000 or less.⁹¹⁷ There are nine judicial districts in Nevada.⁹¹⁸ The number of judges in each district is determined by the Legislature and varies by population and caseload.⁹¹⁹

District Court procedures are governed by the Nevada Rules of Civil Procedure ("NRCP"), promulgated by the Nevada Supreme Court. Although the NRCP is based upon the Federal Rules of Civil Procedure, there are some significant differences.⁹²⁰ In addition, there are Nevada Supreme Court Rules ("SCR") that directly affect civil procedure in the trial court.⁹²¹ District Court procedure is further governed by the District Court Rules, also promulgated by the Supreme Court of Nevada, which control on a more detailed level practice before the district courts. Each judicial district also promulgates its own local rules, which can vary substantially.⁹²²

As noted, the Eighth Judicial District Court serves Clark County, which includes Las Vegas and its suburbs of Henderson and North Las Vegas. As such, it is the largest and busiest court in Nevada's system. In the mid-1990s, the Eighth Judicial District began experimenting with court specialization in order to cope with its ever increasing workload and address the backlog of pending cases. As a result, the Eighth Judicial District has divided its judges (not including those in the Family Division) into 5 separate divisions.⁹²³ The majority of judges serve in the Civil, Civil/Criminal and Criminal Divisions. The Chief Judge assigns particular judges to each of the divisions. The judges rotate assignments every 2 years. The Eighth Judicial District Court has also created a "Business Court" division.⁹²⁴ Business Court is comprised of at least two Eighth Judicial District Court judges assigned to hear only business matters qualifying under the definition of "business matters" set forth in the Rules of Practice for the Eighth Judicial District Court of the State of Nevada ("EDCR") 1.61. Either the plaintiff or the defendant may request to have a case heard by the Business Court, but the Business Court conducts its own independent review of the matters before it to determine whether they are properly in Business Court.⁹²⁵

The Second Judicial District Court has also implemented a Business Court division to address increasing caseloads and the particular needs of commercial litigation.⁹²⁶

Another method adopted by the District Courts to address the increasing caseload is the mandatory Court Annexed Arbitration Program.⁹²⁷ Any case with a dollar value of \$50,000 or below is automatically entered into the program and assigned an arbitrator from a pool maintained by the District Court, unless the case involves one of the limited subject matters exempted from the program.⁹²⁸ The arbitration, although mandatory, is non-binding. Either party has the right to request a trial de novo if unhappy with the arbitration results.⁹²⁹

JUSTICE COURTS

Justice Courts are presided over by popularly elected Justices of the Peace. The number of Justices for each court is determined by population.⁹³⁰

Subject to Justice Court rules, almost any matter with a value of \$10,000 or less (including landlord/tenant matters); a matter which qualifies as a "small claim" pursuant to Nevada Revised Statutes Chapter 73; an action for the issuance of a temporary or extended order for protection

against harassment in the workplace pursuant to Nevada Revised Statutes § 33.200 - 33.360; and an action to contest the validity of liens on mobile or manufactured homes are handled by the Justice Courts.⁹³¹ If a case falls within the jurisdictional limits of Justice Court, it must be heard by Justice Court. Except as modified by any specific statute for a specific offense or charge, Justice Court's have their own rules and procedures, generally less formal than the District Courts.

APPELLATE COURTS

The only appellate court allowed by the Nevada Constitution is the Nevada Supreme Court.⁹³² As population in Nevada has increased, causing increased caseloads at the trial court level and increases in the number of appeals filed, there has been a movement in Nevada to create an intermediate court of appeals. Doing so, however, would require an amendment to Nevada's Constitution.

Practice before the Nevada Supreme Court is governed by the SCR's and the Nevada Rules of Appellate Procedure ("NRAP"). Although they share some similarities, Nevada's appellate rules differ in substantial ways from the Federal Rules of Appellate Procedure.

The Court is comprised of seven popularly elected justices.⁹³³ Each serves for a six year term before standing for re-election.⁹³⁴ Vacancies are filled by appointment of the Governor.⁹³⁵ In addition, District Court Judges and retired Supreme Court Justices occasionally serve on the Court to replace absent or recused Justices.⁹³⁶

Most appeals are heard by a panel of three Justices.⁹³⁷ Arguments are heard both in the Supreme Court Building in Carson City, Nevada and in Las Vegas, Nevada. The Chief Justice typically does not sit on either panel unless one of the other justices are recused or otherwise absent.

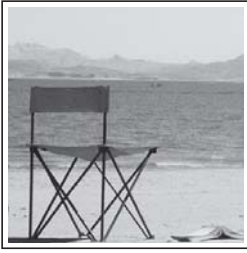
The Court also occasionally hears cases *en banc* either initially or upon a party's request for re-hearing *en banc* pursuant to NRAP 40A. *En banc* hearings are conducted only at the Supreme Court Building in Carson City, Nevada.

Because of the lack of an intermediate court of appeals, the Supreme Court has implemented programs to deal with its large case load. One program, which has already been discussed, is splitting the Court into panels. Another program is the settlement program.⁹³⁸ Once a notice of appeal is filed, the Court may stay briefing and assign a Settlement Judge to the case. Confidential statements are submitted to the Settlement Judge by both sides and one or more conferences are held in an attempt to settle

the case. No case proceeds to briefing and decision until the Settlement Judge files a Settlement Conference Report certifying that the parties have participated in good faith, but could not reach settlement. It is not uncommon for a case to remain in the settlement program for several months, lengthening the time and increasing expense required to prosecute or defend an appeal.

ALTERNATIVE DISPUTE RESOLUTION

Nevada has adopted the Uniform Arbitration Act⁹³⁹ and the Uniform Arbitration Act of 2000.⁹⁴⁰ Generally, the Uniform Arbitration Act applies to arbitration under an agreement to arbitrate made before October 1, 2001, whereas, the Uniform Arbitration Act of 2000 applies to arbitration agreements made on or after October 1, 2001.⁹⁴¹ Under both Acts, the courts will enforce reasonable agreements to arbitrate.⁹⁴² Other alternative dispute resolution procedures, such as mediation, are looked upon favorably by the courts.



Financing Investments

Incentive programs, including business tax abatement programs, are administered by the Nevada Commission on Economic Development (the “CED”), in which expanding businesses located in, or businesses relocating to, Nevada may participate.⁹⁴³ In addition to programs administered by the CED, there are other programs and opportunities for businesses already located in and re-locating to, Nevada, for the abatement of business and other taxes. Further, there are also programs that help reduce the cost of doing business in Nevada.⁹⁴⁴

INCENTIVE FOR LOCATING AND EXPANDING BUSINESSES IN NEVADA

The CED administers several business assistance programs. Generally, these programs encourage businesses either to locate or expand operations within Nevada. The broad range of programs offered by the CED includes programs for the abatement of business taxes⁹⁴⁵ and job training.⁹⁴⁶

Personal and Real Property Tax Abatement Programs

The CED administers a program for the abatement of personal and real property taxes, but only specific new or expanding businesses are eligible for the program.⁹⁴⁷ This exemption applies to businesses that prepare, fabricate, manufacture or otherwise process raw material or an intermediate product in a manner so that at least 50% of the material or product is recycled on site, or businesses (that as a part of the primary business) include a facility for the generation of electricity from recycled material.⁹⁴⁸ To obtain the exemption, a business must submit an application to the CED.⁹⁴⁹ If the CED finds that an applicant meets the requirements for the exemption, it issues a certificate exempting up to 50% of the applicant’s eligible personal and real property from taxation.⁹⁵⁰

Programs for the Abatement and Deferral of Sales and Use Taxes

The CED also administers two incentive programs relating to sales and use taxes for certain new or expanding businesses. A partial sales and use

tax abatement, for a period of no more than 2 years, is available to certain new or expanded businesses that invest in capital equipment.⁹⁵¹ Any person who “maintains a business or intends to locate a business in” Nevada may apply to the CED for an abatement of the sales and use taxes imposed upon the gross receipts from the sale, and the storage, use or consumption, of “eligible machinery or equipment” for use by the business.⁹⁵² To obtain the abatement, a business must submit an application to the CED.⁹⁵³ If the CED finds that an applicant meets the requirements for the exemption, it approves the application.⁹⁵⁴ The requirements for exemption include (for either an existing or new business): the business is consistent with the state plan for industrial development and diversification, the business agrees by contract to operate in Nevada for a minimum of 5 years in compliance with state statutes, the business has made or will make a minimum investment in Nevada (based on the size of the county in which the business is located) and the business has met certain wage and benefit requirements.⁹⁵⁵

Nevada also has a regulatory mechanism that certain businesses may invoke to defer the payment of sales tax attributable to the purchase of certain goods. Specifically, Nevada law provides for the deferral of payment of the tax on the sale of capital goods priced at \$100,000 or more.⁹⁵⁶ An application for such a deferment must be filed with the CED.⁹⁵⁷ The CED will consider a number of factors in resolving an application for sales tax deferral.⁹⁵⁸

Upon approval of an application for deferral, the length of time for which is determined based on the cost of the capital equipment, the CED will immediately forward the deferment to the Nevada Tax Commission. The Nevada Tax Commission will verify the sale, the price paid and the date of the sale and assign the applicable period for payment of the deferred tax. The Nevada Tax Commission may require security for the payment of the deferred taxes. Such security for deferred taxes may not exceed the amount of the tax deferred.⁹⁵⁹

Program for the Training for Employees of Businesses

The CED also administers a program to provide matching funds to a business in order to train the business’ employees.⁹⁶⁰ Under this program, the training must be done at a community college within the University and Community College System of Nevada.⁹⁶¹ When considering applications for this employee training program, the CED gives priority to businesses that provide high-skill and high-wage jobs to Nevada residents, and to the greatest extent practicable, use materials for the business that are produced

or bought in Nevada.⁹⁶² The application must be submitted to the CED on a CED prescribed form and must include information about the business, including, the business's name and location, number and types of jobs available that are, or will be, available upon completion of the training program, objectives of the proposed training program, estimated cost of each enrollee in the program, a certification that each person who completes the program will be employed in the county in which the business is located (or generally within the state of Nevada) for a certain number of hours and be paid no less than a certain wage.⁹⁶³

Program for the Abatement of Business Tax

The same requirements listed above for the abatement and deferral of sales and use taxes apply to the abatement of business tax.⁹⁶⁴ They include that the business is consistent with state plan for industrial development and diversification, the business agrees by contract to operate in Nevada for a minimum of 5 years in compliance with state statutes, the business has made or will make a minimum investment in Nevada and employ a minimum number of employees (each of which is based on the size of the county in which the business is located) and the business has met certain wage and benefit requirements.⁹⁶⁵ If these requirements are met, an employer is entitled to an exemption of 50% of the amount of business tax owed during the first 4 years of its operation.⁹⁶⁶ If a business that qualified for such an abatement ceases to meet the requirements of the approval, the business must repay the abatement to the governing body which would have received the funds, plus interest based on a statutory formula.⁹⁶⁷



Regulation and Operations of Financial Institutions

The Nevada Department of Business and Industry (the “Department”) oversees the organization, licensing, operation, and dissolution of financial institutions. The Nevada Division of Financial Institutions (the “NFID”) within the Department has supervisory control of most financial services businesses operating in Nevada, such as state-chartered banks, thrifts and savings and loans firms, as well as trust, installment loan and collection agency companies. Since 1999, mortgage brokers and mortgage bankers have been subject to the jurisdiction of the Nevada Mortgage Lending Division (the “NMLD”).

REGULATION OF THE BUSINESS OF BANKING

State-Chartered Banks

A bank organized under Nevada law may provide the typical range of financial services performed by state-chartered banks, such as receiving deposits, discounting and negotiating promissory notes, drafts, bills of exchange and other evidence of indebtedness, and making secured or unsecured loans.⁹⁶⁸ State-chartered banks also may issue and confirm letters of credit.⁹⁶⁹ In addition, a state-chartered bank may, with the written consent of the Commissioner of Financial Institutions (the “Commissioner”), exercise any authority or perform any act that a national bank may exercise or perform.⁹⁷⁰ While state-chartered banks must maintain their principal office in Nevada, a Nevada-chartered bank can operate branch offices and services centers both within the state and in other states.⁹⁷¹

The NFID both supervises the organization of, and charters, state banks.⁹⁷² Before receiving a charter, applicants must satisfy the Commissioner of the fitness of the shareholders, officers, and managers of the proposed bank and that, if chartered, the bank will be lawfully entitled to commence the business of banking. This evaluation includes an assessment as to public confidence in the designated bankers and that the proposed institution will meet the needs and promote the convenience of the community to be

served.⁹⁷³ In addition, the bank must secure membership in the Federal Deposit Insurance Corporation and meet the capitalization, working capital and financial stability requirements for state-chartered banks.⁹⁷⁴

Out-of-State and Foreign Banks

Similar to requirements for a state-chartered bank, an out-of-state or foreign bank desiring to establish a branch in the State of Nevada must be licensed and chartered by the NFID.⁹⁷⁵ In addition to other requirements and regulations, in order for a foreign bank to obtain a charter in Nevada, the foreign bank must establish that the foreign bank is of good character and sound financial standing, is adequately managed, and will satisfy the convenience and needs of persons to be served.⁹⁷⁶

Interstate Banking

Nevada law also regulates certain aspects of interstate banking that affect a depository institution or bank holding company whose home state is Nevada or instances where inter-state bank-branching may impact the state. For example, any direct or indirect acquisition⁹⁷⁷ of a depository institution or holding company whose home state is Nevada requires the NFID's prior approval.⁹⁷⁸ Interstate banking organizations in Nevada are subject to regulation in the same manner as banks organized and chartered in Nevada.⁹⁷⁹

Nevada law also authorizes a depository institution to act as an agent for affiliated depository institutions.⁹⁸⁰ Specifically, a depository institution may, at its main office or at any branch, act as an agent of any other depository institution that is a subsidiary of the same holding company.⁹⁸¹ Subject to statutory limitations, a depository institution acting as such an agent may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations.⁹⁸²

OTHER TYPES OF FINANCIAL INSTITUTIONS

Trust Companies

A trust company is an organization that is engaged as a trustee, fiduciary, or agent for individuals or businesses in the administration of trust funds, estates, custodial arrangements, stock transfer and registration and other related services.⁹⁸³ As a fiduciary, a trust company may engage in fiduciary investment management functions and estate planning.⁹⁸⁴ Trust companies are regulated by the NFID under state law.

In Nevada, an applicant for a license to conduct the business of a trust company must be organized as a corporation or limited liability company under the laws of Nevada or authorized to do business in Nevada as a foreign corporation or foreign limited liability company.⁹⁸⁵ Trust companies must satisfy statutory shareholders' equity requirements, which amounts may be increased as required by the Commissioner.⁹⁸⁶

License fees are assessed in proportion to the initial shareholders' equity of the trust company as provided by statute.⁹⁸⁷ Nevada statutory law enumerates the powers of licensed trust companies and specifically prohibits a trust company from engaging in any banking business by acting as a depository institution or making loans.⁹⁸⁸ Statutes impose certain bond and insurance requirements on all active officers, managers and employees of the trust company.⁹⁸⁹

Thrift Companies

Thrift companies are licensed by NFID and, like a bank, may accept all forms of depository accounts. A thrift company may lend money on various types of security, and purchase, sell or discount specific financial instruments and contracts.⁹⁹⁰ A thrift company license will not be issued unless the Commissioner is satisfied that the public convenience and advantage will be promoted in the geographical area proposed for the operation, that there is an adequate capital structure supporting the applicant, and that the proposed officers, directors, stockholders and other investors are trustworthy, responsible and of good character.⁹⁹¹ Nevada law imposes minimum shareholders' equity and reserve requirements on the licensee and each branch office.⁹⁹²

The Nevada Thrift Companies Act provides that a thrift company must have its deposits insured pursuant to the provisions of either the Federal Deposit Insurance Act or the National Housing Act. In limited circumstances applicable only to "grandfathered" licensees certificated prior to October 1, 1997, a private insurer approved by the NFID may insure a thrift company's deposits.⁹⁹³ Once licensed as a Nevada thrift company, the state banking code provides a procedure under which the thrift company can be statutorily converted to a state-chartered bank.⁹⁹⁴

Nevada law does not specifically provide for the formation and licensing of industrial loan banks ("ILB"). An ILB is typically a financial services affiliate of a manufacturing business that functions primarily to provide credit to consumers purchasing the products and related services of the manufacturing

business. The Commissioner interprets and applies the Nevada Thrift Companies Act to facilitate the formation and operation of ILBs in Nevada. Two prominent examples are Harley Davidson and Toyota Motors.

Savings and Loan Associations

Nevada law provides that firms whose principal and primary business is to borrow, loan and invest money that are not otherwise organized and licensed as a bank, thrift, credit union, trust company or other specific type of financial institution, will be regulated as a savings and loan.⁹⁹⁵ As with a state-chartered bank or thrift company, a license for a savings and loan association is granted by the Commissioner only after determining the good character and financial responsibility of the applicants, the community need for and competitive impact from the proposed operation and the probability of the association's success and stability.⁹⁹⁶ Like other financial institutions, a savings and loan association must comply with various capitalization, reserve and surety requirements.⁹⁹⁷ Nevada statutes provide procedural mechanisms for conversions of state licensed associations into federal associations and for federal associations to convert to a state licensee.⁹⁹⁸

Unlike a licensed thrift company, a savings and loan association licensed in Nevada may only accept savings deposits and issue investment certificates.⁹⁹⁹ Although a savings and loan is organized principally to accept savings deposits and make real estate loans using those deposits,¹⁰⁰⁰ Nevada law does not place such limits upon either the type of loans or forms of investments made by a licensee.¹⁰⁰¹

Mortgage Bankers and Mortgage Brokers

A mortgage broker acts as the paid agent of either a borrower or lender by arranging the making of a loan secured by real property, or by arranging a loan's resale. A mortgage broker does not lend its own money. Unless exempt, anyone acting as a mortgage broker must be licensed.¹⁰⁰² All licensed mortgage brokers must have a qualified employee to oversee the day-to-day operations of the company.¹⁰⁰³ Employees of the mortgage broker who conduct loan origination or related activities and interact with consumers must be registered as agents, and must conduct all their activities at the physical licensed location of the mortgage broker.¹⁰⁰⁴ Nevada law does not provide for licensing of mortgage brokers to operate from a location outside of Nevada.¹⁰⁰⁵

A mortgage banker is a person in the business of (i) buying or selling notes secured by liens on real property (ii) making loans secured by real property using the mortgage banker's "own money" or (iii) negotiating, originating, or brokering a commercial mortgage loan on behalf of an institutional investor.¹⁰⁰⁶ The primary distinction between a mortgage broker and a mortgage banker is that a mortgage broker uses other people's money while a mortgage banker uses its own money.¹⁰⁰⁷

As with a mortgage broker, a mortgage banker must have a qualified employee to oversee the day to day operations of the company. Employees of the mortgage banker do not otherwise need to be separately licensed, but must conduct all their activities at the physical licensed location of the mortgage banker. Subject to other licensing requirements, a mortgage banker (or a subsidiary or affiliate thereof) that holds a license for an office in Nevada also may be licensed to conduct business at branch offices both in Nevada and from an office outside of Nevada.¹⁰⁰⁸

The NMLD also has the authority to grant exemptions for specific loans.¹⁰⁰⁹ In addition, certain lenders are exempt from the requirements under Nevada Revised Statutes Chapters 645B and 645E.¹⁰¹⁰ Such lenders must still file for certificate of exemptions with the Officer of the Commissioner of Mortgage Lending.¹⁰¹¹ Finally, a foreign person or entity that is not considered to be doing business in the State of Nevada does not need to obtain a certificate of exemption under Nevada Revised Statutes Chapter 645B unless that person (i) maintains an office in Nevada to transact business, (ii) solicits or accepts deposits in the State, subject to certain exceptions, (iii) solicits business in Nevada for the activities of a mortgage broker or mortgage banker or (iv) arranges a mortgage loan secured by residential real property.¹⁰¹²

Installment Loan Companies

Unless a firm is regulated as another form of financial institution or is exempt, the company must hold an installment loan license to make or arrange loans not secured by real estate.¹⁰¹³ The company must be financially solvent, have at least \$50,000 in liquid assets for use in the operation of the business, and the principals must demonstrate ability to conduct installment loan lending activities.¹⁰¹⁴ The provisions of Nevada Revised Statutes Chapter 675 governing the operation of installment loan companies do not apply to a company that finances the sale of its own products through a "retail installment sales contract."¹⁰¹⁵

A licensee may not maintain more than “one place of business under the same license.”¹⁰¹⁶ The Financial Institutions Division, however, may issue branch office licenses.¹⁰¹⁷ Nevada Revised Statutes Chapter 675 also establishes requirements relating to record keeping by licensees,¹⁰¹⁸ conducting installment loan activities on a premises shared with another business,¹⁰¹⁹ and lending practices of licensees.¹⁰²⁰

Nontraditional Lending Practices

The Commissioner of Financial Institutions and Commissioner of Mortgage Lending have been charged with the task of adopting regulations concerning certain persons and institutions who offer “nontraditional” mortgage loan products, including interest-only loans and certain adjustable rate mortgage loans.¹⁰²¹ Additionally, a lender who knowingly issues a loan solely based upon a borrower’s home equity without considering the borrower’s ability to repay the loan has committed an “unfair lending practice”.¹⁰²²



Securities Regulation

REGISTRATION OF SECURITIES

Nevada regulates sales or offers to sell of securities “in this state.”¹⁰²³ The threshold question, therefore, is whether a securities transaction is subject to regulation by Nevada. Section 90.830 of the Nevada Revised Statutes provides some guidance on what contacts with Nevada cause the offering to be within the ambit of Nevada regulation. For example, offers originating in the State of Nevada or directed by the offeror to a location in the state, are made in this state.¹⁰²⁴ Some offers to sell or purchase that are broadcast generally to the public may nevertheless be deemed made in Nevada.¹⁰²⁵ By regulation, an offer to sell or purchase a security made over the Internet or similar system into Nevada is within the scope of Nevada regulation.¹⁰²⁶

In Nevada, any sale or offer to sell of a “security” is illegal unless that security is registered or the security or transaction is exempt from registration.¹⁰²⁷ Nevada’s definition of a security, like the federal definition, is quite broad, including, among other things, notes, stocks, bonds, evidence of indebtedness, limited partnership interests, limited-liability company interests, investment contracts, fractional undivided interests in oil, gas or other mineral leases (or payments out of production thereof), puts, calls, straddles or options on a security, or “in general, any interest or instrument commonly known as a security . . .”¹⁰²⁸ Although the statute does not make an explicit reference to instruments that are deemed to be securities under federal law, the broad language could easily be construed to include the federal definition of a security. Consequently, in light of the fact that no reported Nevada case has limited the definition, the prudent course is to assume that if an instrument or agreement would be a security under federal law, it is likely a security under Nevada law.

Unless exempted from registration, as described below, the three methods of registering a security in Nevada are filing (generally limited to established companies with a minimum net worth that are already publicly owned), coordination (generally used for larger offerings that will be offered simultaneously in several, if not all states) and qualification (generally used

when offering a security in the State of Nevada only). Registration by filing and by coordination each requires that a federal registration statement be filed under the 1933 Securities Act. Registration by qualification does not contain that requirement.¹⁰²⁹

Registration by filing is only available to a limited number of companies – generally larger companies that are already publicly owned.¹⁰³⁰ For instance, to register by filing (i) the issuer must have actively engaged in business operations in the United States for 36 consecutive calendar months immediately preceding filing of the federal registration statement; (ii) the issuer must have registered a class of its equity securities under Sections 12(b) or (g) of the 1934 Securities Exchange Act and that class must be held of record by 500 or more persons; (iii) the issuer must meet certain financial requirements and requirements relating to the broad distribution of the issuer's securities and the method of distribution of its securities; and (iv) underwriters and broker-dealers participating in the offering must meet certain membership and commission requirements.¹⁰³¹ If these qualifications are met, only general information about the issuer and type of security being registered, along with a copy of the latest prospectus, is required.¹⁰³² The statement then becomes effective when it has been on file with the Administrator for at least 5 days and the federal registration statement has also become effective.¹⁰³³

To register by coordination, the strict qualifications found in the requirements for registration by filing are omitted, requiring only that the securities being registered are also the subject of a federal registration statement.¹⁰³⁴ Registration by coordination, however, requires copies of the latest prospectus, articles of incorporation and bylaws, agreements with or among underwriters, any indentures or instruments governing the issuance of the security, and an actual copy, specimen or description of the security being registered.¹⁰³⁵ The statement then becomes effective after being on file with the Administrator for at least 10 days, but sometimes as many as 30 days, so long as the federal registration statement has also become effective and a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions have been on file for 2 full business days with the Administrator.¹⁰³⁶

Finally, a security may be registered by qualification.¹⁰³⁷ Such a registration statement is fairly detailed and must contain, among other things, general information about the issuer and its business, information about the officers and directors of the issuer, information about holders of

more than 10% of a class of an issuer's equity securities, financial information regarding the issuer, and information about the issue itself.¹⁰³⁸

Exemptions from Registration

As under federal law, in Nevada either a particular security or a transaction may be exempt from registration (but not from the anti-fraud provisions).¹⁰³⁹ In addition to the statutory exemptions, the Nevada Securities Division ("Securities Division") is authorized to promulgate administrative exemptions.¹⁰⁴⁰ In fact, the Securities Division has adopted numerous administrative exemptions. Of significant importance to the start-up company is the transaction exemption contained in Nevada Revised Statutes § 90.530(11) which provides an exemption for an offer to sell securities (a) if the company has no more than 25 purchasers in Nevada during any 12 consecutive months; (b) the offer does not involve general solicitations or advertising; (c) the offer does not involve payment of commissions; and (d) either (i) the seller reasonably believes that the purchasers are purchasing for investment, or (ii) immediately before and after the transaction, the issuer reasonably believes that the issuer's securities are beneficially held by 50 or fewer owners and the transaction is part of an aggregate offering of \$500,000 or less during any 12 consecutive months.

As might be expected, Nevada law provides numerous other exemptions from registration. For example, securities listed on the New York Stock Exchange, the American Stock Exchange or NASDAQ national market system, among other exchanges, are exempt from registration.¹⁰⁴¹ Another important transaction exemption is set forth at Nevada Revised Statutes § 90.530(1). That subsection provides an exemption for "isolated" nonissuer transactions. An "isolated" transaction is one that occurs no more, with respect to the same buyer or seller, than twice during any 12-month period.¹⁰⁴² Thus, it would appear that if, within the same 12-month period, person "A" buys stock from two different people and then person A goes to buy stock from a third person, person A's purchase from the third person is no longer an isolated, and thus exempt, transaction. Another important exemption is for secured debt if the entire security instrument and the evidence of indebtedness are offered and sold as a unit.¹⁰⁴³ Thus, a typical secured loan is not subject to the registration requirement of Nevada law.

Although some exemptions are self-effecting, some require a filing with the Secretary of State.¹⁰⁴⁴ For those exemptions that are not self-effecting a filing fee, either one-time or annual, is required.¹⁰⁴⁵

Broker-Dealer, Investment Advisor Registration

Subject to certain exemptions, Nevada requires that persons engaged in the business of selling securities (broker-dealers) and their sales representatives be licensed to practice in Nevada.¹⁰⁴⁶ In addition, persons who, for compensation, engage in the business of advising others as to the value of securities or the advisability of investing in securities (investment advisors), along with their representatives, must be licensed to practice in Nevada.¹⁰⁴⁷

Statutory exemptions to broker-dealer and sales representative licensing are set forth at Nevada Revised Statutes § 90.320 and generally relate to a broker-dealer licensed in another state with minimal contact with Nevada or, in the case of a sales representative, transactions with insiders, *e.g.*, officers, directors, and employees. Statutory exemptions to licensing for investment advisors and their representatives are set forth at Nevada Revised Statutes § 90.340. As with broker-dealers, investment advisors who are otherwise allowed to act as investment advisors need not acquire a license in Nevada if their contacts are minimal.¹⁰⁴⁸ Representatives employed by exempt investment advisors are also exempt from licensing.¹⁰⁴⁹ A sales representative licensed pursuant to Nevada Revised Statutes § 90.310 can act in the role of an investment advisor representative and need not be separately licensed as an investment advisor representative.¹⁰⁵⁰

Anti-Fraud Provisions

Similar to federal law, in Nevada, fraudulent acts in the sale, offer to sell, purchase or offer to purchase of securities are prohibited.¹⁰⁵¹ Both Nevada's Attorney General and the Securities Division are expressly authorized to investigate and enforce these laws.¹⁰⁵² The Securities Division's powers are particularly broad.¹⁰⁵³ An important distinction between federal law and Nevada law is that, although under Securities and Exchange Commission Rule 10b-5, a plaintiff must prove scienter and reliance in order to recover for securities fraud, under Nevada law, in a state enforcement action, no such requirements apply.¹⁰⁵⁴



Real Estate

OWNERSHIP

Title to Nevada real estate may be held by individuals, corporations, partnerships, limited liability companies, trusts, estates, and other legal entities.¹⁰⁵⁵ Certain foreign entities, depending on their business, may be required to be qualified to conduct business in Nevada to own real estate in Nevada.¹⁰⁵⁶

CONCURRENT OWNERSHIP

Tenancy in Common

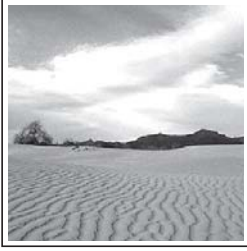
Every interest in real property conveyed to two or more persons or entities is a tenancy in common unless expressly declared to be a joint tenancy.¹⁰⁵⁷ Tenants in common hold undivided interests in the property, and subject to the rights of the other tenants, each tenant in common has the right to use the entire property.¹⁰⁵⁸ Each co-tenant is presumed to have an equal share of ownership unless otherwise specified; however, unless a tenant in common is acting as an agent for his or her co-tenants, he or she can only act as to his or her fractional co-tenancy share.¹⁰⁵⁹ A co-tenant may encumber, convey, and devise his interest independently of the other co-tenants.

Joint Tenancy

A joint tenancy in real estate may be created only by an express written declaration in the conveyance of the property.¹⁰⁶⁰ Similar to tenants in common, joint tenants hold equal, undivided interests in the property. However, joint tenancy also includes a right of survivorship, which provides that upon the death of a joint tenant, the surviving joint tenants automatically take title to the property without probate administration.¹⁰⁶¹

Community Property

Real property acquired by a husband and wife is generally community property, as discussed in Chapter 23 of this Guide, unless title is taken as joint tenants.¹⁰⁶²



Real Property Security

DEEDS OF TRUST / JUDICIAL FORECLOSURES

In Nevada, the deed of trust is the instrument generally used to create a security interest in real property. In order to record a deed of trust, certain document formalities prescribed by statute must be met. A deed of trust must include the mailing address of the grantee.¹⁰⁶³ Also, if the county assessor has assigned a parcel number to the property, the top left corner of the first page of the deed of trust must state that number.¹⁰⁶⁴ Any signatures on the deed of trust must be acknowledged in a statutorily acceptable form.¹⁰⁶⁵ In addition, there are many other requirements that must be met and provisions that must be included in the deed of trust in order for the deed of trust to be in a form acceptable for recording.¹⁰⁶⁶

Deeds of trust are commonly used in Nevada because they provide the most effective method for a lender to enforce its security interest in the event that the borrower does not fulfill its loan obligations. A lender secured by a deed of trust may exercise a statutory power of sale without judicial intervention (a “trustee’s sale”) by recording an executed notice of breach and election to sell in the recorder’s office in the county where the property is located and by mailing, via registered or certified mail, return receipt requested and postage prepaid, copies of the notice to the address of the trustor and the person who holds the title of record, with copies of the notice to be mailed to certain other persons within 10 days thereafter.¹⁰⁶⁷ Factoring in statutory cure periods and assuming that there is no interference with the trustee’s sale, the sale will occur approximately 4 months after the notice of breach and election to sell is recorded.¹⁰⁶⁸

A trustee’s sale results in the purchaser taking title to the property without the debtor having any right of redemption although, if the trustee does not substantially comply with the statutory requirements, the sale may be declared void.¹⁰⁶⁹ In contrast, lenders who use a mortgage instead of a deed of trust to create a security interest in real property must seek recovery through a judicial foreclosure, which affords the debtor of the real property a right of redemption for 1 year following the foreclosure sale;

therefore, mortgages are rarely used and judicial foreclosures are rarely sought in Nevada.¹⁰⁷⁰

In the case of either a judicial foreclosure or a trustee's sale, Nevada has a statutory "one-action rule," which requires that the creditor first proceed against the security before pursuing the borrower.¹⁰⁷¹ If the creditor proceeds personally against the borrower in violation of the one-action rule, the creditor may lose its security interest.¹⁰⁷² The creditor will not forfeit its rights in the security, however, if the judicial proceeding is stayed or dismissed before the entry of a final judgment.¹⁰⁷³

A creditor may apply for a deficiency judgment against the borrower or guarantor if the proceeds of the judicial foreclosure or the trustee's sale fail to extinguish the debt.¹⁰⁷⁴ A deficiency judgment may be obtained upon application by a judgment creditor or the beneficiary of a deed of trust within 6 months after the judicial or trustee's sale or, if there are separate sales of multiple parcels of collateral, within 6 months of the sale date of the last parcel, provided that the application is filed no more than 2 years after the initial foreclosure sale date.¹⁰⁷⁵ Before a deficiency judgment can be awarded, a hearing must be held so that the court can determine the fair market value of the property as of the date of sale.¹⁰⁷⁶ A creditor is only entitled to the amount by which the unpaid balance of the debt exceeds the value of the collateral, and the creditor cannot claim the property was worth less than the amount bid at the trustee's sale.¹⁰⁷⁷

Pursuant to statute, a deed of trust may secure future advances and/or additional advances, including payments by the beneficiary of taxes and insurance, so long as such advances are provided for within the written instrument itself and reference the statutes governing future advances.¹⁰⁷⁸ Pursuant to this statutory scheme, the priority of any mandatory future and additional advances will relate back to the date the deed of trust was recorded.¹⁰⁷⁹ Nevada also follows the common law approach that any advance made by a lender that is required according to the deed of trust or other loan instrument will have the same priority as the deed of trust.¹⁰⁸⁰ Unlike the common law approach, a debtor can opt out of the statutory scheme and terminate a lender's ability to secure future advances if written notice is delivered to the lender as set forth in the statute.¹⁰⁸¹ Consequently, lenders generally favor the common law scheme.

A guarantor of any payment or performance, including the guarantor of a note secured by a deed of trust, has a non-waivable right of subrogation and is entitled to the protections of the one-action rule¹⁰⁸² and anti-deficiency

laws.¹⁰⁸³ Subject to certain restrictions, however, a guarantor may waive the one-action rule.¹⁰⁸⁴

RECEIVERS

To preserve real property during a foreclosure proceeding, a creditor may find it necessary to seek the appointment of a receiver. To obtain a receiver, a complaint must be filed along with a petition stating sufficient facts to justify the appointment.¹⁰⁸⁵ Maintaining and preserving real property and preventing waste during a foreclosure are typical grounds for appointing a receiver.¹⁰⁸⁶ Additionally, a trustee or beneficiary of a deed of trust may seek the appointment of a receiver after a notice of breach is recorded if the trustee or beneficiary demonstrates (1) that the property subject to the deed of trust is in danger of substantial waste, (2) that the income from the property is in danger of being lost, or (3) that the property is or may become insufficient to discharge the debt that it secures.¹⁰⁸⁷ Although deeds of trust commonly give other bases for the appointment of a receiver, it is unknown whether a contractual provision allowing the appointment of a receiver would be upheld to the extent that any such provision exceeded the statutory provisions.

LAND SALE CONTRACTS

In addition to deeds of trust and mortgages, land sale contracts are sometimes used as security devices. When property is sold to a buyer using a land sale contract, title to the property does not actually pass until all terms of the land sale contract have been fulfilled; however, the buyer has possession of the property during the term of the land sale contract. A land sale contract may be attractive to a seller because in the event of a default, the contract can provide for immediate termination, in which case the buyer will be deemed a tenant who may be subject to quick eviction procedures. Nevada courts are reluctant, however, to enforce immediate termination provisions literally. Specifically, the Nevada Supreme Court has held that a land sale contract must include a “reasonable notice” period, reasoning that the notice periods prescribed in the trustee’s sale statutes allow longer cure periods than the eviction statutes, and that the five-day cure period in the eviction statutes is not a reasonable period in which to expect a person already in default to cure.¹⁰⁸⁸

Another potential downside to a land sale contract for the seller is that under certain circumstances, a court may construe the contract to be

an equitable mortgage.¹⁰⁸⁹ If a land sale contract is deemed an equitable mortgage, an event of default would arguably require a judicial foreclosure and a right of redemption process, which can take more than 1 year.



Easements

An easement is the right of one person to use real property owned by another person for a particular purpose. The real property that may be used by the non-owner is said to be “burdened” by the easement. For example, a utility company might have the right to use a portion of another’s property for the installation and maintenance of utility lines, or a person might have the right to use another’s property for access to his or her own property. An easement is usually evidenced by a written agreement that is recorded in the county in which the burdened real property is located. An easement typically runs with the land, meaning that the easement continues to burden the real property even when the benefited or burdened property is conveyed to another person. Other types of easements, which may not be found in public records, include (i) an easement by prescription, which gives a person the right to use another’s land for a particular purpose when that use has been adverse, continuous, open and peaceable for 5 years,¹⁰⁹⁰ (ii) an easement by necessity, which gives the owner of property that does not have access to a right of way the right to use another’s property in order to reach the right of way,¹⁰⁹¹ and (iii) an easement by implication, which arises when the owner of two parcels has so used one parcel of property to benefit the other that the purchaser could have reasonably expected, without further inquiry, that the benefits of the easement were included in the sale.¹⁰⁹²



Leases

COMMERCIAL LEASES

Nevada does not have a general statutory scheme governing commercial leases (i.e., non-residential use). However, there are various statutes generally related to leasehold interests in real property which will be discussed in this section.

Any lease for a term greater than 1 year must be in writing and signed by the person granting the leasehold interest.¹⁰⁹³ However, in the absence of a written lease, the terms of a lease, including rent, may be inferred by course of conduct between the landlord and tenant.¹⁰⁹⁴

A lease is effective as between the parties whether or not it is recorded. To give third parties notice of a lease, although actual possession of the property should be sufficient to put any potential purchaser on notice of the possessor having a property interest, it is best to record the lease, or a memorandum of the lease. Because most parties to a lease do not want to make the full lease public, a memorandum of lease is the most common way to achieve public notice. Usually a memorandum of lease includes the names of the parties, a description of the leased property, and the duration of the lease. There is no transfer tax or sales tax imposed for recording a lease or memorandum of lease.¹⁰⁹⁵

A landlord's property may be subject to a statutory mechanic's lien if a tenant makes improvements or otherwise alters its leased premises. A landlord may protect its property from such liens by recording a "notice of non-responsibility" in the official records of the county in which the property is located.¹⁰⁹⁶ The notice of non-responsibility statute provides a safe harbor if the notice of non-responsibility is recorded within 3 days following the effective date of the lease or execution of the lease, whichever occurs first, or 3 days of when the landlord becomes aware of the tenant's intention to improve the premises.¹⁰⁹⁷ In order to qualify for the safe harbor, the landlord must also ensure that the tenant has recorded a notice of posted security in the Official Records of Clark County, Nevada, and has either (i) established a construction disbursement account or (ii) furnished

and recorded a security bond.¹⁰⁹⁸ If the owner fails to record the notice of non-responsibility within the 3-day period, fails to serve the recorded notice upon the prime contractor and tenant within 10 days after the date tenant contracts with the prime contractor for the work, or if tenant fails to comply with the applicable requirements for posting security, the landlord may not assert any claim that its property is not subject to the lien.¹⁰⁹⁹

A landlord whose commercial tenant is in default of its lease has many rights and remedies dependent upon the language of the lease and type of default that has occurred. A landlord may proceed under Nevada's remedy of quasi-self-help and unlawful detainer statutes, subject to strict statutory compliance.¹¹⁰⁰ The eviction statutes generally require notice of default and an opportunity to cure before eviction. A landlord that is successful in a lawsuit for unlawful detainer may recover a judgment for rent, possession of the property, termination of the lease, and related damages, which may include three-times the actual damages in certain cases.¹¹⁰¹ In addition, if the lease provides for termination of the lease upon tenant's default, the landlord can terminate the lease using an action for declaratory relief.¹¹⁰²

RESIDENTIAL LEASES

Nevada does have a statutory scheme for the regulation of residential leases.¹¹⁰³ There are exemptions from the residential lease statutes for, among other things, specific federally regulated low income housing units and mobile home parks (covered below).¹¹⁰⁴

Residential rental agreements must be in writing, signed by the landlord and the tenant,¹¹⁰⁵ and must include provisions addressing specific subjects such as the duration of the agreement and the amount of rent.¹¹⁰⁶ Nevada's landlord tenant act also limits the amount of security that may be demanded and the nature and extent of charges that may be imposed against such deposits.¹¹⁰⁷ Landlords are also required to provide tenants with property management contact information.¹¹⁰⁸

A tenant's obligations include keeping the premises clean and safe, not causing the premises to be uninhabitable, and not disturbing the peaceful enjoyment of the landlord's other tenants.¹¹⁰⁹

Residential units must be maintained in a habitable condition.¹¹¹⁰ Under certain circumstances, if a tenant notifies a landlord of material failures of the dwelling unit's habitability, requests that the landlord remedy such failures, and the landlord fails to remedy such failures within fourteen days,

the tenant may rent, terminate his lease, apply to a court for equitable relief or recover actual damages.¹¹¹¹

A landlord may adopt rules or regulations governing its leased premises, as long as the rules do not affect the tenant's obligation to pay rent, utilities, or other charges. Tenants must abide by those rules so long as they are reasonably related to the tenants' use and occupancy of the leased premises.¹¹¹² A tenant must allow a landlord access to the leased premises in the event of an emergency or on at least 24 hours notice so long as the landlord's request is not unreasonable and the landlord does not abuse the privilege.¹¹¹³

The same basic eviction procedures apply to residential leases as apply to commercial leases as discussed above. A tenant who fails to vacate the premises after the expiration of the lease is guilty of an unlawful detainer.¹¹¹⁴ In most cases, a landlord may begin eviction proceedings against a residential tenant who remains in the premises after the landlord has provided the tenant with at least thirty days' notice to vacate the premises.¹¹¹⁵ Following service of the thirty-day notice to vacate, the landlord must then serve a five-day unlawful detainer notice upon the tenant.¹¹¹⁶

Certain tenants, however, may continue possession for periods exceeding the normal notice periods. Pursuant to Nevada Revised Statutes 40.251(2), disabled tenants and tenants over the age of sixty may request permission to continue in possession for an additional 30 days beyond the 30-day notice period. To continue in possession, such tenants must submit a written request for an extended period and provide proof of their age or disability.¹¹¹⁷ Nevada Revised Statutes 40.251(2) applies only to such tenants who are guilty of holdover unlawful detainers and is inapplicable to holdover tenants who also have failed to pay their rent or who are otherwise in breach of their lease.¹¹¹⁸

MOBILE HOME PARKS

Rentals of spaces in mobile home parks are subject to a separate set of requirements. There are several exemptions from the rental provisions in Nevada Revised Statutes Chapter 118B primarily based on the length of rental term or whether the rental is for full-time residential or occasional travel purposes.¹¹¹⁹

Similar to a residential project, a rental agreement for a manufactured home lot must be in writing and the landlord must give the tenant a copy of the fully signed lease.¹¹²⁰ The rental agreement must include certain

provisions such as duration of lease, amount and manner of payment of rent, restrictions on occupancy by children or pets, services and utilities included in the rent, owner and agent contact information and any restrictions on subletting.¹¹²¹

A landlord may request a deposit to compensate the landlord for a tenant default in the payment of rent, utility charges or services fees and to repair damage to the mobile home park caused by the tenant.¹¹²² However, any such deposit not used by the landlord as provided by statute must be refunded to the tenant upon the earlier to occur of 5 years after the deposit is made or upon the sooner termination of the tenancy.¹¹²³ Upon repayment, the deposit must include interest calculated at a rate equal to the average of the prevailing rates of interest for deposits, as determined by the Administrator of Manufactured Housing Division of the Department of Business and Industry, compounded annually for the entire period the deposit was held by the landlord.¹¹²⁴

Mobile home park landlord's are also subject to many restrictions unlike those imposed on residential landlords, such as water quality and notice if the mobile home park is listed for sale.¹¹²⁵ In addition, there are training and continuing education requirements imposed on the managers and assistant managers of a manufactured home park.¹¹²⁶

The same basic procedures are used to evict tenants of mobile home parks as are used for residential tenants, however, the summary eviction procedures available for residential and commercial leases is not available to a landlord of manufactured home lots.¹¹²⁷ Therefore, a landlord of manufactured home lot is only able to evict a tenant after filing an unlawful detainer action.¹¹²⁸ However, the landlord may be able to obtain an eviction prior to final judgment in the unlawful detainer action through a temporary writ of restitution.¹¹²⁹



Zoning

Zoning laws in the state of Nevada are administered and enforced locally pursuant to county and municipal government ordinances. The authority of local governments to “regulate and restrict the improvement of land” is provided in Chapter 278 of the Nevada Revised Statutes.¹¹³⁰ Within Chapter 278 are various provisions applicable to zoning throughout the state and a mandate that all cities with populations in excess of 25,000 people and all counties with populations in excess of 40,000 people create planning commissions.¹¹³¹

In addition, in any county with a population of at least 400,000 people, the board of county commissioners and the city council of each of at least the 3 largest cities in the county must establish a regional planning coalition.¹¹³² The statutory purpose of a regional planning coalition is to develop a 20-year comprehensive regional policy plan for “the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region.”¹¹³³

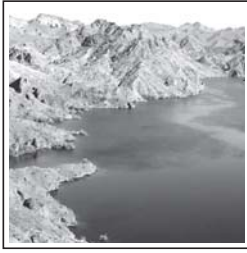
Similar to other jurisdictions throughout the country, Nevada’s local zoning ordinances are guided by a general concern for ensuring suitable usage of property. The Zoning Code of the City of Las Vegas, for example, aims to encourage the “most appropriate use of land, water and natural resources consistent with the public interest.”¹¹³⁴ Similarly, the Annexation and Land Development Code of the City of Reno seeks to “[p]rovide the economic and social advantages gained from a comprehensively planned use of land resources.”¹¹³⁵

Nevada’s population is concentrated in Clark County, which is located in the southern portion of the state. Most zoning matters in the unincorporated portions of Clark County are enforced by the Clark County Comprehensive Planning Department.¹¹³⁶ Zoning matters within incorporated cities, such as Las Vegas, Henderson, and North Las Vegas, are handled by the individual cities. Nevada’s other major population center is the Reno area, which is located in the northern part of the state.

In Northern Nevada, zoning matters are heard in Washoe County or its larger municipalities, Reno and Sparks.

The zoning or rezoning process, as the case may be, consists of many layers of applications, approvals, consents, and public meetings. In a very simplified form, the procedure consists of (1) an application, (2) a public hearing before the jurisdiction's planning commission, which might be appealed by members of the public or the applicant to the planning commission's governing authority, and (3) after the expiration of any appeal period, the issuance of a final "hard" zoning or rezoning.

See the Appendix for a list of zoning agencies throughout Nevada.



Mineral Rights

OIL, GAS AND GEOTHERMAL RIGHTS

Oil, gas, and geothermal drilling and production operations in Nevada are subject to a complex regulatory maze. State, federal, and sometimes county permits are required before conducting oil, gas, and geothermal operations.

For example, a permit from the Nevada Department of Conservation and Natural Resources, Division of Minerals, must be obtained prior to spudding in or drilling any gas or oil well.¹¹³⁷ In addition, permits are required for operators to use enhanced recovery techniques.¹¹³⁸ Operators must also obtain permits for various activities such as using injection wells,¹¹³⁹ surface storage and disposal of brine,¹¹⁴⁰ and abandonment and plugging of wells.¹¹⁴¹ In addition, numerous reporting requirements apply to operators of oil or gas wells.¹¹⁴²

In addition to compliance with Nevada's general environmental laws and regulations, persons exploring for, developing, producing, or abandoning geothermal resources in Nevada must comply with Nevada Revised Statutes Chapter 534A, which contains various additional environmental permitting and operating requirements.¹¹⁴³

WATER RIGHTS

In view of the semi-arid conditions prevailing in the state, water rights issues are important and much-litigated. Originally recognized as a riparian rights jurisdiction,¹¹⁴⁴ this doctrine was rejected in 1889 as being unsuited to the conditions of the state and was replaced by the appropriative water rights doctrine.¹¹⁴⁵

In response to the hydrogeologic conditions and controversy surrounding water rights, Nevada has developed a complex regulatory and statutory scheme for controlling the state's water resources. The Nevada Division of Water Resources ("DWR") is responsible for administering and enforcing Nevada water law, which includes the adjudication and appropriation of groundwater and surface water in the state and the distribution of water in accordance with court decrees. The DWR also reviews the construction and operation of

dams, licenses and regulates well drillers and water rights surveyors, reviews flood control projects and water inventories, and provides technical assistance to the public and other governmental agencies.¹¹⁴⁶

The administrative head of the DWR is the State Engineer,¹¹⁴⁷ who is appointed by and responsible to the Director of the State Department of Conservation and Natural Resources.¹¹⁴⁸ The State Engineer may adopt regulations governing practice and procedure in all contests before his office and has the power to adjudicate contests over water rights.¹¹⁴⁹ The duties of the State Engineer's office include conducting studies and inventories, reviewing and evaluating proposals to ensure compliance with Nevada water laws and the state water resource plan, and the mapping of water rights statewide.¹¹⁵⁰

Together with the United States Geological Survey, the United States Soil Conservation Service and authorized state agencies, the State Engineer undertakes underground water studies, snow surveys, and other investigations related to the development and use of the water resources of Nevada.¹¹⁵¹ The State Engineer also aids local governments in Nevada in the clearance, maintenance, restoration, surveying, and monumenting of navigable rivers,¹¹⁵² controls permits for the appropriation, diversion, and change of manner or place of use of any of the public waters,¹¹⁵³ and issues temporary environmental permits to avoid the pollution or contamination of a water source.¹¹⁵⁴

MINERALS

In Nevada, the exploration, development, and production of natural resources are subject not only to general environmental regulations but also to resource-specific regulations. Chapter 513 of the Nevada Administrative Code provides a comprehensive regulatory scheme establishing requirements for registration of mines,¹¹⁵⁵ notice when opening or closing a mine¹¹⁵⁶, and the filing of annual reports by mine operators.¹¹⁵⁷ This chapter also sets forth extensive danger abatement regulations applicable upon closure or abandonment of a mine, including regulations regarding rating the location of the dangerous condition,¹¹⁵⁸ rating the degree of danger,¹¹⁵⁹ and the methods for securing the dangerous condition.¹¹⁶⁰

The Nevada Commission on Mineral Resources, Division of Minerals, has responsibility for the programs and activities associated with the state's mineral resources. The Division of Minerals is responsible for overseeing the development and production of minerals produced from mines, as well as geothermal, oil, and gas resources.



Eminent Domain

Like other states and the federal government, Nevada state and local government agencies may acquire private property without the owner's consent through the power of eminent domain if the taking is for a public use.¹¹⁶¹ A condemning agency given authority by the Nevada Legislature exercises its power of eminent domain by initiating a condemnation action.¹¹⁶²

In a condemnation action, generally, the acquiring government agency or private party must have the authority to exercise condemnation powers either by state statute or at common law and establish that (1) the property to be condemned will be used for a public use; (2) the property is necessary for that public use; and (3) if the property is already being used for a public use, the new use is a more necessary public use.¹¹⁶³ The scope of the condemnation power is set forth by a statute that describes, in broad categories, the public uses for which eminent domain may be exercised.¹¹⁶⁴ To determine whether the acquiring agency or private party has the authority to exercise eminent domain, it is necessary to examine the enabling statutes creating the government body¹¹⁶⁵ or the specific statutory grant of authority to a private party. The entity that is taking property by the exercise of eminent domain has the burden of proving that the taking is for a public use.¹¹⁶⁶

Generally, the public uses for which private property may be taken by the exercise of eminent domain do not include the direct or indirect transfer of any interest in the property to another private person or entity; however, certain transfers to private persons are carved out of this prohibition, including (i) transfers to private persons who use the property primarily to benefit a public service, including, a utility, railroad, and public transportation projects, (ii) leases to persons that occupy an incidental part of an airport or a government-owned facility under certain circumstances, (iii) exchanges related to certain threatened eminent domain actions for roadway or highway purposes, and (iv) redevelopment.¹¹⁶⁷ Moreover, if within 15 years after an entity takes property by eminent domain, (i) the property is not used for the public use for which it was taken or a public use reasonably related to the public use for which the property was taken

or (ii) the entity that took the property seeks to convey the property to any private person or entity in violation of Nevada Revised Statutes § 37.010(2), the property must be offered to and reverts back to the owner from whom the property was taken upon such owner's repayment of the original purchase price. The property will not be considered to fail the public use requirement if the person who took the property has begun active planning for or design of the public use, assembling of land in furtherance of planning for or design of the public use or construction related to the public use.¹¹⁶⁸

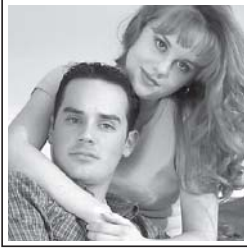
An eminent domain action is commenced by the acquiring agency or person filing a condemnation complaint.¹¹⁶⁹ Any time after the filing of a complaint, the condemning agency may move the court for an order permitting the plaintiff to occupy the premises sought to be condemned, pending the entry of the judgment.¹¹⁷⁰ If the court allows the plaintiff to have occupancy of the premises sought to be condemned prior to the court's final entry of the condemnation order, typically the plaintiff will be required to deposit a bond in an amount equal to at least twice the value of the premises plus damages, as appraised by the plaintiff, with the clerk of the court.¹¹⁷¹ In lieu of a bond, however, the plaintiff may deposit cash equal to the value of the premises with the clerk of court.¹¹⁷²

In a condemnation proceeding, the owner whose property is being taken is entitled to just compensation, which is the sum of money necessary to place the property owner in the same position monetarily as if the property had never been taken, excluding any governmental offsets except special benefits, which special benefits may only offset severance damages and may not offset the value for the property.¹¹⁷³ An award of just compensation includes payment of the value of the property taken for public use and "damages" caused by the acquisition because of the manner in which the public project will be built or because of the impact on the landowner's remaining property.¹¹⁷⁴ The value of the property is the highest price, on the date of valuation, that would be agreed to by a seller, who is willing to sell on the open market and has reasonable time to find a purchaser, and a buyer, who is ready, willing and able to buy, if both the seller and the buyer had full knowledge of all the uses and purposes for which the property is reasonably adaptable and available, and, if the property is condemned primarily for a profit-making purpose, the property must be valued according to the use to which the property is intended to be put, if that use results in a higher value.¹¹⁷⁵ A landowner may only challenge the

condemnation by showing that the condemning party does not have legal authority to exercise the power of eminent domain or that the taking is not for a legitimate public use. Consequently, the vast majority of affected property owners can only challenge the amount of compensation owed. In that situation, the landowner may apply to the court to receive the money deposited by the condemning party.¹¹⁷⁶ The landowner's acceptance of the deposited money is conditioned upon the landowner's waiver of all defenses except those relating to the amount of compensation but does not prejudice the landowner's right to litigate the amount of additional just compensation that will be ultimately awarded to him.¹¹⁷⁷

Nevada case law recognizes the right of a property owner to recover damages for pre-condemnation acquisition delay,¹¹⁷⁸ permits a property owner, in certain circumstances, to recover compensation for lost business goodwill due to the destruction of a business operated on condemned land,¹¹⁷⁹ and provides rules governing enhanced valuation of properties with both mineral interests and other uses.¹¹⁸⁰

The Nevada Supreme Court has concluded that a state statute codifies the "undivided-fee rule."¹¹⁸¹ This rule requires a district court to first determine the value of the condemned property as a whole (regardless of separate interests) as though it is unencumbered, and in a subsequent hearing, to apportion the total award among the various interests.¹¹⁸² Adherence to this rule is rigid, preventing the need for the condemning party to litigate the allocation of the compensation among various interest holders of the property condemned, such as a lessor and lessee. In the face of the "undivided-fee rule," it is important in commercial matters for parties with various interests in real property to negotiate desired contractual rights to just compensation awards in advance.



Spousal Rights

All property of a husband and wife may be classified either as community or separate property. Separate property is defined as all property owned by each spouse before marriage, all property acquired after marriage by gift, inheritance, or by an award of damages for personal injury, and all income from separate property.¹¹⁸³ Community property is defined as all property acquired during marriage, other than separate property, unless the spouses agree otherwise in writing.¹¹⁸⁴ Property acquired during marriage is presumptively community property unless title is taken in joint tenancy or unless purchased with separate property.¹¹⁸⁵ If title is taken as joint tenants instead of as community property, the property will be presumed to be the separate property of each spouse, but this is a rebuttable presumption based on the facts and circumstances.¹¹⁸⁶ An increase in the value of separate property attributable to the efforts of either spouse during marriage produces property of mixed separate and community character.¹¹⁸⁷

A husband and wife may also hold title to real estate as community property with a right of survivorship similar to a joint tenancy if the conveyance to them expressly declares that the husband and wife take the property as community property with a right of survivorship.¹¹⁸⁸

Management rights depend on whether the property is separate or community in character. A spouse may convey, encumber, or dispose of his or her separate property independently of the other spouse.¹¹⁸⁹ However, both spouses must act together in any sale, encumbrance, or conveyance of community-owned real estate, except that a spouse may act alone in the management of community-owned business property if that spouse is the sole manager of the business.¹¹⁹⁰

Upon divorce, each spouse is entitled to his or her own separate property and one half of the community property absent a compelling reason for an unequal division.¹¹⁹¹ Upon a spouse's death, one half of the community property belongs to the surviving spouse while the other half of the community property and the decedent's separate property are distributed according to the decedent's will, if any. In the absence of a will, the other

half of the community property and the decedent's separate property go to the surviving spouse.¹¹⁹² Community property with a right of survivorship passes to the surviving spouse upon the death of a spouse without regard to the decedent's will and without the need to probate the property.¹¹⁹³

When a married couple relocates to Nevada, the property acquired while the couple is domiciled in Nevada will be characterized pursuant to Nevada law.¹¹⁹⁴



Purchase and Sale of Property

PURCHASE AGREEMENTS

The purchase of real property in Nevada generally must be pursuant to a written purchase agreement.¹¹⁹⁵ By statute, the agreement must state the consideration to be paid for the property.¹¹⁹⁶ The parties have wide latitude in drafting and negotiating the purchase agreement, and there are no statutorily imposed procedures for that process. For example, the purchase agreement may include provisions dealing at length with the condition of the property, representations and warranties and other matters of interest to the parties. However, in addition to these requirements, if a person is selling a residential property, as opposed to raw land or a business property, there are other statutory requirements and regulations including disclosures required to be given by the seller.¹¹⁹⁷

TITLE

Purchase agreements often provide for the status of title at closing, the nature of title insurance to be obtained and the party responsible for paying for title insurance. A preliminary title report, prepared by a title company, will show all matters of record affecting the property, such as taxes, easements and monetary encumbrances. The title company will provide the parties with copies of the documents referred to in the title report. The buyer will typically review the status of title before the expiration of any due diligence period and will provide the seller with its objections. Sometimes title review will be completed prior to the execution of a purchase contract and the contract will include a list of approved or objectionable exceptions. Nevada typically uses a “California Style Closing.” In such a closing, the deed and other closing documents are delivered to an escrow company which commits itself to issue a title insurance policy when it records the documents and disburses the funds. Unlike a “New York Style Closing,” there is no necessity of a commitment being issued prior to the closing and no “gap” between recordation of the documents and issuance of the title policy. As a practical matter, however, delays in some recorders’ offices may cause a gap requiring gap indemnity.

It is customary for both the buyer and lender to rely upon title policies to insure the nature of title at closing. An owner's title policy insures that title is vested in the buyer and that there are no encumbrances to title other than as shown in the policy. A lender's policy will also insure that the lender holds a valid lien on the property, subject only to superior liens and other encumbrances as shown in the policy. The standard forms of title insurance policies in Nevada are CLTA policies and ALTA policies. Unlike a CLTA policy, an ALTA policy insures against items that are not reflected in recorded documents. A variety of endorsements are available to insure against particular risks present in the purchase of a certain piece of property. In a sales transaction, the seller customarily pays for the CLTA portion of a title policy. No custom has yet been established as to who pays for the ALTA portion of an owner's title policy. In order to obtain an ALTA policy, an ALTA survey performed by a licensed surveyor is typically required. The cost of the policy is set by each title company by the filing of a schedule of rates with the Insurance Commissioner of the State of Nevada.¹¹⁹⁸

PROTECTION FROM FRAUD

Nevada has several statutes that punish those who engage in fraud in the sale or encumbrance of real property. Any person who is a party to a fraudulent conveyance of real property is guilty of a gross misdemeanor.¹¹⁹⁹ A person who sells or agrees to sell a piece of real property worth more than \$250 after previously selling or agreeing to sell the same piece of property is guilty of a felony and will be ordered to pay restitution.¹²⁰⁰ The Nevada Supreme Court has held that a seller has a duty to disclose facts materially affecting the value or desirability of property that are known or accessible only to the seller when the seller knows that such facts are not likely discoverable by the buyer with reasonable inquiry, even if the property is sold in "as-is" condition.¹²⁰¹

PRORATIONS

Real property taxes may be paid on the third Monday in August of the tax year (which begins on July 1st) or in four quarterly installments if the taxes assessed exceed \$100.¹²⁰² Prepaid items, including taxes, are typically prorated based upon the number of days for which the seller made the prepayment, resulting in a debit to buyer's account at closing. In some circumstances, a seller may be required to pay taxes through the

end of the tax year in advance at closing, most typically when the property being transferred only comprises a part of one tax parcel. A real property transfer tax is imposed on the transfer of real property.¹²⁰³

CLOSING DOCUMENTS

Deed

Although the language of the statute is discretionary, practically speaking, conveyances of real property are made by deed, signed by the grantor (which such signature must be acknowledged or proved), and recorded.¹²⁰⁴ If third parties are to be put on notice of the deed, the deed must be recorded in the county in which the property is located.¹²⁰⁵ There are many statutory requirements that must be satisfied before a deed is in a form proper for recording.¹²⁰⁶ A deed may be recorded electronically only if the appropriate county recorder has elected to accept electronic documents for recording.¹²⁰⁷

Deeds in Nevada are typically either quitclaim deeds or, more customarily in arms-length transactions, grant, bargain and sale deeds. Quitclaim deeds transfer only the rights in the real property that the seller actually has without warranty. Grant, bargain and sale deeds, in which the words “grant, bargain and sell” are used, are special warranty deeds and add implied warranties that (i) the grantor has not conveyed the same real property or any right, title or interest in the property to any other person as of the time of conveyance and (ii) the real property is free from encumbrances made by the grantor or a person claiming through the grantor as of the time of conveyance.¹²⁰⁸

Bill of Sale

A bill of sale is typically used in Nevada for the transfer of personal property. There are no statutory requirements that a bill of sale must meet, and the parties are free to negotiate the form of the bill of sale as they see fit.

Financing

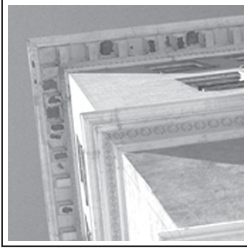
Financing the purchase of real property is either through a third-party lender or from the seller of the real property. In either case, a promissory note in the amount of the debt is signed by the borrower, and a deed of trust is recorded against the borrower’s property to secure the payment of the note. Other typical documents include a loan agreement, payment

guaranty, environmental indemnity agreement, assignment of leases and rents (either as a separate document or as a part of the deed of trust) and a UCC Financing Statement. The parties are free to use any or all other documents they see fit.

Closing Statement

Most purchases of real property are completed through an escrow with a title company. The title company will hold any earnest money deposits and documents related to the transaction and provide the parties with a preliminary title report showing matters of record that encumber the property. Before closing, the title company will provide each party with an estimated closing statement showing the amount and nature of debits and credits to the account of each party. While closing costs are negotiable, sellers and buyers typically split the cost of any escrow fee, sellers pay the cost of a CLTA portion of the title policy, and buyers pay all document recording fees. In the past, the custom was for the seller to pay the transfer tax; however, the payment of the transfer tax is now often split between the buyer and seller.

Once the buyer and seller have agreed upon the form of the closing statement, the buyer will deliver the balance of the purchase price to the title company, and the seller will deliver a deed and affidavit certifying that the seller is not a foreign entity. If the seller cannot deliver the affidavit, the title company or the buyer may be required to withhold a portion of the purchase price for federal taxes. Each party will also deliver other documents as required by the purchase agreement. The closing itself is typically handled by the title company by the disbursement of funds and recordation and delivery of documents, and the buyer and seller need not meet in person to perform the actual closing. After closing the title company is obligated to distribute a final settlement statement that includes the actual amounts that were received and distributed at the closing.¹²⁰⁹



Requirements for Foreign Qualification to do Business in Nevada

Before commencing business in Nevada, most entities organized or formed pursuant to the laws of another state, territory, the District of Columbia, foreign country, or any other jurisdiction other than Nevada must qualify to do business in Nevada.¹²¹⁰ Although there are separate statutory procedures for a corporation (including a non-profit corporation),¹²¹¹ limited partnership, registered limited liability partnership, business trust, or a limited liability company, the basic procedures are the same.¹²¹² First, it must be determined whether the entity is “doing business” in Nevada. Second, documents have to be filed with the Secretary of State. Third, the entity will have to file an application for a Nevada business license and the appropriate forms with the Nevada Employment Division.¹²¹³

Whether or not an entity is “doing business” in Nevada is a complex factual question. However, the legislature has created a safe harbor through statutes for certain activities.¹²¹⁴ An out-of-state entity that only engages in certain exempt activities and does not maintain an office in Nevada will generally not be deemed to be “doing business in Nevada” (and thus, not required to be licensed in Nevada).¹²¹⁵ An entity that must qualify to do business in Nevada must also obtain licensing if it fits within the parameters of any state-regulated industry and solicits business in Nevada, unless the entity is exempt as determined by the Nevada division or authority that regulates the particular industry. Moreover, under a strict reading of the statutes, although a person may not have to qualify to do business in Nevada, if such person is conducting a regulated activity, he or she may still be required to be licensed.¹²¹⁶

All entities that are required to qualify to conduct business in Nevada must comply with all procedural requirements set by statute and promulgated by the Secretary of State, including payment of fees, filing an annual list, and appointing a registered agent.¹²¹⁷

An additional provision imposed on foreign corporations qualified to do business in Nevada is a requirement that the foreign corporation annually publish a statement of its previous year’s business in two issues of a

newspaper published in the state of Nevada.¹²¹⁸ While the statute is unclear whether the statement of business must include all the corporation's business or just business the corporation conducts in Nevada, most practitioners interpret this statute to mean only business conducted in Nevada. A foreign corporation qualified in Nevada must fulfill this requirement whether or not the foreign corporation actually does any business in Nevada.¹²¹⁹ This publication requirement is not imposed on any entity other than a foreign corporation qualified to do business in Nevada.

Generally, there is no requirement that an entity doing business in Nevada be formed under the laws of this state except in the case of certain highly regulated businesses such as gaming.¹²²⁰ Corporations, partnerships, limited liability companies and other business entities may transact business in Nevada either directly from outside the state or through branch offices, distributors, franchisees or other sales representatives. It is important to remember, however, that in certain instances, foreign entity qualification requirements, including payment of certain taxes, such as the modified business tax or the sales tax discussed in Chapter 7 of this Guide, and/or special licensing requirements might be applicable even if the foreign entity has no Nevada office.



Business Name Registration Requirements

Each of the statutes governing business entities in Nevada have provisions and restrictions regarding what an entity can be called.¹²²¹ All entities formed in Nevada or registering to conduct business in Nevada must have a name that is distinguishable from that of any other name on record with the Secretary of State. The Secretary of State may reject articles of incorporation or other organizational documents if the name stated therein is not distinguishable from that of any other entity previously formed or any current name reservation on file unless a written acknowledged consent to use a similar (or identical) name is filed with the Secretary of State with the articles of incorporation.¹²²² The Secretary of State has promulgated various rules and regulations regarding how to determine if a name is “distinguishable.”¹²²³ The name of an entity whose charter has been revoked, that has merged into another entity, or whose existence has otherwise terminated may be used by any other person without consent.¹²²⁴

In addition, there are certain names related to regulated industries that may not be used by a corporation (or any other entity which is required to file organizational documents with the Secretary of State) without the prior approval of the state division or state board that governs the respective regulated area.¹²²⁵ If the Secretary of State receives articles of incorporation or other organizational documents that contain a word that is either prohibited (without prior approval) or has the appearance that it might require approval or consent, the Secretary of State will not file the articles of incorporation until consent is received.¹²²⁶ Some of these regulated areas include insurance, real estate brokerage, banking, mortgage companies, engineering, accounting, educational institutions and thrift companies.

A name reservation may be filed with the Secretary of State, which will reserve a particular name for up to ninety days.¹²²⁷ A name reservation will protect against any other person obtaining as its organizational name the reserved name during the period of reservation. The reserved name may only be used by another person during the reserved period if the person

who reserved the name consents in writing to another person using the reserved name.¹²²⁸

Please note that the provisions in this chapter only discuss an entity's legal name and do not discuss any trademark or name registration issues. Please see Chapter 10 of this Guide for more information regarding registering a entity's name for trademark protection.



Usury

Nevada has no limit on the rate of interest to which parties may agree so long as the agreement reflects an arms-length transaction.¹²²⁹ Nevada specifically allows compound interest.¹²³⁰

Although Nevada does not have a general limitation on interest rates, certain transactions and business are subject to interest rate restrictions. For example, pawnbrokers are prohibited from charging more than 10% interest per month on any loan of money secured by personal property pledged to, or held by, a pawnbroker.¹²³¹



Business Regulation

A summary guide of this sort is not an appropriate publication in which to attempt and identify all of the activities which are regulated or require licenses or all of the regulations applicable to those businesses. However, in our experience, these aspects of Nevada law are in general no more, and often less, burdensome than the laws of most other jurisdictions, and business people usually deal with them in the ordinary course.

The Nevada Revised Statutes and the Nevada Administrative Code provide the legislative framework for the licensing and regulation of many businesses, professions, and occupations. To carry out the duties mandated by the Legislature, a variety of agencies set licensure standards and impose discipline.

Businesses such as casinos, financial institutions, insurance companies, and utilities are subject to varying degrees of licensing and regulation.¹²³² Professions and occupations from accountants to contractors and liquor dealers are also subject to licensing.¹²³³

Other businesses, professions, and occupations licensed pursuant to statute include, but are not limited to, architects, attorneys, boxing promoters, chiropractors, collection agents, dairy distributors, debt adjusters, dentists, employment agencies, engineers, escrow agencies, gaming device manufacturers and distributors, land surveyors, livestock auctioneers, mobile home manufacturers and dealers, mortgage bankers and mortgage brokers, nurses, optometrists, pharmacists, physicians, private investigators, psychologists, race and sports book operators, real estate brokers, slot route operators, social workers, taxi companies, and veterinarians.¹²³⁴

Cities and counties have a concurrent right to license and regulate certain businesses, professions and occupations. Depending on the city or county, departments have been established to issue local business licenses.



Gaming

INTRODUCTION

This chapter provides a broad overview of Nevada’s gaming laws and regulatory structure. For a more detailed review of this subject, Lionel Sawyer & Collins has published *Nevada Gaming Law*.

THE NEVADA GAMING REGULATORY SYSTEM

Nevada has a two-tiered gaming regulatory system at the state level. The Nevada Gaming Commission (the “Gaming Commission”), and the State Gaming Control Board (the “Gaming Board” and collectively with the Gaming Commission, the “Nevada Gaming Authorities”), license and regulate the ownership and operation of gaming establishments located in the State. The Gaming Board is a three-member investigative and law enforcement agency appointed by the governor that supervises approximately 400 agents and employees and investigates the qualifications of each applicant for any type of license or approval.¹²³⁵ In disciplinary matters, the Gaming Board serves as prosecutor. In customer disputes, it serves as the adjudicator.

The Gaming Commission is a part-time body comprised of five members that renders ultimate licensing decisions and acts as an adjudicative body in contested proceedings between the Gaming Board and licensees in matters such as disciplinary cases or tax contests.¹²³⁶ The Gaming Commission has the final authority in deciding an applicant’s suitability and issuing a gaming license. It adopts regulations under statutory grants, and serves as judge and jury in tax disputes and disciplinary actions.

The State Attorney General’s Gaming Division serves as legal advisor to both the Gaming Board and Gaming Commission. The Attorney General renders legal opinions, and represents the Gaming Board and Gaming Commission in civil litigation. The office may, at the direction of the Gaming Commission, bring a civil action against a licensee or other person subject to the Gaming Control Act to restrain any violation of gaming control law.¹²³⁷

STATE LICENSING REQUIREMENTS

In general, persons wishing to become involved in the ownership or operation of casinos in Nevada need to apply for and obtain a license or other approval from the Gaming Commission and the relevant local government.¹²³⁸ In fact, except for emergency situations, the potential purchaser of a casino operation (as opposed to the underlying real property and buildings) cannot consummate the purchase or even pay a down payment or deposit before licensing.¹²³⁹ Generally, the purchaser of a casino may not take part in any aspect of either the gaming operations or any other operations of the establishment where gaming is conducted until he has been licensed.¹²⁴⁰

The Nevada Gaming Authorities have extensive discretion to require persons involved with gaming to apply for and obtain a license or finding of suitability. This discretionary authority augments the mandatory licensing requirements imposed by the Nevada Gaming Control Act (the “Act”)¹²⁴¹ for persons engaged in the operation of a gaming establishment or who receive revenues from the gaming, and may be exercised when necessary to accomplish the public policy of the State of Nevada to strictly regulate and control the licensed gaming industry.¹²⁴²

Nevada law extends mandatory licensing requirements to officers, directors, employees and beneficial owners of business entities subject to licensure, as well as discretionary licensing or suitability determination requirements to lenders, underwriters, key executives, agents, consultants, business associates (*e.g.* vendors and contractors), and every other individual or entity that influences the management and control of a gaming establishment or gaming operation.¹²⁴³ Mandatory licensing requirements also are imposed by the Act on manufacturers and distributors of gaming devices and interactive gaming equipment, licensees operating international gaming salons or mobile gaming, disseminators of racing information and operators of off-track pari-mutuel systems.¹²⁴⁴ Licenses are generally classified as *restricted* (operation of 15 or fewer slot machines at one or two separate locations owned by the same licensee) and *nonrestricted* (operation of more than two restricted locations, operation of more than 15 slot machines or any other game).¹²⁴⁵

The Nevada Gaming Authorities may deny an application for licensing for any cause that they deem reasonable.¹²⁴⁶ A finding of suitability is comparable to licensing, and both require submission of detailed personal and financial information followed by a thorough investigation. A decision

of the Nevada Gaming Authorities to deny an application for licensure, a finding of suitability or other approval is not subject to judicial review.¹²⁴⁷

Licensing of Landlords

Nevada law requires licensure of any person who furnishes services or property, real or personal, on the basis of a contract, lease or license, pursuant to which that person receives payments based on earnings or profits from any gambling game. This requirement does not apply to persons receiving payments that are a fixed sum determined in advance on a bona fide basis for the furnishing of services or property other than a slot machine. The Act states, however, that the Nevada Gaming Authorities may require a finding of suitability or the licensing of any person who owns any interest in the premises of a licensed establishment whether he leases the property directly to the licensee or through an intermediary.¹²⁴⁸

Licensing of Owners and Operators

Every person that engages in the commercial operation of any gambling game, gaming device, slot machine, race book or sports pool, or who receives any revenues from such operations in the state of Nevada must apply for, secure and maintain all federal, state and local gaming licenses.¹²⁴⁹ The mandatory requirements of the Act compel licensure of owners, operators, including a management contractor, and other persons, with a financial interest in the revenues earned from a licensed gaming establishment.¹²⁵⁰ For this reason, a person or business entity must be prepared to apply for and obtain a state gaming license or holding company registration as appropriate if they intend to engage in the operation of a gaming establishment or obtain an interest in the revenues from such operations, even if only as a landlord.

Licensing and Regulation of Business Entities

As it relates to business entities, the Act envisions that gaming licenses will be held by private corporations, publicly traded corporations, limited partnerships, or limited liability companies. The Act and Gaming Commission regulations encourage the licensed entity to be formed under the laws of the State of Nevada.¹²⁵¹ With respect to a general partnership, each partner is required to apply and be licensed individually.

*Private Corporations.*¹²⁵²

A private corporation that owns or operates a Nevada gaming establishment must be licensed by the Gaming Commission. Likewise, every shareholder, director and statutory officer of such a corporate licensee must be individually licensed.

*Public Corporations.*¹²⁵³

A publicly traded corporation is also eligible to hold a corporate gaming license. The Gaming Commission may investigate and require a finding of suitability of any holder of any class of a public company's voting securities or debt securities at any time. Nevada law requires any person who acquires more than 5% of any class of a public company's voting securities to report the acquisitions to the Gaming Commission and such person *may* be investigated and found suitable. Any person who becomes a beneficial owner of more than 10% of any class of the voting securities of a public company *must apply* for a finding of suitability by the Gaming Commission within 30 days after the Board Chairman mails a written notice requiring such filing. If the stockholder who must be found suitable is a corporation, partnership or trust, it must submit detailed business and financial information, including a list of beneficial holders. Officers, directors and key employees of the public company who are actively and directly involved in the gaming activities may be required to be licensed or found suitable by the Nevada Gaming Authorities. Typically, with respect to public companies the Nevada Gaming Authorities will require licensing of the chairman of the board of directors, directors owning more than 1% of any class of the public company's voting securities, directors serving on the executive committee of the public company, directors who are gaming employees, the president, chief executive or operating officer, the principal accounting officer and the secretary.

*Limited Partnerships.*¹²⁵⁴

The Gaming Commission is authorized to issue a gaming license to a limited partnership. Every general partner and limited partner is subject to licensing. The Gaming Commission may waive licensure and grant applications for deferred or delayed licensing to limited partners who own no more than 10% of the partnership. Delayed licensing decisions entail the applicant's filing of personal history and financial disclosure statements and thereafter an assessment by the Nevada Gaming Authorities of several criteria

that relate to the nature and extent of the limited partners' involvement in the licensed gaming operation and the passivity of their investment.

*Limited Liability Companies.*¹²⁵⁵

Similarly, the Gaming Commission is authorized to issue a gaming license to a limited liability company. Every member and manager of a limited liability company is subject to licensing. The Gaming Commission may waive licensure and grant applications for deferred licensing to members who own no more than 10% of the limited liability company. The Nevada Gaming Authorities apply the same criteria in formulating deferred licensing decisions for members of a limited liability company that are applied to deferred licensing rulings for limited partners.

*Institutional Investors.*¹²⁵⁶

Under certain circumstances, an "institutional investor," as such term is defined in the regulations of the Gaming Commission, who acquires more than 10%, but not more than 15%, of the voting securities of a public company, private corporation, limited partnership or limited liability company may apply to the Gaming Commission for a waiver of such finding of suitability requirements if such institutional investor holds the voting securities for investment purposes only.

*Holding Company Regulation.*¹²⁵⁷

A holding company of a gaming licensee must qualify to conduct business in the state of Nevada, apply for and be registered with the Nevada Gaming Authorities, and be found suitable by the Nevada Gaming Authorities as the owner or controlling person of the licensee. Officers, directors, partners, members, managers, trustees and beneficial owners of the holding company engaged in the administration or supervision of, or any other significant involvement with, the activities of a licensee, must be found suitable and may be required to be licensed by the Gaming Commission. Moreover, the Gaming Commission has determined that each individual stockholder of a non-public corporate holding company must be individually found suitable or may be required to be licensed.

*Regulation of Public Companies.*¹²⁵⁸

Regulations of the Gaming Commission provide that control of a registered publicly traded corporation cannot be changed through merger,

consolidation, acquisition of assets, management or consulting agreements, or any form of takeover without the prior approval of the Gaming Commission. Persons seeking approval to control a registered publicly traded corporation must satisfy the Gaming Commission as to a variety of stringent standards prior to assuming control of such corporation. The failure of a person to obtain such approval prior to assuming control over the registered publicly traded corporation may constitute grounds for finding such person unsuitable. Regulations of the Gaming Commission also prohibit certain repurchases of securities by registered publicly traded corporations without the prior approval of the Gaming Commission. Transactions covered by these regulations are generally aimed at discouraging repurchases of securities at a premium over market price from certain holders of more than 3% of the outstanding securities of the registered publicly traded corporation. The regulations of the Gaming Commission also require prior approval for a “plan of recapitalization.” Generally, a plan of recapitalization is a plan proposed by the management of a registered publicly traded corporation that contains recommended action in response to a proposed corporate acquisition opposed by management of the corporation if such acquisition would require the prior approval of the Gaming Commission.

LOCAL GOVERNMENT GAMING REGULATION

The regulation of commercial gaming is shared by the state with local governments. For instance, the Clark County Commission sitting as the Liquor and Gaming Licensing Board, actively regulates the gaming industry on the Las Vegas Strip and issues its own licenses, usually deferring to the Gaming Commission’s decision. Please note that these city and county gaming ordinances vary in complexity and approach.

LOCATION SUITABILITY

Despite the seeming omnipresence of gaming in Nevada, state and local gaming authorities have adopted various regulations and ordinances to assure the location of gaming devices is consistent with the state’s public welfare and local land use considerations. The Legislature and the gaming authorities have determined that only certain locations lend themselves to gaming activities.¹²⁵⁹ Additionally, local jurisdictions may have their own suitability requirements.¹²⁶⁰

For example, the Clark County Commission (Las Vegas) prohibits slot machines in certain businesses, including coin-operated laundries, bakeries and donut shops, most retail stores, movie theaters, office buildings, and fast-food restaurants. The County also restricts gaming within 1,500 feet of schools, churches, playgrounds, and military camps, and within 250 feet of adult-oriented businesses. The cities of Las Vegas, Reno, Henderson, Sparks and Carson City have similar, yet differing restrictions and requirements. In larger Nevada counties, casinos must be within resort hotels,¹²⁶¹ and they must be operated within gaming enterprise districts.¹²⁶² Special attention should also be given to review local ordinances to determine if there are more stringent standards for location suitability.

TAXATION

Each casino pays, on a monthly basis, a percentage of the gross gaming revenue it receives. The percentage amount due increases as more gross gaming revenue is received, with a maximum of 6.75 % being required to be paid over.¹²⁶³ In addition to the gross gaming revenue tax, casinos pay quarterly fees for the operation of gaming devices,¹²⁶⁴ and an annual fee for the operation of other games.¹²⁶⁵

FINANCIAL REGULATIONS

A casino must report a broad range of transactions, including certain leases, installment contracts, loans, credit extensions, guarantees, and other security provisions made to or accepted on the casino's behalf within 30 days after the end of the quarter in which the transaction is consummated.¹²⁶⁶ The Gaming Commission can investigate any reportable loan transaction in any manner the Gaming Board deems appropriate.¹²⁶⁷ If after such investigation the Gaming Commission finds that the transaction is against the public health, safety, morals, good order or general welfare of the people of the State of Nevada, or would reflect, or tend to reflect, discredit upon the State of Nevada or the gaming industry, the Gaming Commission may order the transaction rescinded on any terms and conditions the Gaming Commission deems appropriate.¹²⁶⁸

This appendix does not include all state and local agencies. As a result, a Nevada attorney should be consulted prior to a proposed activity, transaction or course of conduct.

STATE AGENCIES

State Board of Accountancy. Responsible for regulation of the practice of public accounting.

Contact Information:
1325 Airmotive Way
Suite #220
Reno, NV 89502
(775) 786-0231
Website:
<http://www.nvaccountancy.com>
(last visited July 30, 2007)

Department of Administration. The Department of Administration's purpose is to provide quality, cost effective services for state agencies.

Contact Information:
Blasdel Building, Room 200
209 East Musser Street
Carson City, Nevada 89701-4298
(775) 684-0222
Website: <http://dadmin.state.nv.us>
(last visited July 30, 2007)

Department of Agriculture. Responsible for the regulation of the livestock and agricultural industries.

Contact Information:
350 Capitol Hill Avenue
Reno, Nevada 89502
(775) 688-1180
Website: <http://agri.state.nv.us>
(last visited July 30, 2007)

State Board of Architecture, Interior Design and Residential Design.

Responsible for the administration, regulation and enforcement of the professions of architecture, registered interior design and residential design.

Contact Information:
2080 East Flamingo Road, Suite 225
Las Vegas, Nevada 89119
(702) 486-7300
Website: <http://nsbaidrd.state.nv.us>
(last visited July 30, 2007)

Attorney General's Office. The Office of the Attorney General is comprised of various divisions for the regulation and governance of the affairs of the state. The individual divisions are set forth below with their primary responsibilities described.

Contact Information:
Carson City Office
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1100

Las Vegas Office
Sawyer Office Building
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
(702) 486-3420

Reno Office
5420 Kietzke Lane Suite 202
Reno, Nevada 89511
(775) 688-1818

Website: <http://ag.state.nv.us>
(last visited July 30, 2007)

Administration Division. The administrative division provides support and coordination services to all divisions. Personnel, Budget, office support and statistics are provided by this division.

Bureau of Consumer Protection. The Bureau combines the Attorney General's Utility Consumer's Advocate, Unfair and Deceptive Trade Practices Unit, Telemarketing and Consumer Fraud Units, and the Antitrust and Securities Fraud Units' in order to better protect consumers.

Civil Division. The Civil Division consists of five separate sections. The sections are as follows: (1) Boards and Commissions; (2) Government Affairs; (3) Commerce; (4) Conservation and Natural Resources; and (5) Taxation.

Criminal Justice Division. The Criminal Justice Division represents the people of the State of Nevada in a wide array of criminal law matters and a number of civil law enforcement matters before the Trial and Appellate Courts in both the state and federal court systems. The division has four units with personnel located in virtually every physical locale in which the Attorney General maintains one or more offices--Carson City, Reno, Ely, Elko and Las Vegas.

Gaming Division. The Gaming Division of the Attorney General's Office provides legal representation to Nevada's gaming regulators, the State Gaming Control Board and the Nevada Gaming Commission.

Human Resources Division. The Human Resources Division of the Attorney General's office represents the six divisions within the department of Human Resources for the State of Nevada, in

addition to the Director's Office. These divisions are Health, Aging Services, Welfare, Child and Family Services, Mental Health and Developmental Services and Health Care Financing and Policy.

Investigations Division. The primary duty of the Investigations Division within the Office of the Attorney General is to coordinate and conduct investigations in accordance with the laws of the State of Nevada.

Litigation Division. The primary responsibility of the Litigation Division is to represent the State of Nevada and its agencies in the defense of civil suits brought in all courts of this state, the Ninth Circuit Court of Appeals, and the United States Supreme Court. This includes tort claims brought against the state, civil rights litigation; complex litigation; and any other litigation, which requires expertise in litigation. The Litigation Division also provides litigation support to other divisions of the Attorney General's Office when needed.

Department of Business and Industry.

Regulation of business and industrial enterprises and licensing, oversight and regulation of various regulatory agencies, as follows:

Athletic Commission. Regulates all contests or exhibitions of boxing, including the licensure and supervision of promoters, boxers, mixed martial artists, karate boxers, seconds, ring officials, managers, and matchmakers.

Contact Information:

Nevada Department of Business & Industry
Nevada Athletic Commission
555 East Washington Avenue, Suite 3200
Las Vegas, Nevada 89101
(702) 486-2575
Website: <http://boxing.nv.gov> (last visited July 30, 2007)

Consumer Affairs Division. Provide educational and enforcement programs for businesses and consumers that live, work and visit Nevada, so that they can operate in a marketplace that is fair and free of deceptive trade practices.

Contact Information:

Northern Nevada
4600 Kietzke Lane, Building B, Suite 113
Reno, Nevada 89502
(702) 688-1800

Southern Nevada
1850 East Sahara Avenue, Suite 101
Las Vegas, Nevada 89104
(702) 486-7355

Website: <http://www.fyiconsumer.org>
(last visited July 30, 2007)

Dairy Commission. Regulation of the sale and distribution of fluid milk, fluid cream, yogurt, butter, cottage cheese, sour cream, ice cream, ice cream novelties, sherbet, ice cream mix, and yogurt mix.

Contact Information:

Reno
4600 Kietzke Lane, Suite A107
Reno, Nevada 89502
(775) 688-1211

Las Vegas
1830 East Sahara Avenue, Suite 112
Las Vegas, Nevada 89104
(702) 486-8212

Website: <http://dairy.state.nv.us> (last visited July 30, 2007)

Financial Institutions Division. The primary responsibilities of the Financial Institutions Division include: enforcement of regulations and licensing of financial institutions.

Contact Information:

Northern Nevada
1179 Fairview Drive, Suite 201
Carson City, NV 89701
(775) 687-5522

Southern Nevada
2785 East Desert Inn Road, Suite 180
Las Vegas, Nevada 89121
(702) 486-4120

Website: <http://fid.state.nv.us> (last visited July 30, 2007)

Division of Industrial Relations. Enforces health and safety standards required by the Nevada Occupational Safety and Health Act and related functions.

Industrial Insurance Regulation Section

Contact Information:

Northern Nevada
Industrial Insurance Regulation Section
400 West King Street, Suite 400
Carson City, Nevada 89703
(775) 684-7260

Southern Nevada
Industrial Insurance Regulation Section
1301 North Green Valley Parkway,
Suite 200
Henderson, Nevada 89074
(702) 486-9080

Website: <http://dirweb.state.nv.us> (last visited July 30, 2007)

*Occupational Safety and Health
Administration Section*

Contact Information:

Northern Nevada
4600 Kietzke Lane, Building F, Suite
153 Reno, Nevada 89502
(775) 688-1380

Southern Nevada
1301 North Green Valley Parkway,
Suite 200
Henderson, Nevada 89074
(702) 486-9020

Website: [http://dirweb.state.nv.us/
OSHA/osha.htm](http://dirweb.state.nv.us/OSHA/osha.htm) (last visited July 30,
2007)

*Safety Consultation and
Training Section*

Contact Information:

Northern Nevada
4600 Kietzke Lane, Suite E-144
Reno, Nevada 89502
(775) 688-1474

Southern Nevada
1301 North Green Valley Parkway,
Suite 200
Henderson, Nevada 89074
(702) 486-9140

Elko
350 West Silver Street, Suite 210
Elko, Nevada 89801
(775) 778-3312

Website: <http://4safenv.state.nv.us>
(last visited July 30, 2007)

Mine Safety and Training Section

Contact Information:

Carson City
400 West King Street, Suite 210
Carson City, Nevada 89703
(775) 684-7085

Elko
350 West Silver Street
Elko, Nevada 89801
(775) 738-1614

Henderson
1301 North Green Valley Parkway
Henderson, Nevada 89074
(702) 486-9131

Tonopah
110 Erie Main #3
Tonopah, Nevada 89049
(775) 482-3220

Winnemucca
475 West Haskell Street
Winnemucca, Nevada 89445
(775) 623-6549

Website: [http://dirweb.state.nv.us/
MSTS/msts.htm](http://dirweb.state.nv.us/MSTS/msts.htm) (last visited July 30,
2007)

Insurance Division. Licenses all insurance
companies or agents who want to do
business in the State of Nevada.

Contact Information:

Northern Nevada
788 Fairview Drive, Suite 300
Carson City, Nevada 89701
(775) 687-4270

Southern Nevada
2501 East Sahara Avenue, Suite 302
Las Vegas, Nevada 89104
(702) 486-4009

Website: <http://doi.state.nv.us>
(last visited July 30, 2007)

Labor Commissioner. Enforcement of certain statutes related to persons required to earn their living in the private sector by their own endeavors.

Contact Information:
Northern Nevada
675 Fairview Drive, Suite 226
Carson City, Nevada 89701
(775) 687-4850

Southern Nevada
555 East Washington Avenue, Suite 4100
Las Vegas, Nevada 89101
(702) 486-2650

Website: <http://laborcommissioner.com>
(last visited July 30, 2007)

Manufactured Housing Division. To ensure that all manufactured homes, mobile homes and commercial coaches that are sold and delivered in Nevada are safely constructed and properly installed.

Contact Information:
Northern Nevada
788 Fairview Drive, Suite 100
Carson City, Nevada 89701
(775) 687-5500

Southern Nevada
2501 East Sahara, Suite 204
Las Vegas, Nevada 89104
(702) 486-4135

Website: <http://mhd.state.nv.us> (last visited July 30, 2007)

Real Estate Division. To safeguard and promote public interest through timely and capable assistance, fair and balanced regulation, and sound and effective education.

Contact Information:
Northern Nevada
788 Fairview Drive, Suite 200
Carson City, Nevada 89701-5453
(775) 687-4280

Southern Nevada
2501 East Sahara Avenue, Suite 102
Las Vegas, Nevada 89104-4137
(702) 486-4033

Website: <http://red.state.nv.us> (last visited July 30, 2007)

Taxicab Authority. Regulation and licensing of taxi companies and drivers by establishing fares, allocation of the number of taxis, and the issuance of cab driver's permits.

Contact Information:
1785 East Sahara Avenue, Suite 200
Las Vegas, Nevada 89104
(702) 486-6532

Website: <http://taxi.state.nv.us> (last visited July 30, 2007)

Transportation Services Authority. Administer and enforce state laws pertaining to passenger transportation, household goods movers, and tow cars.

Contact Information:
Northern Nevada
1755 East Plumb Lane, Suite 216
Reno, Nevada 89502
(775) 688-2800

Southern Nevada
2290 South Jones Boulevard, Suite 110
Las Vegas, Nevada 89146
(702) 486-3303

Website: <http://www.tsa.nv.gov> (last visited July 30, 2007)

Attorney for Injured Workers.
Representation without fee of a claimant qualified to receive assistance before the appeals officer, the administrator, district court, or supreme court in a workers compensation matter.

Contact Information:

Northern Nevada
1000 East William Street, Suite 208
Carson City, Nevada 89701
(775) 684-7555

Southern Nevada
2200 South Rancho Drive, Suite 230
Las Vegas, Nevada 89102
(702) 486-2830

Website: <http://naiw.nv.gov>
(last visited July 30, 2007)

Office of Business Finance and Planning.
Assists in the administration of the state's bond programs and related activities

Contact Information:

788 Fairview Drive, Suite 100
Carson City, Nevada 89701
(775) 687-4246

Website: <http://bonds.nv.gov>
(last visited July 30, 2007)

Employee Management Relations Board.
Facilitates collective bargaining and labor relations for local government employers, local government employees and employee associations/unions.

Contact Information:

2501 East Sahara Avenue, Suite 203
Las Vegas, Nevada 89104
(702) 486-4504

Website: <http://emrb.state.nv.us>
(last visited July 30, 2007)

Energy Office. Promotes reliable, affordable and diverse energy supply.

Contact Information:

727 Fairview Drive, Suite F
Carson City, Nevada 89701
(775) 687-9700

Website: <http://energy.state.nv.us>
(last visited July 30, 2007)

Governor's Committee on the Employment of People with Disabilities.
Through the Office of Disability Employment Placement, the committee promotes employment of people with disabilities by enhancing resources available to business and industry to encourage new employment opportunities for disabled persons.

Contact Information:

1370 South Curry Street
Carson City, Nevada 89703-5146
(775) 684-3200 or
(800) 497-6604

Website: www.detr.state.nv.us/rehab/NV_State_Rehab_Council
(last visited July 30, 2007)

Housing Division. To assist and encourage the private sector and other government entities in the creation and maintenance of affordable housing throughout Nevada.

Contact Information:

Northern Nevada
1535 Old Hot Springs Road, Suite 50
Carson City, Nevada 89706
(775) 687-2040

Southern Nevada
1771 East Flamingo, Suite 103-B
Las Vegas Nevada 89119
(702) 486-7220

Website: <http://nvhousing.state.nv.us>
(last visited July 30, 2007)

State Bar of Nevada. Responsible for regulating and licensing persons seeking to practice law in Nevada.

Contact Information:
600 East Charleston Boulevard
Las Vegas, Nevada 89104
(702) 382-2200
Website: <http://www.nvbar.org>
(last visited July 30, 2007)

Chiropractic Physicians' Board of Nevada. Responsible for the regulation of the practice of chiropractic.

Contact Information:
4600 Kietzke Lane, Building M, Suite 245
Reno, Nevada 89502
(775) 688-1921
Website: <http://chirobd.nv.gov>
(last visited July 30, 2007)

Conservation and Natural Resources. Establishment and administration of goals, objectives and priorities for the preservation of the state's natural resources.

Contact Information:
Department of Conservation and Natural Resources
901 South Stewart Street, Suite 5001
Carson City, Nevada 89701
(775) 684-2700
Website: <http://dcnr.nv.gov>
(last visited July 30, 2007)

Contractors' Board. Responsible for the regulation of the contracting industry through licensing, investigations, administration and public information.

Contact Information:
Northern Nevada
9670 Gateway Drive, Suite 100
Reno, Nevada 89521
(775) 688-1141

Southern Nevada
2310 Corporate Circle, Suite 200
Henderson, Nevada 89074
(702) 486-1100

Website: <http://www.nvcontractorsboard.com>
(last visited July 30, 2007)

Department of Corrections. Protection of the public by carrying out the mandates of the courts and the law; and related provisions for inmates in an economic and cost-efficient manner.

Contact Information:
Central Administration
5500 Snyder Avenue, Building 17
Carson City, Nevada 89701
(775) 887-3285

Southern Administration
3955 West Russell Road
Las Vegas, Nevada 89701
(702) 486-9906

Website: <http://www.doc.nv.gov>
(last visited July 30, 2007)

Department of Cultural Affairs. Division consisting of the Division of Museums and History, the State Historic Preservation Office, the Nevada Arts Council, and the State Library and Archives.

Contact Information:

716 North Carson Street, Suite B
Carson City, Nevada 89701
(775) 687-8393
Website: <http://dmla.clan.lib.nv.us>
(last visited July 30, 2007)

Board of Dental Examiners. Responsible for regulating and licensing the practice of dentistry.

Contact Information:

6010 South Rainbow Boulevard,
Suite A-1
Las Vegas, Nevada 89118
(702) 486-7044
Website: <http://www.nvdentalboard.org>
(last visited July 30, 2007)

Commission on Economic Development. Diversification of the state's economy by attracting primary businesses to Nevada.

Contact Information:

Northern Nevada
108 East Proctor Street
Carson City, Nevada 89701
(775) 687-4325

Southern Nevada

555 East Washington, Suite 5400
Las Vegas, Nevada 89101
(702) 486-2700

Website: <http://www.expand2nevada.com>
(last visited July 30, 2007)

Department of Education. Acts as an advocate and visionary for all children and sets the policy that allows every child equal access to educational services.

Contact Information:

Northern Nevada
700 East Fifth Street
Carson City, Nevada 89701
(775) 687-9200

Southern Nevada

1820 East Sahara Avenue, Suite 205
Las Vegas, Nevada 89104
(702) 486-6458

Website: <http://www.doe.nv.gov> (last visited July 30, 2007)

Department of Employment Training and Rehabilitation. The Department of Employment Training and Rehabilitation is the network for complete employment, training and rehabilitative services in Nevada. It is comprised of several divisions which are as follows:

Employment Security Division. The Employment Security Division is full-service no-fee employment resource. The division serves the needs of Nevada's job seekers and employers through a statewide network of offices providing a full line of employment services.

Contact Information:

Las Vegas Employer Services
3405 South Maryland Parkway
Las Vegas, Nevada 89109
(702) 486-0100

Reno Employer Services

4001 South Virginia Street, Suite G
Reno, Nevada 89502
(775) 834-1970

Website: http://detr.state.nv.us/es/es_index.htm
(last visited July 30, 2007)

Nevada Rehabilitation Division.

Rehabilitation provides the following services: Bureau of Disability Adjudication, Bureau Services to the Blind & Visually Impaired, Bureau of Vocational Rehabilitation, Client Assistance Program, Office of Community Based Services, Vocational Assessment Centers, and Vocational Rehabilitation Council.

Contact Information:

1370 South Curry Street
Carson City, Nevada 89703-5146
(775) 684-4040
Website: http://detr.state.nv.us/rehab/reh_index.htm
(last visited July 30, 2007)

Nevada Equal Rights Commission.

The Nevada Equal Rights Commission oversees the state's equal rights program, handling discrimination complaints.

Contact Information:

Northern Nevada

1325 Corporate Boulevard
Reno, Nevada 89502
(775) 688-1288

Southern Nevada

1515 East Tropicana Avenue, Suite 590
Las Vegas, Nevada 89119-6522
(702) 486-7161

Website: http://detr.state.nv.us/nerc/NERC_index.htm
(last visited July 30, 2007)

State Board of Professional Engineers and Land Surveyors. Responsible for the regulation and licensing of engineers and land surveyors.

Contact Information:

1755 East Plumb Lane, Suite 135
Reno, Nevada 89502
(775) 688-1231
Website: <http://boe.state.nv.us>
(last visited July 30, 2007)

Gaming Commission. Responsible for the regulation of the gaming industry through licensing and promulgating regulations.

Contact Information:

1919 East College Parkway
Carson City, Nevada 89706
(775) 684-7750
Website: <http://gaming.nv.gov>
(last visited July 30, 2007)

Gaming Control Board.

The Board is responsible for regulating Nevada's gaming industry. Its purpose is to protect the stability of the gaming industry through investigations, licensing and enforcement of laws and regulations; to ensure the collection of gaming taxes and fees, which are an essential source of state revenue; and to maintain public confidence in gaming. The Board implements and enforces the state laws and regulations governing gaming through seven divisions. The Board has offices in Carson City, Elko, Las Vegas, Laughlin, and Reno.

Contact Information:

Carson City

1919 East College Parkway
Carson City, Nevada 89706
(775) 684-7700

Elko

557 West Silver Street, Suite 207
Elko, Nevada 89801
(775) 738-7191

Laughlin

3650 South Pointe Circle, Suite 203
Laughlin, Nevada 89029
(702) 298-0669

Las Vegas

555 East Washington Avenue, Suite
2600
Las Vegas, Nevada 89101
(702) 486-2000

Reno

6980 Sierra Center Parkway, Suite 120
Reno, Nevada 89511
(775) 823-7250

Website: <http://gaming.nv.us>
(last visited July 30, 2007)

Department of Health and Human

Services. Promotes the health and well-being of all Nevadans through a flexible array of programs which recognize the integrity of each individual, support family structures, and value cultural diversity.

Contact Information:

4126 Technology Way, Room 100
Carson City, Nevada 89706-2009
(775) 684-4000

Website: <http://dhhs.nv.gov>
(last visited July 30, 2007)

Department of Information Technology.

Provides information technology leadership, including both services and advice, by partnering with state agencies and the private sector to efficiently add value, reduce redundancy and improve delivery of public services to the citizens of Nevada.

Contact Information:

400 West King Street, Room 300
Carson City, Nevada 89703
(775) 684-5800

Website: <http://doit.nv.gov>
(last visited July 31, 2007)

State Board of Medical Examiners.

Responsible for the regulation of health professionals, including physicians and physician assistants.

Contact Information:

1105 Terminal Way, Suite 301
Reno, Nevada 89502
(775) 688-2559

Website: <http://medboard.nv.gov>
(last visited July 31, 2007)

Commission on Mineral Resources,

Division of Minerals. Administers programs and activities to further the responsible development and production of Nevada's mineral resources: minerals produced from mines; geothermal; and oil and gas.

Contact Information:

Northern Nevada

400 West King Street, Suite 106
Carson City, Nevada 89703
(775) 684-7040

Southern Nevada

2030 East Flamingo Road, Suite 220
Las Vegas, Nevada 89119
(702) 486-4343

Website: <http://minerals.state.nv.us>
(last visited July 31, 2007)

Department of Motor Vehicles. The Occupational and Business Licensing Offices are responsible for the licensing of vehicle dealers, driving schools and other vehicle-industry businesses.

Contact Information:

Carson City

555 Wright Way
Carson City, Nevada 89711
(775) 684-4368

Elko
3920 East Idaho Street
Elko, Nevada 89801-4970
(877) 368-7826

Las Vegas
8250 West Flamingo Road
Las Vegas, Nevada 89147-4111
(702) 486-4368

Reno
305 Galletti Way
Reno, Nevada 89512-3824
(775) 684-4368

Website: <http://nevadadm.state.nv.us>
(last visited July 31, 2007)

State Board of Nursing. Responsible for the regulation of RNs or LPNs.

Contact Information:
Reno
5011 Meadowood Mall Way, Suite 300
Reno, Nevada 89502-6547
(775) 688-2620

Las Vegas
2500 West Sahara Avenue, Suite 207
Las Vegas, Nevada 89102-4392
(702) 486-5800

Website: <http://www.nursingboard.state.nv.us>
(last visited July 31, 2007)

State Board of Optometry. Responsible for the regulation of the practice of optometry.

Contact Information:
P.O. Box 1824
Carson City, Nevada 89702
(775) 883-8367
Website: <http://optometry.nv.gov>
(last visited July 31, 2007)

Department of Personnel. Responsible for administering the provisions of Nevada Revised Statutes Chapter 284 and the corresponding regulations.

Contact Information:
Northern Nevada
209 East Musser Street, Room 101
Carson City, Nevada 89701-4204
(775) 684-0150

Southern Nevada
555 East Washington Avenue,
Suite 1400
Las Vegas, Nevada 89101-1046
(702) 486-2900

Website: <http://dop.nv.gov>
(last visited July 31, 2007)

State Board of Pharmacy. Responsible for the regulation of all pharmacies.

Contact Information:
555 Double Eagle Court, Suite 1100
Reno, Nevada 89521-2957
(775) 850-1440
Website: <https://bop.nv.gov>
(last visited July 31, 2007)

Private Investigator's License Board. Responsible for the regulation of private investigators, private patrolmen, security consultants, repossessors, process servers, polygraph examiners and canine handlers.

Contact Information:
3476 Executive Pointe Way, Suite 14
Carson City, Nevada 89706
(775) 687-3223
Website: <http://nevadapilb.glsuite.us>
(last visited July 31, 2007)

Psychological Examiner's Board.

Responsible for the regulation and licensing of psychologists.

Contact Information:

4600 Kietzke Lane, Building E-141
Reno, Nevada 89502
(775) 688-1268
Website: <http://psyexam.state.nv.us>
(last visited July 31, 2007)

Public Utilities Commission. Fosters fair competition in utility markets, encourages innovation in the provision of utility services and serves as an effective surrogate for competition where it does not exist to enable universal access to affordable, efficient, safe and reliable utility service in Nevada.

Contact Information:

Carson City
1150 East William Street
Carson City, Nevada 89701-3109
(775) 684-6101

Las Vegas
101 Convention Center Drive, Suite 250
Las Vegas, Nevada 89109
(702) 486-2600

Elko
557 West Silver Street, Suite 205
Elko, Nevada 89801
(775) 738-4914

Website: <http://pucweb1.state.nv.us/PUCN/>
(last visited July 31, 2007)

Board of Examiners for Social Workers.

Responsible for the regulation of social workers.

Contact Information:

4600 Kietzke Lane, Suite C-121
Reno, Nevada 89502
(775) 688-2555
Website: <http://socwork.nv.gov>
(last visited July 31, 2007)

Nevada Secretary of State. The Secretary of State is responsible for filing of business registration documents and is comprised of the Commercial Recordings, Elections, Notaries and Securities Divisions.

Commercial Recording Division

Contact Information:

Northern Nevada
Secretary of State - Annex Office
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708

Southern Nevada
State of Nevada, Secretary of State
Corporate Satellite Office
555 East Washington Avenue,
Suite 4000
Las Vegas, Nevada 89101
(702) 486-2880

Website: <http://sos.state.nv.us/business>
(last visited July 31, 2007)

Elections Division

Contact Information:

Elections Division
101 North Carson Street, Suite 3
Carson City, Nevada 89701
(775) 684-5705
Website: <http://sos.state.nv.us/elections>
(last visited July 31, 2007)

Notary Division

Contact Information:

Secretary of State, Notary Division
101 North Carson Street, Suite 3
Carson City, Nevada 89701
(775) 684-5708
Website: <http://sos.state.nv.us/licensing>
(last visited July 31, 2007)

Securities Division

Contact Information:

Northern Nevada

State of Nevada, Secretary of State
Securities Satellite Office
1755 East Plumb Lane, Suite 231
Reno, Nevada 89502
(775) 688-1855

Southern Nevada

State of Nevada, Secretary of State
Securities Division
555 East Washington Street, Suite 5200
Las Vegas, Nevada 89101
(702) 486-2440

Website: <http://sos.state.nv.us/securities/>
(last visited July 31, 2007)

Nevada Department of Taxation.

Regulation of State Business License issuance, employee tax and sales tax permits and to provide equitable and effective administration of the tax programs for the State of Nevada.

Contact Information:

Carson City

Department of Taxation
1550 East College Parkway, Suite 115
Carson City Nevada 89706
(775) 684-2000

Reno

Department of Taxation
4600 Kietzke Lane, Building L,
Suite 235
Reno, Nevada 89502
(775) 688-1295

Elko

Elko Department of Taxation
850 Elm Street, Suite 2
P.O. Box 1750
Elko, Nevada 89803
(775) 753-1115

Las Vegas

Department of Taxation
Grant Sawyer Office Building
555 East Washington Avenue,
Suite 1300
Las Vegas, Nevada 89101
(702) 486-2300

Website: <http://tax.state.nv.us>
(last visited July 31, 2007)

Nevada State Board of Veterinary Medical

Examiners. Responsible for the regulation of the practice of veterinary medicine, including veterinarians, veterinary technicians and euthanasia technicians.

Contact Information:

4600 Kietzke Lane, Building O,
Suite 265
Reno, Nevada 89502
(775) 688-1788

Website: <https://www.nvvetboard.us/renewal/glsweb/homeframe.aspx>
(last visited July 31, 2007)

LOCAL AGENCIES

Assessor's Office. Nevada law requires all persons, firms or businesses owning, renting, leasing, or controlling business personal property to file a list of that property with the Assessor of the county in which the property is located.

Clark County Assessor's Office

Location: 500 South Grand
Central Parkway
Las Vegas, Nevada 89155-1401
(702) 455-3882
Website: <http://www.co.clark.nv.us/assessor>
(last visited July 31, 2007)

Washoe County Assessor's Office

Location: 1001 East Ninth Street
Reno, Nevada 89512-2845
(775) 328-2200
Website: <http://www.co.washoe.nv.us/assessor>
(last visited July 31, 2007)

Clerk's Office - Fictitious Firm Name

Filings. Required for all business that plan to use a name different than their corporate or legal name. In Clark and Washoe Counties, the filing fee is \$20.00.

Clark County Clerk's Office

Location: 200 Lewis Avenue, 5th Floor
Las Vegas, Nevada 89155
(702) 455-3156
Website: <http://www.co.clark.nv.us/clerk/FFN.htm>

Henderson City Clerk's Office

Location: 240 South Water Street,
1st Floor
Henderson, Nevada 89015
(702) 267-1400

Las Vegas City Clerk's Office

Location: 400 Stewart Avenue, 1st Floor
Las Vegas, Nevada 89101
(702) 229-6311

Washoe County Clerk's Office

Location: 75 Court Street, Room 131
Reno, Nevada 89501
(775) 328-3260
Website: <http://www.washoecounty.us/clerks/>
(last visited July 31, 2007)

Local Business License. A local business license is required to operate a business in most cities and/or counties. Contact the appropriate business license department to determine the specific licensing requirements.

Boulder City Business License Division

Location: 401 California Avenue
Boulder City, Nevada 89005
(702) 293-9219
Website: <http://bcnv.org/licenses.html>
(last visited July 31, 2007)

Clark County Business License Department

Location: 500 South Grand Central
Parkway, 3rd Floor
Las Vegas, Nevada 89106
(702) 455-4252
Website: http://www.co.clark.nv.us/business_license
(last visited July 31, 2007)

Henderson Business License Department

Location: 240 Water Street
Henderson, Nevada 89015
(702) 267-1730
Website: <http://www.cityofhenderson.com/buslicense/php/buslicensebody.php>
(last visited July 31, 2007)

Las Vegas Business Services Division

Location: 400 Stewart Avenue,
3rd Floor
Las Vegas, Nevada 89101
(702) 229-6281
Website: <http://www3.lasvegasnevada.gov/Bus-license/>
(last visited July 31, 2007)

North Las Vegas Business License Division

Location: 2200 Civic Center Drive
North Las Vegas, Nevada 89030
(702) 633-1520
Website: <http://www.ci.north-las-vegas.nv.us/Departments/Finance/BusinessLicense.shtm>
(last visited July 31, 2007)

Reno Business License - Finance Department

Location: 1 East First Street, 2nd Floor
Reno, Nevada 89501
(775) 334-2090
Website: <http://www.cityofreno.com/Index.aspx?page'948>
(last visited July 31, 2007)

Sparks Business License

Location: 431 Prater Way Sparks,
Nevada 89431
(775) 353-2360
Website: http://www.ci.sparks.nv.us/business/business_licensing
(last visited July 31, 2007)

Washoe County Business License

Location: 1001 East Ninth Street,
Suite A-275
Reno, Nevada 89520
(775) 328-3733
Website: http://www.co.washoe.nv.us/comdev/licensing_info/business_license/business_license.htm
(last visited July 31, 2007)

Zoning Ordinances. Check the applicable city or county zoning ordinances to ensure that the proposed location use is appropriate. For home-based businesses, a Home Occupation Permit may be required.

Boulder City Planning Commission

Location: 401 California Avenue
Boulder City, Nevada 89005
(702) 293-9282

Clark County Planning Department

Location: 500 South Grand
Central Parkway
Las Vegas, Nevada 89106
(702) 455-4314

Henderson Community Planning and Development Department

Location: 240 South Water Street
Henderson, Nevada 89015
(702) 267-1500

Las Vegas Planning Department

Location: 731 South Fourth Street
Las Vegas, Nevada 89101
(702) 229-6301

North Las Vegas Planning and Zoning Department

Location: 2266 Civic Center Drive
North Las Vegas, Nevada 89030
(702) 633-1537

Reno Community Development Department

Location: 450 Sinclair Street
P.O. Box 1900
Reno, Nevada 89505
(775) 334-2063

Sparks Community Development Department

Location: 1675 East Prater Way, Suite107
Sparks, Nevada 89434
(775) 353-2340

*Washoe County Department of
Community Development*

Location: 1001 East 9th Street,
Suite A-275
Reno, NV 89512

– or –

P.O. Box 11130
Reno, Nevada 89520-0027
(775) 328-3600

Employer Identification Number. Every business must have a federal employer identification number (“EIN”) to use as its taxpayer number. Sole proprietors must also have an EIN if they pay wages to one or more employees or if they are required to file any excise tax returns. The EIN number may be obtained by completing and sending the SS-4, Application for Employer Identification Number form to the Internal Revenue Service or to obtain the EIN in the same day, by telephoning the Internal Revenue Service.

Internal Revenue Service

Location: 110 City Parkway
Las Vegas, NV 89106
(702) 868-5005
By Telephone: (800) 829-4933,
between the hours of 7:00 a.m. and
10:00 p.m. Monday through Friday

1. For general background, see Russell R. Elliott & William D. Rowley, *History of Nevada* (2nd ed. 1987), and James W. Hulse, *The Silver State: Nevada's Heritage Reinterpreted* (2nd ed. 1998). A collection of important writings on Nevada is Michael S. Green and Gary E. Elliott, *Nevada: Readings and Perspectives* (1997). Many crucial articles on Nevada history and current events may be found in the *Nevada Historical Society Quarterly* and the semi-annual *Nevada Public Affairs Review*. For information about the West and Nevada's role in it, see an older classic, Earl Pomeroy, *The Pacific Slope: A History of California, Oregon, Washington, Idaho, Utah, and Nevada* (1965), and an excellent recent collection, *The Oxford History of the American West* (Clyde A. Milner II, et al. eds., 1994).
2. For more information about the history and benefits of the Hoover Dam, as well as information about the Hoover Dam Visitor Center, see http://www.desertusa.com/colorado/lm_nra/hoover/du_hoover.html
3. See generally <http://www.ers.usda.gov/Data/Unemployment/RDList2.asp?ST'NV> (visited October 28, 2007).
4. Information such as this is available from the state website, (visited July 31, 2007) <http://www.nv.gov>; see also the website for the excellent UNLV Center for Business and Economic Research, (visited July 31, 2007) <http://cber.unlv.edu>; *Las Vegas Perspective*, an annual publication of the Metropolitan Research Association.
5. The site for the University College System of Nevada, (visited July 31, 2007) <http://system.nevada.edu>, contains links to each of these institutions.
6. Nevada Legislature website, (visited July 31, 2007) <http://www.leg.state.nv.us>; see also Bowers, *Sagebrush State*, 59-68; A. Costandina Titus, *The Legislature, in Nevada in the Millennium 77-94* Herzik et al. eds.
7. Clark County website, (visited July 31, 2007) <http://www.co.clark.nv.us>.
8. McCarran Airport website, (visited July 31, 2007) <http://www.mccarran.com>. On McCarran, see Jerome E. Edwards, *Pat McCarran: Political Boss of Nevada* (1982); A.D. Hopkins, *Pat McCarran: Perennial Politician*, in *The First 100, 100-03* (Hopkins & Evans, eds.); the Grant Sawyer et al., *Hang Tough! Grant Sawyer: An Activist in the Governor's Mansion 23-52* (1992) (oral history by the co-founder of Lionel Sawyer & Collins).
9. McCarran Airport website, (visited July 31, 2007) <http://www.mccarran.com>.
10. See Bureau of Transportation Statistics website, (visited August 14, 2007) http://www.bts.gov/publications/state_transportation_statistics/state_transportation_statistics_2005/html/table_03_04.html.
11. See Nevada Department of Business and Industry website, (visited August 1, 2007) <http://www.dbi>.

- state.nv.us>; Nevada Department of Employment, Training, and Rehabilitation website (visited August 1, 2007) <<http://www.detr.state.nv.us/lmi>>.
12. See Sierra Pacific website, (visited August 1, 2007) <www.sierrapacific.com>.
 13. For extensive information on businesses in Nevada, see the State of Nevada website and its links, (visited August 1, 2007) <<http://www.nv.gov>>.
 14. Nevada Commission on Economic Development. See NCED website, (visited August 1, 2007) <<http://www.expand2nevada.com/incentives/incentives>>.
 15. See Appendix for a listing of Nevada's Development Authorities.
 16. NCED website, (visited August 1, 2007) <<http://www.expand2nevada.com/incentives/tax>>. A helpful study of taxation and budgeting in Nevada is Nevada in the New Millennium, 77-94, 125-42, 179-96 (Herzik et al. eds.). Still helpful is, A Fiscal Agenda for Nevada: Revenue Options for State and Local Governments in the 1990s (Robert D. Ebel ed., 1989). See also Don W. Driggs & Leonard E. Goodall, Nevada Politics and Government: Conservatism in an Open Society (1996).
 17. The Nevada Revised Statutes use the term "stockholder" and "shareholder" interchangeably, though the terms have the same meaning. The term "stockholder" will be used throughout this chapter for purposes of consistency, and because "stockholder" is used more often in NRS Chapter 78.
 18. NRS §§ 78.026, 78.030.
 19. NRS §§ 78.035(1), 78.039(1)-(4).
 20. NRS § 78.035(2)-(5).
 21. NRS § 78.037.
 22. NRS § 78.030(1).
 23. NRS § 78.065(2).
 24. NRS § 78.150(1)(a)-(f).
 25. NRS § 78.150(1)(a)-(f), (3)(a)-(b).
 26. NRS § 78.150(3)(b).
 27. NRS § 78.150(1)(f).
 28. NRS § 78.150(2).
 29. NRS §§ 77.300, 78.090(1). While the new term is "registered agent," it appears that certain references in other NRS Chapters have yet to be updated, and refer to a "resident agent."
 30. NRS § 78.090(4).
 31. NRS §§ 77.310, 78.035(2).
 32. NRS § 78.750(2)(a)-(b).
 33. NRS § 78.105(1)(a)-(c).
 34. NRS § 78.105(2).
 35. NRS § 78.105(1)(a)-(c).
 36. NRS § 78.152.
 37. NRS § 78.152(2).
 38. NRS § 78.152(2)(a).
 39. NRS § 78.152(3).
 40. NRS § 78.152(4).
 41. NRS §§ 77.280, 77.370.
 42. NRS § 77.370(3).
 43. NRS §§ 77.280, 77.330.
 44. NRS § 78.097(1).
 45. NRS §§ 78.097(2), 78.170, 78.175.
 46. NRS § 78.097.
 47. NRS § 78.257(1).
 48. NRS § 78.257(3).
 49. NRS §§ 78.115, 78.120(1)-(3).
 50. NRS § 78.115.
 51. NRS § 78.115.
 52. NRS § 78.330(1).

53. NRS § 78.330(1).
54. NRS § 78.330(2).
55. NRS § 78.330(3).
56. NRS § 78.335(3).
57. NRS § 78.335(2).
58. NRS § 78.120(2).
59. NRS § 78.120(2).
60. NRS § 78.120(2).
61. NRS § 78.125(1).
62. NRS § 78.125(2).
63. NRS § 78.130(1)-(2).
64. NRS § 78.130(3).
65. NRS § 78.130(4).
66. NRS § 78.130(4).
67. NRS § 78.130(4).
68. NRS § 78.138(1).
69. NRS § 78.138(2)(a)-(c).
70. NRS § 78.138(3).
71. NRS § 78.138(4)-(5).
72. NRS § 78.140(1)(a)-(c).
73. NRS § 78.140(2)(a)-(d).
74. NRS § 78.070.
75. NRS §§ 78.315(1)-(3), 78.320(1)-(5).
76. NRS § 78.315(2).
77. NRS § 78.320(2).
78. NRS § 78.310(1).
79. NRS § 78.310 (2).
80. NRS § 78.565(1).
81. NRS § 78.565(2)(b).
82. NRS § 78.747(1).
83. NRS § 78.747(2)(a)-(c). A stockholder, director or officer acts as the alter ego of a corporation if: (a) The corporation is influenced and governed by the stockholder, director or officer; (b) there is such unity of interest and ownership that the corporation and the stockholder, director or officer are inseparable from each other; and (c) adherence to the corporate fiction of a separate entity would sanction fraud or promote manifest injustice.
84. NRS § 78.747(3).
85. NRS § 78.138(7)(a)-(b).
86. NRS § 78.7502(1)(a)-(b).
87. NRS § 78.7502(3).
88. NRS § 78.235(4).
89. NRS §§ 78.2055, 78.207, 78.209.
90. NRS § 78.207.
91. NRS § 78.320(1)(a).
92. NRS § 78.320(1)(b).
93. NRS § 78.360(1).
94. NRS § 78.360(1)-(2).
95. NRS § 78.370(1).
96. NRS § 78.370(2).
97. NRS § 78.350(2).
98. NRS § 78.355(1)-(5).
99. NRS § 78.355(2)(a)-(b).
100. NRS § 78.355(4).
101. NRS § 78.355(4).
102. NRS § 78.355(4)(b).
103. NRS § 78.365(1)-(5).
104. NRS § 78.365(1).
105. *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 12, 62 P.3d 720, 727 (2003).
106. *Foster v. Arata*, 74 Nev. 143, 155, 325 P.2d 754, 765 (1968); *Smith v. Gray*, 50 Nev. 56, 68-69, 250 P. 369, 373 (1926). *See also* *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 12, 62 P.3d 720, 727 (2003).
107. NRS § 78.747(1).
108. NRS § 78.267(1)-(2).
109. NRS § 78.265(1)-(2).
110. NRS §§ 78.575, 78.580(1)-(3).

111. NRS § 78.585.
112. *Beazer Homes Nevada, Inc. v. Eighth Judicial District Court*, 120 Nev. 575, 97 P.2d 1132, 1139 (2004).
113. NRS § 78.585.
114. NRS §§ 78.590, 78.595.
115. NRS §§ 78.600 - 78.620.
116. NRS §§ 78.600 - 78.620.
117. NRS §§ 78.600 - 78.620.
118. NRS § 78.630.
119. NRS §§ 78.622 - 78.720.
120. NRS § 78.730(1)(a)-(b).
121. NRS § 78.730(1)(a).
122. NRS § 78.139.
123. NRS § 78.195(5).
124. NRS § 78.378(1).
125. NRS § 78.378(2).
126. NRS § 78.379(1).
127. NRS § 78.3793.
128. NRS § 92A.320.
129. NRS § 78.416 defines “combination” (this definition is complicated and complex and the reading of this definition requires analysis of the various types of ownership interests and the transactions which may result in an ownership or similar interest in a corporation).
130. NRS § 78.423 defines “interested stockholder” (this definition is dependent on several factors, including, an analysis of the ownership interests of a stockholder or an affiliate or an associate, of ten % or more of the voting power in the corporation).
131. NRS §§ 78.433, 78.434, 78.436, 78.437.
132. NRS §§ 78.439 - 78.444.
133. NRS § 78A.020.
134. NRS §§ 78A.020, 78A.090.
135. NRS §§ 78A.050, 78A.060.
136. NRS § 78A.040.
137. NRS §§ 78A.070, 78A.080.
138. NRS § 78A.070.
139. NRS § 78A.100.
140. NRS § 78A.120.
141. NRS § 78A.070.
142. NRS § 78A.010.
143. *Bruttomesso v. Las Vegas Met. Police Dept.*, 95 Nev. 151, 154, 591 P.2d 254, 256 (1979).
144. NRS § 87.060(1).
145. The original general partnership structure is governed by NRS §§ 87.010 – 87.430 inclusive. The new general partnership structure is governed by NRS §§ 87.4301 – 87.4357 inclusive.
146. NRS § 87.025, 87.4314.
147. NRS § 87.4321.
148. NRS § 87.070(4).
149. NRS § 87.4322.
150. *See* Chapter 10 of this Guide on “Intellectual Property”.
151. NRS § 87.4327.
152. NRS § 87.190.
153. NRS § 87.190.
154. NRS § 87.220.
155. NRS § 87.4335.
156. NRS §§ 87.180(1), 87.4357.
157. NRS §§ 87.180(1), 87.4356
158. NRS §§ 87.180(2), 87.4333(3).
159. NRS §§ 87.180(3), 87.4333(4)-(5).
160. NRS § 87.180(4).
161. NRS §§ 87.180(5), 87.4333(6).
162. NRS §§ 87.180(6), 87.4333(8).
163. NRS §§ 87.180(7), 87.4333(9).
164. NRS §§ 87.150 (1), 87.433.

165. NRS §§ 87.310(1), 87.4343.
166. NRS §§ 87.310(2) - (6), 87.320, 87.4343.
167. NRS §§ 87.300, 87.4352.
168. NRS §§ 87.330, 87.4354.
169. NRS §§ 87.370, 87.4353.
170. NRS §§ 87.370, 87.4353.
171. NRS §§ 87.150; 87.440.
172. *See* NRS § 87.433.
173. NRS § 87.150.
174. NRS §§ 87.440(1) – (2).
175. NRS § 87.450.
176. NRS § 87.440(1).
177. NRS § 87.440(1).
178. NRS § 87.510.
179. NRS § 87.510(1).
180. NRS § 87.510.
181. NRS § 87.515.
182. NRS § 87.515.
183. NRS § 87.480(1). Although not expressly stated in NRS Chapter 87, it is understood based on review of the statutory provisions for registered agents for other business entities that the purpose of the registered agent is to accept service of all legal process and any demand or notice that can be served on the registered limited-liability partnership.
184. NRS § 87.510(1).
185. NRS § 87.500.
186. *See* NRS § 87.060 (defining “partnership” to include registered limited-liability partnerships).
187. NRS §§ 87.150(2), (4).
188. NRS § 87.150(3).
189. The original limited partnership structure is governed by NRS §§ 88.010, and 88.315 - 88.650 inclusive. The new limited partnership structure is governed by NRS §§ 87A.145, and 87A.235 - 87A.700.
190. NRS Chapter 88.
191. NRS Chapter 87A.
192. NRS § 87A.145.
193. NRS § 87A.145.
194. NRS § 87A.330.
195. NRS § 88.430.
196. NRS §§ 87A.155, 88.350(e).
197. NRS §§ 87A.235, 88.350.
198. NRS §§ 87A.250, 88.375(1).
199. NRS Chapter 92A governs mergers, exchanges and conversions of existing entities; therefore, it is unclear to what the NRS Chapter 92A requirement refers.
200. NRS §§ 87A.235, 88.330; 88.350(1).
201. NRS §§ 87A.290, 88.395.
202. NRS §§ 87A.290, 88.395.
203. NRS §§ 87A.290(1)(f), 88.395(1)(f).
204. NRS §§ 87A.290, 88.395.
205. NRS §§ 87A.215, 88.330(1)(b).
206. NRS §§ 87A.235, 88.350(2).
207. NRS §§ 87A.225, 88.332.
208. NRS §§ 87A.195, 87A.215, 88.330, 88.335.
209. NRS §§ 87A.195, 88.335(1).
210. NRS § 87A.200.
211. NRS § 87A.200.
212. NRS § 88.335(2).
213. NRS § 87A.195.
214. NRS §§ 87A.335, 88.335(3).
215. NRS § 88.455. *See also* NRS § 88.430 (enumerating specific acts that, if engaged in, can cause a limited partner to be liable as a general partner).

216. NRS § 87A.340. *See also* cmt. to § 305 of Unif. Ltd. P’ship Act (2001) (“It is possible for a partnership agreement to allocate significant managerial authority and power to a limited partner, but in that case the power exists not as a matter of status or role but rather as a matter of contract.”)
217. NRS § 87A.330.
218. NRS §§ 88.455(1)-(2).
219. NRS §§ 87A.375, 87.180(5), 88.455(1)-(2).
220. NRS § 88.465.
221. NRS § 87A.190. *See also* cmt. to § 103 of Unif. Ltd. P’ship Act (2001) (“[T]he partnership agreement has plenary power to structure and regulate the relations of the partners *inter se*.”)
222. NRS §§ 87A.210, 88.460.
223. NRS §§ 87A.445 88.450.
224. NRS § 88.425.
225. NRS § 87A.190.
226. NRS § 88.430(1).
227. NRS § 88.430(1).
228. NRS § 87A.330.
229. *See, e.g.,* Lorenzo v. Beltio, Ltd., 114 Nev. 795, 807-10, 963 P.2d 488, 496-98 (1998).
230. NRS §§ 88.445; 87A.320.
231. NRS § 87A.320.
232. NRS § 88.455.
233. NRS § 87.150(1).
234. NRS §§ 87A.365, 87A.465.
235. NRS § 88.430(1).
236. NRS § 88.430(2).
237. NRS § 88.430(1).
238. NRS § 88.430(4).
239. NRS § 88.430(4).
240. NRS § 87A.330.
241. NRS § 87A.175.
242. NRS § 88.475(1).
243. NRS § 88.475(2); NRS § 87A.395.
244. NRS § 88.475(2); NRS § 87A.395.
245. NRS § 88.475(3); NRS § 87A.395.
246. NRS § 87A.430.
247. NRS § 88.505.
248. NRS § 87A.410.
249. NRS § 88.550; NRS § 87A.490.
250. NRS § 88.550.
251. NRS § 87A.490.
252. NRS § 88.550(4); NRS § 87A.490.
253. NRS § 88.550(4); NRS § 87A.490.
254. NRS § 88.555; NRS § 87A.495.
255. NRS § 88.560; NRS § 87A.500.
256. NRS § 88.560; NRS § 87A.500.
257. NRS § 88.565; NRS § 87A.530.
258. NRS § 88.565.
259. NRS § 87A.530.
260. NRS § 87A.530.
261. NRS § 88.360.
262. NRS § 88.360.
263. NRS § 88.360.
264. NRS §§ 87A.245, 87A.500.
265. NRS § 88.535(1); NRS § 87A.480.
266. NRS § 88.608(1)
267. *Contrast* NRS Chapters 87A and 88 with NRS Chapter 87.
268. NRS §§ 87A.365, 88.455, 88.6085.
269. NRS § 88.606; NRS § 87A.630.
270. NRS § 88.6065; NRS § 87A.630.
271. NRS § 88.606; NRS § 87A.630.
272. NRS § 88.608.
273. *See* NRS § 88.315(13) (defining a registered limited-liability limited partnership as a limited partnership governed by Chapter 88 and

- complying with certain limited-liability limited partnership provisions).
274. NRS § 86.296.
275. NRS § 86.296(2).
276. NRS § 86.141.
277. NRS § 86.151.
278. NRS § 86.171.
279. NRS § 86.161(1).
280. NRS § 86.161(2).
281. NRS §§ 86.161, 86.151, and 86.263 (setting forth the organizer's responsibilities).
282. NRS § 86.161(3).
283. NRS § 86.155.
284. NRS § 86.263.
285. NRS § 86.263.
286. NRS § 86.263(1)(f).
287. NRS § 86.263(2).
288. NRS §§ 86.296(3)(b), 86.161(1)(e)
289. NRS § 86.161(1)(e).
290. NRS §§ 86.241, 86.246.
291. NRS § 86.241.
292. NRS § 86.241(1)(a).
293. NRS § 86.241(1)(b).
294. NRS § 86.241(1)(c).
295. NRS § 86.246.
296. NRS § 86.246.
297. NRS § 86.241(2).
298. NRS § 86.231(1).
299. NRS § 86.261.
300. NRS § 86.251.
301. NRS § 86.251(1).
302. NRS § 86.251(2).
303. NRS § 86.296(3)(a).
304. NRS § 86.231(1).
305. NRS § 86.286(1).
306. NRS § 86.286(1).
307. NRS § 86.286(1).
308. NRS § 86.081.
309. *See* NRS § 86.095.
310. NRS § 86.351.
311. NRS § 86.286(3).
312. NRS § 86.351(1).
313. NRS § 86.351(1).
314. NRS § 86.291(3).
315. NRS § 86.291(2).
316. NRS § 86.291.
317. NRS § 86.291(1).
318. NRS § 86.301.
319. NRS § 86.296.
320. NRS § 86.321.
321. NRS § 86.341.
322. *See* NRS §§ 86.281, 86.291, 86.301, 86.311.
323. NRS § 86.371.
324. NRS § 86.361.
325. NRS § 86.343(6).
326. NRS § 86.343(1).
327. NRS § 86.391(1).
328. NRS § 86.391(3).
329. NRS § 86.401(1).
330. NRS § 88.401(1).
331. NRS § 86.296(2).
332. NRS § 86.296(2).
333. NRS § 86.296(2).
334. NRS § 86.296(2).
335. NRS § 86.296(3).
336. NRS § 86.491(1).
337. NRS § 86.495.
338. NRS § 86.491(4).
339. NRS § 86.491(5).
340. NRS § 86.495(2).
341. This section does not address professional associations under NRS Chapter 89. The provisions

- related to such entities may generally be found in NRS §§ 89.200-89.270.
342. NRS § 89.020.
 343. NRS § 89.040(1).
 344. NRS §§ 89.040(1)(a)-(d).
 345. NRS § 89.050(1).
 346. NRS § 89.050(2).
 347. NRS § 89.050(3).
 348. NRS §§ 89.070, 89.080(2).
 349. NRS § 89.080(1).
 350. NRS § 89.060.
 351. NRS § 89.030.
 352. NRS § 82.136.
 353. NRS § 82.081(1).
 354. NRS §§ 82.096, 82.086(1).
 355. NRS § 82.086.
 356. NRS § 82.091(5).
 357. NRS §§ 82.081(1), 82.086(2).
 358. NRS §§ 82.081 - 82.096. *See* “Corporations” section in this same chapter.
 359. *See* earlier subsection on “Corporations” in this same Chapter.
 360. NRS §§ 82.086, 82.096, 82.106. *See also* Chapter 26 of this Guide on “Business Name Registration Requirements.”
 361. NRS §§ 82.126(1)-(2).
 362. NRS § 82.193.
 363. NRS §§ 82.041, 82.181.
 364. NRS § 82.181(1)(c).
 365. NRS § 82.181(1)(d).
 366. NRS § 82.183. Although NRS § 82.183 uses the phrase “owners of records” even though non-profit corporations do not have owners, the statute probably means that if a non-profit corporation has members, it is required to maintain

- a list of its members at its principal place of business or registered office. A “member” is defined as “any person who on more than one occasion has the right pursuant to the articles or bylaws to vote for the election of a director or directors.”
367. NRS § 86.246.
 368. NRS § 82.181(3).
 369. NRS § 82.181(4).
 370. In a non-profit corporation, the terms “directors” and “trustees” are often used interchangeably.
 371. NRS § 82.196.
 372. NRS § 82.196.
 373. NRS § 82.211(1).
 374. NRS § 82.221(1).
 375. NRS § 82.221(2).
 376. NRS § 82.221(2).
 377. NRS § 82.221(4).
 378. NRS § 82.286.
 379. NRS §§ 82.271, 82.276, 82.286.
 380. *Compare* NRS §§ 82.286(2) (allowing written consent) *with* NRS § 82.326 (requiring specific procedure for election of directors).
 381. NRS § 82.326(1).
 382. NRS § 82.286(1).
 383. NRS §§ 82.276(1), 82.286(1).
 384. NRS § 82.286(2).
 385. NRS § 82.286(2).
 386. NRS § 82.206(1).
 387. NRS § 82.206(3).
 388. NRS § 82.226.
 389. NRS § 82.231(1).
 390. NRS § 82.231(4).
 391. NRS § 82.231(2).
 392. NRS §§ 82.231(2)-(3).
 393. NRS § 82.241(2).

394. NRS § 82.241(2).
395. NRS § 82.241(4).
396. NRS § 82.231(4).
397. NRS § 82.236.
398. NRS § 82.241(1).
399. NRS § 82.246.
400. NRS § 82.246(1).
401. NRS § 82.261.
402. NRS § 82.261.
403. NRS § 82.261.
404. NRS §§ 82.446(1), 82.451(1).
405. NRS § 82.451(1).
406. NRS §§ 82.446(1), 82.451(1).
407. NRS § 82.446(1).
408. NRS § 82.446(1)(c). The act of a majority of the directors as trustees remaining in office is the act of the directors as trustees.
409. NRS § 82.446(2).
410. NRS § 82.451(3).
411. NRS §§ 82.446, 82.451.
412. NRS § 82.456(1).
413. NRS § 82.456(2).
414. NRS § 82.471(1).
415. NRS § 82.471(3).
416. NRS § 82.476.
417. NRS § 82.486.
418. NRS §§ 82.466, 78.622.
419. NRS § 88A.210.
420. NRS § 294A.210.
421. NRS § 88A.210.
422. NRS § 88A.230(2).
423. NRS § 88A.210.
424. NRS § 88A.890.
425. NRS § 88A.260(3).
426. NRS § 88A.260(1).
427. NRS § 88A.260(2).
428. NRS § 88A.210.
429. NRS § 88A.600(1).
430. NRS § 88A.600(1).
431. NRS § 88A.600(1).
432. NRS § 88A.340(1).
433. NRS § 88A.340(1).
434. NRS §§ 88A.340(1)(c), 88A.7345.
435. NRS § 88A.7345.
436. NRS § 88A.350(1).
437. NRS § 88A.350.
438. NRS §§ 88A.270, 88A.310.
439. NRS § 88A.320(3).
440. NRS § 88A.320(3).
441. NRS § 88A.320(4).
442. NRS § 88A.270.
443. NRS § 88A.270.
444. NRS § 88A.270.
445. NRS § 88A.280.
446. NRS § 88A.280(1).
447. NRS § 88A.280(1).
448. NRS § 88A.280(3).
449. NRS § 88A.280(6).
450. NRS § 88A.330(1).
451. NRS § 88A.330(3).
452. NRS § 88A.320(1).
453. NRS § 88A.330(1).
454. NRS § 88A.310(2).
455. NRS § 88A.310(2).
456. NRS § 88A.360.
457. NRS § 88A.370.
458. NRS § 88A.390.
459. NRS § 88A.390(4).
460. NRS § 88A.400(1).
461. NRS § 88A.400(2).
462. NRS § 88A.420.
463. NRS § 88A.420.
464. NRS § 88A.160(1).
465. NRS § 92A.100(1).

466. NRS § 92A.100.
467. NRS §§ 92A.100, 92A.120 - 92A.165.
468. NRS § 92A.100(2)-(3).
469. NRS § 92A.110(1).
470. NRS §§ 92A.050, 92A.055 (“foreign” means an entity not organized or existing under the laws of the state of Nevada); and NRS § 92A.025 (“domestic” means an entity organized and existing under the laws of the state of Nevada).
471. NRS § 92A.110(2)(d).
472. NRS § 92A.110(4).
473. NRS § 92A.110(4).
474. NRS § 92A.110(2), (3).
475. NRS §§ 92A.110 - 92A.165.
476. NRS §§ 92A.105, 92A.120, 92A.135, 92A.140, 92A.150, 92A.165.
477. NRS § 92A.205.
478. NRS § 92A.205(1).
479. NRS § 92A.240.
480. NRS § 92A.207.
481. NRS § 92A.200.
482. NRS § 92A.270(9). An “undomesticated organization” means any incorporated organization, private law corporation (whether or not organized for business purposes), public law corporation, general partnership, registered limited-liability partnership, limited liability partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.
483. NRS §§ 92A.270(7)-(8).
484. NRS § 92A.270(1).
485. NRS § 92A.270(6).
486. NRS § 92A.270(1)-(3).
487. NRS § 92A.270(3).
488. NRS § 92A.380(1).
489. NRS § 78.207(4).
490. NRS §§ 92A.350, 92A.360.
491. NRS § 92A.380(1).
492. *Steiner v. Benninghoff*, 5 F. Supp. 2d 1120, 1124 (D. Nev. 1998).
493. NRS § 92A.380.
494. 22 U.S.C. §§ 3101 *et seq.* (2007).
495. 15 C.F.R. § 806.15(j)(ii)(3).
496. *See* Memorandum published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, “Current Reporting Requirements for Foreign Direct Investment in the United States” dated Apr. 2004, (last visited July 17, 2007) <http://www.bea.gov/surveys/pdf/2004fdius_rept_req.pdf> (copy on file with Lionel, Sawyer, and Collins). *See also* 15 C.F.R. § 806.15(j)(ii)(3).
497. 15 C.F.R. § 806.15(j)(ii)(3).
498. All reports are mandatory pursuant to the International Investment and Trade in Services Survey Act (P.L. 94-472, 90 Stat. 2059, 22 U.S.C. §§ 3101-3108, *as amended by* P.L. 98-573 and P.L. 101-533).
499. 15 C.F.R. § 806.15(j)(3).
500. 22 U.S.C. §§ 3101 *et seq.* (2007).
501. 22 U.S.C. §§ 3101 *et seq.* (2007).

502. See Memorandum published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, "Current Reporting Requirements for Foreign Direct Investment in the United States" dated Apr. 2004, (last visited July 17, 2007) <http://www.bea.gov/surveys/pdf/2004fdius_rept_req.pdf> (copy on file with Lionel, Sawyer, and Collins).
503. See Memorandum published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, "Current Reporting Requirements for Foreign Direct Investment in the United States" dated Apr. 2004, (last visited July 17, 2007) <http://www.bea.gov/surveys/pdf/2004fdius_rept_req.pdf> (copy on file with Lionel, Sawyer, and Collins).
504. See Memorandum published by the United States Department of Commerce, Economics and Statistics Administration, Bureau of Economic Analysis, "Current Reporting Requirements for Foreign Direct Investment in the United States" dated Apr. 2004, (last visited July 17, 2007) <http://www.bea.gov/surveys/pdf/2004fdius_rept_req.pdf> (copy on file with Lionel, Sawyer, and Collins).
505. NRS § 598A.030(1)(a) (declaring that free, open and competitive markets are necessary to the economic well-being of Nevada).
506. Attorney General, *Nevada Antitrust Litigation: Maintaining a Level Economic Playing Field*, Nevada Lawyer 22, August 7, 1999.
507. Attorney General, *Nevada Antitrust Litigation: Maintaining a Level Economic Playing Field*, Nevada Lawyer 22, August 7, 1999.
508. Attorney General, *Nevada Antitrust Litigation: Maintaining a Level Economic Playing Field*, Nevada Lawyer 22, August 7, 1999.
509. Attorney General, *Nevada Antitrust Litigation: Maintaining a Level Economic Playing Field*, Nevada Lawyer 22, August 7, 1999.
510. NRS § 598A.040.
511. NRS §§ 598A.040(1)-(5).
512. NRS § 598A.060.
513. NRS § 598A.060.
514. NRS § 598A.230.
515. NRS § 482.3645. See also NRS §§ 482.3647-482.3655 (describing other prohibited finance activities).
516. NRS § 482.3661.
517. NRS § 482.366.
518. NRS § 482.3665.
519. NRS § 332.820(1).
520. NRS § 332.820(1).
521. NRS Chapter 598.
522. NRS §§ 598.0979(1), 598.0999.
523. NRS § 598.110.
524. NRS § 598.1305.
525. NRS §§ 598.136 - 598.138.
526. NRS §§ 598.140 - 598.2801.
527. NRS §§ 597.590 - 597.670, 598.741 - 598.782.
528. NRS § 41.600.
529. NRS Chapter 598C.
530. NRS § 598C.130.
531. NRS § 598C.160(1).
532. NRS § 598C.160(2).
533. NRS § 598C.300.

534. NRS § 228.302.
535. NRS §§ 228.310, 228.360 - 228.380.
536. NRS Chapter 599B.
537. NRS § 599B.100.
538. NRS § 599B.105.
539. *See* NRS § 599B.255.
540. NRS § 649.045.
541. NRS § 649.375.
542. NRS § 676.330(2).
543. NRS Chapter 604A. Persons exempt from the requirements of this chapter are listed in NRS § 604A.250.
544. NRS § 604A.050.
545. NRS § 604A.0703
546. NRS § 604A.105.
547. NRS § 604A.030.
548. NRS § 604A.400.
549. NRS § 604A.425.
550. NRS § 604A.405.
551. NRS § 604A.410.
552. NRS § 604A.410.
553. NRS § 604A.420.
554. NRS §§ 604A.407, 604A.425, 604A.430.
555. NRS §§ 604A.700, 604A.710, 604A.740, 604A.760, 604A.810, 604A.820.
556. *See* NRS Chapter 97.
557. NRS §§ 97.165, 97.185.
558. NRS § 97.185.
559. NRS § 97.299.
560. NRS § 104.2103(3) (referring to Article 9 for definition of “consumer goods”).
561. NRS § 104.2313(1) (related to sales); NRS § 104A.2210(1) (related to leases).
562. NRS § 104.2313(2).
563. NRS §§ 104.2313(2), 104A.2210(2).
564. NRS §§ 104.2316, 104A.2214.
565. NRS §§ 104.2314, 104.2315, 104A.2212, 104A.2213.
566. NRS §§ 104.2701 *et seq.*; NRS §§ 104A.2501 *et seq.*
567. NRS §§ 598.940 - 598.966.
568. NRS §§ 119B.420 - 119B.430.
569. NRS §§ 597.010 *et seq.*
570. NRS §§ 597.264 *et seq.*
571. NRS §§ 597.480 *et seq.*
572. NRS Chapter 679A.
573. NRS Chapter 668.
574. NRS Chapter 113.
575. NRS Chapter 119A.
576. NRS Chapters 482 and 489.
577. NRS §§ 586.010 *et seq.* (pesticides); NRS §§ 587.015 *et seq.* (agricultural products); NRS §§ 590.010 *et seq.* (petroleum products); NRS §§ 588.010 *et seq.* (fertilizers); NRS §§ 585.010 *et seq.* (food and other commodities); NRS §§ 584.001 *et seq.* (dairy products); NRS §§ 585.010 *et seq.* (food, drugs and cosmetics).
578. NRS §§ 482.36311 - 482.36425.
579. NRS §§ 597.120 - 597.180.
580. NRS §§ 597.270 - 597.470.
581. NRS §§ 597.270 - 597.470
582. *See* Chapter 15 of this Guide on “Securities Regulation.”
583. *See* Chapter 5 of this Guide on “Consumer Protection Laws.”
584. NRS § 375A.100 provides that the Nevada estate tax shall not exceed the maximum credit for state death taxes allowable against a federal estate tax return. Nevada filing is required in accordance with Nevada law for any decedent who has property located in

- Nevada at the time of death and whose estate value meets or exceeds the level requiring a federal estate tax return. NRS § 375A.150. However, as part of the Economic Growth and Tax Relief Reconciliation Act in 2001, the federal credit for state death taxes has been phased out. Currently, the federal credit for state death taxes is set to return in 2011.
585. NEV. CONST. ART. 10, § 1, cl. 9.
586. NRS § 363B.110(1). As of July 1, 2007, the applicable tax is 0.65% of gross wages paid during each calendar quarter.
587. *See* NRS § 612.190 for the definition of gross wages under the Nevada unemployment compensation regime.
588. NRS § 612.00 et seq.
589. NRS § 363B.030. Financial institutions have their own modified business tax, a payroll tax, which taxes at a rate of 2% of wages. NRS § 363A.130(1).
590. NRS § 363B.110(2).
591. NRS § 363B.115.
592. NRS § 363B.120. *See also* Chapter 13 of this Guide on “Financing Investments.”
593. NRS §§ 360.765(1), 360.780.
594. NRS § 360.780(2).
595. NRS § 360.765(2).
596. NRS § 360.765(2)(c). The average annual wage fluctuates. In 2004, the Department calculated the average annual wage at \$22,000 and for 2005 it calculated the wage to be \$22,900. Home-based businesses are required by the Department of Taxation to maintain business records, and allow the Department to inspect such records for four years.
597. NRS § 363A.120(1).
598. NRS § 363A.120(3)(a)(2).
599. NRS § 363A.120(3)(b).
600. NRS § 363A.120(1)
601. NRS § 363A.130(1)
602. NRS § 361.045.
603. NRS § 361.453(1).
604. NRS § 361.035(1).
605. NRS § 361.225.
606. NRS § 361.227(1)(a).
607. NRS § 361.227(1)(b).
608. NRS § 361.030.
609. NRS §§ 361.225, 361.227(4).
610. NRS §§ 361.260(1), 361.483(6).
611. NRS § 361.483(2).
612. *See* NRS §§ 361.050 - 361.159 for a list of exemptions.
613. NRS §§ 361.068(1), 361.160.
614. NRS §§ 361.4722, 361.4723.
615. NRS § 361.4722.
616. NRS § 375.020(1).
617. NRS § 375.030.
618. NRS § 375.020(1).
619. NRS 375.023(1).
620. NRS § 375.026.
621. NRS § 375.030(2).
622. *See* NRS § 375.090 for complete list of exemptions. *See also* NAC § 375.170 (interpreting exemptions).
623. The sales and use tax is a combination of several taxes composed of the state sales and use tax in the amount of 2% (NRS §§ 372.105 and 372.185), the local school support tax in the amount of 2.25% (NRS § 374.110), the basic county relief tax in the amount of .5% (NRS § 377.020(1)), the supplemental city council relief tax in the amount of 1.75% (NRS § 377.020(4)),

- and the county optional sales tax varying from 1/8% to 1% (*see e.g.* NRS § 377A.030 (allowing counties to impose .25% sales tax to fund public transit)).
624. NRS §§ 372.354, 372.355.
625. NRS § 372.380.
626. NRS § 372.220.
627. NRS § 372.220(2).
628. NRS § 372.185.
629. NRS § 372.345.
630. *See* NRS §§ 372.260 - 372.350.
631. *See* NRS §§ 372.260 - 372.350.
632. NRS §§ 372.155 - 372.180.
633. NRS §§ 360.750, 374.357, 372.397. *See also* NAC §§ 372.040, 372.827.
634. NRS §§ 360.750, 374.357; 372.397. *See also* NAC §§ 372.040, 372.827.
635. *See, e.g.*, NRS § 374.357 (providing for abatement of local school support tax on certain purchases).
636. NRS § 372.397.
637. NRS §§ 368A.090, 368A.200.
638. NRS § 368A.140(1).
639. NRS § 368A.140(2).
640. NRS § 368A.200(5).
641. NRS § 368A.200(1)(a).
642. NRS § 368A.200(1)(b).
643. NRS § 368A.200(4).
644. *Ringle v. Bruton*, 120 Nev. 82, 89, 86 P.3d 1032, 1036 (2004); *American Bank Stationery v. Farmer*, 106 Nev. 698, 701, 799 P.2d 1100, 1101-02 (1990).
645. NRS § 607.160.
646. NRS §§ 607.170, 607.175.
647. NRS §§ 613.230 - 613.300.
648. *See* National Labor Relations Act § 14(b), 29 U.S.C. § 164(b) (2007) (providing that the National Labor Relations Act does not preempt state right to work laws).
649. NRS § 613.250.
650. *See Cone v. Nevada Serv. Employees Union/SEIU Local 1107*, 116 Nev. 473, 478-79, 998 P.2d 1178, 1182 (2000) (holding that it is not discriminatory or coercive to require non-union members to pay fees related to individual grievance representation under certain circumstances).
651. NRS § 463A.030.
652. NRS §§ 463A.040-050.
653. NRS § 463A.030(2).
654. Nev. Gaming Reg. 19.050.
655. NRS § 463A.010(3).
656. NRS §§ 609.190 - 609.250.
657. NRS § 392.110(1).
658. NRS § 392.110(2).
659. NRS § 609.440.
660. NRS § 609.500.
661. NRS § 609.550.
662. NRS § 609.245.
663. NRS § 609.245.
664. NRS § 609.250.
665. NRS § 608.019(1), (2); NAC 608.145.
666. NRS § 608.019(2).
667. NAC § 608.145(1).
668. NRS § 608.019(2).
669. NRS § 608.019(3).
670. NAC § 608.145(3).
671. NRS § 608.012.
672. NAC § 608.120 (1)-(2).
673. NAC § 608.120(3).
674. NRS § 608.060(1).

675. NRS § 608.110; NAC § 608.160(1).
676. NRS § 608.110; NAC § 608.160.
677. NRS § 31A.025.
678. NRS § 31A.095.
679. NRS § 608.080(1).
680. NRS § 608.100.
681. NRS § 608.120.
682. NAC § 608.135(2).
683. NRS § 608.130(3).
684. NRS § 608.100.
685. NRS § 608.020.
686. NRS § 608.030.
687. NRS § 608.040(1).
688. NRS § 608.040(2).
689. *See* NRS § 608.012 (requiring payment of “wages” only for time worked and not including vacation, sick time, or other benefits in the definition of wages); *see also* <http://www.laborcommissioner.com/faqs.htm> (stating that “Nevada requires payment only for time worked and does not require payment for vacation time” in response to the “frequently asked question” of whether an employee is entitled to unused vacation upon being fired or quitting) (last visited August 20, 2007).
690. NRS § 608.115.
691. NAC § 608.140; NRS § 608.115.
692. NEV. CONST. ART. 15 § 16; 29 U.S.C. § 206(a)(1), as amended by H.R. 2, 110th Congress (2007).
693. NEV. CONST. ART. 15 § 16(A).
694. NEV. CONST. ART. 15 § 16.
695. NEV. CONST. ART. 15 § 16(B); *see also* Adopted Temp. Reg. of the Labor Commissioner § 3 (April 10, 2007) *available at* <http://www.laborcommissioner.com/docs/ADOPTED%20TEMPORARY%20REGULATION%20OF%20THE%20LABOR%20COMMISSIONER%204-10-07.doc> (last visited August 14, 2007).
696. NEV. CONST. ART. 15 § 16(A).
697. NAC § 608.120(3).
698. *See generally* Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*; NRS § 608.018.
699. NRS § 608.018.
700. NAC § 608.125.
701. *See generally* Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*; NRS § 608.018.
702. NRS § 608.018.
703. NAC § 608.125(3).
704. NRS § 338.020(1)(a).
705. NRS § 338.030.
706. NRS § 613.075(1)(a). This personnel records statute also applies to labor organizations.
707. NRS § 613.075(1).
708. NRS § 613.075(b); NRS § 613.075(7).
709. NRS § 613.075(4).
710. NRS § 613.075(5).
711. NRS § 613.075(3).
712. NRS § 613.075(3).
713. NRS § 613.075(2).
714. NRS § 613.075(6).
715. NRS § 613.075(6).
716. NRS § 613.210(2).
717. NRS § 613.210(4).
718. NRS § 613.210(4).
719. NRS § 613.200(1).
720. NRS § 613.200(2).
721. NRS § 613.200(2).

722. *Camco, Inc. v. Baker*, 113 Nev. 512, 517, 936 P.2d 829, 832 (1997).
723. *Traffic Control Servs. v. United Rentals Northwest, Inc.*, 120 Nev. 168, 176, 87 P.3d 1054, 1060 (2004).
724. *Camco, Inc. v. Baker*, 113 Nev. 512, 520, 936 P.2d 829, 834 (1997); *Jones v. Deeter*, 112 Nev. 291, 296, 913 P.2d 1272, 1275 (1996); *Hansen v. Edwards*, 83 Nev. 189, 191-92, 426 P.2d 792, 793 (1967).
725. *Hansen v. Edwards*, 83 Nev. 189, 191-92, 426 P.2d 792, 793 (1967).
726. *Ellis v. McDaniel*, 95 Nev. 455, 459, 596 P.2d 222, 224 (1979).
727. *Camco, Inc. v. Baker*, 113 Nev. 512, 520, 936 P.2d 829, 834 (1997).
728. *Camco, Inc. v. Baker*, 113 Nev. 512, 520, 936 P.2d 829, 834 (1997).
729. “Sexual orientation” is defined as “having or being perceived as having an orientation for heterosexuality, homosexuality, or bisexuality.” NRS § 613.310(6).
730. NRS §§ 613.330, 613.350; *See also* 42 U.S.C. § 2000e *et seq.*, 42 U.S.C. § 12101 *et seq.*, 29 U.S.C. § 612 *et seq.* (federal laws prohibiting employment discrimination based on race, color, religion, sex, national origin, disability and age).
731. NRS § 613.320.
732. NRS § 608.017; 29 U.S.C. § 206(d).
733. NRS §§ 412.606, 412.139, 38 U.S.C. § 4301 *et seq.*
734. *See, e.g.* NRS § 613.340; 42 U.S.C. § 2000e-3(a); 38 U.S.C. §§ 4311(b), 4311(c)(2).
735. 42 U.S.C. § 2000e-5; NRS § 613.420; *Pope v. Motel 6*, 121 Nev. 307, 307, 114 P.3d 277, 279 (2005).
736. NRS § 233.160(1)(b); 42 U.S.C. § 2000e-5(e)(1); 29 U.S.C. § 626(d)(2).
737. *See* 42 U.S.C. § 2000e-5(f)(1); 42 U.S.C. § 12117(a); 29 U.S.C. § 626(e).
738. 29 U.S.C. § 2601 *et seq.*; 29 C.F.R. Part 825; *see* *Kindred v. Second Judicial Court of Nevada*, 116 Nev. 405, 409 n.3, 996 P.2d 903, 906 n.3 (2000).
739. NRS § 613.335.
740. NRS § 293.463.
741. NRS § 6.190.
742. NRS § 6.190.
743. NRS § 50.070.
744. NRS § 392.920.
745. NRS § 392.920.
746. NRS §§ 412.139, 412.606.
747. NRS §§ 618.005 - 618.900.
748. NRS § 618.375.
749. NRS § 618.376(1).
750. NRS § 618.383; NAC §§ 618.538-613.544.
751. NRS § 618.383.
752. NRS §§ 616A.400 - 616A.430 (setting out duties of administrator).
753. NRS § 616A.020.
754. NRS §§ 616B.300, 616B.460.
755. *See* NRS §§ 616A.105 (defining “employee”), 616A.110 (listing exceptions).
756. *See e.g.* NRS §§ 616C.245, 616C.555, 616C.475, 616C.440, 616C.505.
757. NRS §§ 616A.490, 616A.495.
758. NRS § 616A.020(1).

759. NRS § 616C.015(1).
760. NRS § 616C.020(1).
761. NRS § 616C.020(2).
762. NRS § 616C.025; NRS 616B.012(1).
763. NRS § 616C.315.
764. NRS § 616C.390.
765. Dillard Dept. Stores, Inc. v. Beckwith, 115 Nev. 372, 989 P.2d 882 (1999).
766. NRS § 617.017(1).
767. NRS § 617.440; *see also* Wood v. Safeway, 121 Nev. Adv. Rep. 73, 121 P.3d 1026 (2005).
768. NRS § 617.344(1).
769. NRS § 617.344(2).
770. *See generally* NRS Chapter 612.
771. NRS § 612.375.
772. NRS §§ 612.380-612.385.
773. Fremont Hotel and Casino v. Esposito, 104 Nev. 394, 760 P.2d 122 (1988).
774. NRS § 613.333.
775. NRS § 613.040.
776. NRS § 613.160(1).
777. NRS § 613.160.
778. NRS § 613.345.
779. NRS § 613.345(2) (excluding from the definition of “genetic test” any “test to determine the presence of alcohol or a controlled substance in the system of the person tested”); *see also* Nevada Empl. Sec. Dep’t v. Holmes, 112 Nev. 275, 285, 914 P.2d 611, 617 (1996).
780. Blankenship v. O’Sullivan Plastics Corp. 109 Nev. 1162, 866 P.2d 293 (1993).
781. Blankenship v. O’Sullivan Plastics Corp., 109 Nev. 1162, 1163, 866 P.2d 293, 293 (1993).
782. Clevenger v. Employment Security Dep’t., 105 Nev. 145, 147-48, 770 P.2d 866, 867 (1989).
783. Fremont Hotel v. Espito, 104 Nev. 394, 395, 760 P.2d 122, 123 (1988); *see also* Nevada Empl. Sec. Dep’t v. Holmes, 112 Nev. 275 (1996).
784. *See generally* Employee Polygraph Protection Act, 29 U.S.C. §§ 2001 *et seq.*
785. NRS § 613.480(2). A “lie detector test” includes “a polygraph, voice stress analyzer, psychological stress evaluator or any other similar device, whether mechanical or electrical, that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.” NRS § 613.440(2).
786. NRS § 613.480(1).
787. *See* NRS § 613.510.
788. NRS § 613.510(1)(a)(1).
789. NRS § 613.510(1)(a)(3); NRS § 613.510(1)(a)(2).
790. NRS § 613.510(1)(a)(4).
791. *See, e.g.*, NRS § 613.510(1).
792. 29 U.S.C. § 2003; NRS § 613.460(2).
793. *See* NRS § 613.480(4).
794. Division of Environmental Protection Web Site (last visited April 10, 2006) <<http://www.ndep.nv.gov>>.
795. NRS Chapter 445B.
796. Bureau of Air Pollution Control Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bapc/index.htm>>; Bureau of Air Quality Planning Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/baqp/index.htm>>.

797. Bureau of Air Pollution Control Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bapc/index.htm>>; Bureau of Air Quality Planning Web Site (visited August 22, 2007) <<http://www.ndep.nv.gov/baqp/index.htm>>.
798. Bureau of Air Pollution Control Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bapc/index.htm>>; Bureau of Air Quality Planning Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/baqp/index.htm>>. *See also* NRS §§ 445B.100 - 445B.825.
799. NRS § 445B.380.
800. NRS §§ 445A.300 - 445A.730.
801. Bureau of Water Pollution Control Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwpc/bwpc01.htm>>.
802. Bureau of Water Pollution Control Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwpc/bwpc01.htm>>. *See also* NRS §§ 445A.300 - 445A.730.
803. Bureau of Waste Management Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwm/bwm01.htm>>.
804. 42 U.S.C. §§ 6901 et seq. (2007).
805. NRS § 459.7024.
806. NRS §§ 459.009 - 459.0098.
807. NRS §§ 459.010 - 459.290.
808. NRS §§ 459.300 - 459.370.
809. NRS §§ 459.380 - 459.3874.
810. NRS §§ 459.800 - 459.856.
811. Bureau of Waste Management Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwm/bwm01.htm>>.
812. NRS § 444.490.
813. NRS § 444.490.
814. Bureau of Waste Management Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwm/bwm01.htm>>. *See* NRS § 444.440.
815. NRS §§ 444.495 - 444.500; NAC §§ 444.624, 444.626.
816. NRS §§ 444.495 - 444.500; NAC §§ 444.624, 444.626.
817. NAC §§ 444.646 - 444.656; Bureau of Waste Management Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bwm/bwm01.htm>>.
818. NAC §§ 444.646 - 444.656.
819. NRS § 459.221.
820. NRS § 459.231.
821. NRS § 459.235.
822. Bureau of Mining Regulation and Reclamation Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bmrr/bmrr01.htm>>.
823. Bureau of Mining Regulation and Reclamation Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bmrr/bmrr01.htm>>.
824. Bureau of Mining Regulation and Reclamation Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bmrr/bmrr01.htm>>.
825. Bureau of Mining Regulation and Reclamation Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bmrr/bmrr01.htm>>. *See also* NRS §§ 445A.300 - 445A.730, 519A.010 - 519A.290; NAC §§ 445A.350 - 445A.447, 519A.010 - 519A.415.
826. NRS § 445B.300.
827. Bureau of Corrective Actions Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bca/bca01.htm>>.

828. Bureau of Corrective Actions Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bca/bca01.htm>>.
829. Bureau of Corrective Actions Web Site (last visited August 22, 2007) <<http://www.ndep.nv.gov/bca/bca01.htm>>.
830. NRS §§ 459.860 - 459.892.
831. NRS § 459.878.
832. NRS §§ 459.898, 459.884.
833. NRS § 459.888.
834. NRS § 459.892.
835. NAC §§ 503.030, 503.050, 503.065, 503.075, 503.080.
836. NAC § 503.090.
837. NAC § 503.093.
838. NRS §§ 527.050, 527.260, 527.270.
839. NAC § 527.060.
840. NRS § 527.270.
841. NRS § 600.300.
842. NRS § 600.290.
843. NRS § 600.310.
844. *A.L.M.N., Inc. v. Rosoff*, 104 Nev. 274, 757 P.2d 1319 (1988).
845. NRS §§ 600.330 - 600.450.
846. *A.L.M.N., Inc. v. Rosoff*, 104 Nev. 274, 757 P.2d 1319 (1988); *7-11 Minit Mkts., Inc. v. Southland Corp.*, 301 F. Supp. 1000 (D. Nev. 1969).
847. *Caesar's World, Inc. v. Milanian*, 247 F. Supp. 2d 1171, 1193 (D. Nev. 2003).
848. NRS § 600.300. *See generally* *A.L.M.N., Inc.*, 104 Nev. 274, 757 P.2d 1319 (1988).
849. NRS § 600.330.
850. NRS §§ 600.320, 600.340.
851. NRS §§ 600.340, 600.343.
852. NRS § 600.360.
853. NRS § 600.360.
854. NRS § 600.370.
855. NRS § 600.390.
856. 15 U.S.C. § 1111 (2007).
857. 15 U.S.C. § 1111 (2007); *See, e.g., Fox-Stanley Photo Prods., Inc. v. Otaguro*, 339 F. Supp. 1293 (D.Mass. 1972); *Elizabeth Arden Sales Corp. v. Faberge, Inc.*, 304 F.2d 891 (C.C.P.A. 1962).
858. NRS § 602.010.
859. NRS § 602.050.
860. NRS § 602.017.
861. NRS § 602.090.
862. *See El Rancho, Inc. v. First Nat'l Bank of Nevada*, 406 F.2d 1205, 1209-10 (9th Cir. 1968) (citing *Paterson v. Condos*, 55 Nev. 134, 28 P.2d 499 (1934)).
863. NRS § 602.070.
864. NRS §§ 600A.010 *et seq.*
865. NRS § 600A.030(5)(a).
866. NRS § 600A.030(5)(b).
867. NRS § 600A.032.
868. NRS § 600A.032.
869. NRS §§ 600A.040 - 600A.050.
870. NRS § 600A.050.
871. NRS § 600A.060.
872. NRS § 600A.035.
873. 17 U.S.C. §§ 101 *et seq.* (2007).
874. For a treatment of common law copyright in Nevada, *see* *Smith v. Recrion Corp.*, 91 Nev. 666, 541 P.2d 663 (1975) (holding that copyright law protects against only the taking of expression of ideas as distinguished from the taking of the ideas themselves, and that generally abstract ideas will not be protected without a showing that the idea is concrete, ready for immediate use without additional embellishment – and novel).

875. NRS §§ 597.720 - 597.760.
876. NRS § 597.750.
877. NRS § 597.720(3).
878. NRS § 597.720(3)(a)-(d).
879. NRS § 597.730(1).
880. NRS §§ 597.730 - 597.740.
881. NRS § 597.740(1)-(4).
882. NRS § 597.760(1).
883. NRS § 597.760(2).
884. NRS § 597.790(1).
885. NRS § 597.790(2).
886. NRS §§ 597.790(1)-(2), 597.800.
887. NRS § 597.800(5).
888. NRS § 597.800(5).
889. NRS § 597.800(5).
890. NRS § 597.800(2).
891. NRS § 597.810(1)(a)-(b).
892. NRS § 597.810(2).
893. NRS § 597.790(1)-(3).
894. NRS § 597.790(2).
895. 35 U.S.C. §§ 101 *et seq.* (2005).
896. 35 U.S.C. §§ 101 *et seq.* (2005).
897. NRS § 600.500.
898. NRS §§ 719.010 - 719.350.
899. NRS § 719.240. *See also* NRS § 719.200(2)(a) for instruments which must be signed in non-electronic form such as wills, codicils or testamentary trusts.
900. NRS § 719.220.
901. NRS § 719.090.
902. NRS § 719.100.
903. *See* NRS §§ 719.010 - 719.350.
904. NRS §§ 719.260 - 719.270.
905. NRS § 719.270(1).
906. NRS § 719.270(2).
907. NRS § 719.270(3).
908. NRS § 449.485.
909. *See* NRS § 338.140 (for those bids required by a public body to be submitted electronically).
910. *See* NRS § 353.1467 (effective as of July 1, 2008).
911. NEV. CONST. ART. 6, §§ 1, 6.
912. NRS § 3.0105(1).
913. NEV. CONST. ART. 6, §§ 1, 9.
914. NEV. CONST. ART. 6, §§ 5, 8; NRS §§ 4.020, 5.020.
915. NEV. CONST. ART. 6, § 6. *See also* NRS § 4.370.
916. NEV. CONST. ART. 6, § 6.
917. NRS § 4.370. There are, however, some matters in which Justice Court has exclusive jurisdiction regardless of value. *See, e.g.*, NRS § 4.370(p).
918. First Judicial District: Storey County and Carson City; Second Judicial District: Washoe County; Third Judicial District: Churchill and Lyon Counties, Fourth Judicial District: Elko County; Fifth Judicial District: Mineral, Esmeralda and Nye Counties; Sixth Judicial District: Lander, Pershing and Humboldt Counties; Seventh Judicial District: Eureka, White Pine and Lincoln Counties; Eighth Judicial District: Clark County; Ninth Judicial District: Douglas County. NRS § 3.010.
919. NRS §§ 3.011 - 3.019.
920. *See* NRCP 16.1 (early case conference/initial disclosures); NRCP 68 (offers of judgment).
921. *See* SCR 175.
922. *Compare* Rules of Practice for the Second Judicial District Court of the State of Nevada (“WDCR”) 12.5. *with* Rules of Practice for the Eighth Judicial District Court of the State of Nevada (“EDCR”) 2.20(a).

923. EDCR 1.33. The five divisions are: (1) Civil/Criminal division (judges hear both matters, judges assigned as needed); (2) Business Court division (exclusively business related matters and at least 2 judges); (3) Civil Only division (exclusively civil matters not placed in the Business Court Division, judges assigned as needed); (4) Drug Court/Overflow division (judges assigned as needed); and (5) Overflow division (judges assigned as needed).
924. EDCR 1.33.
925. EDCR 1.61(c) - (d).
926. WDCR 2.1.
927. NRS §§ 38.250-38.259; SCR, Subpart A. Nevada Arbitration Rules (“NAR”) Rules 1 - 24.
928. NAR 3; NRS §38.250.
929. NAR 3, 18.
930. NRS § 4.020.
931. NRS § 4.370.
932. NEV. CONST. ART. 6, § 1.
933. NEV. CONST. ART. 6, § 3; NRS § 2.010.
934. NEV. CONST. ART. 6, § 3.
935. NEV. CONST. ART. 5, § 8.
936. NEV. CONST. ART. 6, § 4, SCR 10.
937. NRAP 25A; NRS § 2.135.
938. NRAP 16.
939. NRS §§ 38.035, 38.219.
940. NRS §§ 38.206 - 38.248.
941. NRS §§ 38.017, 38.216.
942. NRS §§ 38.035, 38.219.
943. NRS § 360.750.
944. Under Nevada law, opportunities are available to projects organized under Section 501 of the Internal Revenue Code for the issuance of tax-exempt industrial development bonds in order to promote industry and employment and develop trade by inducing manufacturing, industrial, warehousing and commercial enterprises and organizations for research and development to locate, remain or expand in Nevada to further prosperity throughout Nevada and to further the use of the agricultural products and the natural resources of Nevada. *See generally* NRS §§ 349.400 - 349.670.
945. *See* NRS § 363B.120.
946. *See* NRS §§ 231.141 - 231.152.
947. NRS § 701A.210.
948. NRS §§ 360.750, 701A.210.
949. NRS §§ 701A.210 (1)(a), (2), (4).
950. NRS §§ 360.750, 701A.210 (2) (a)(1). The exemption, however, applies only to the business for which certification was granted and the property used in connection with that business. The exemption also does not apply to property in existence and subject to taxation before the certification was granted. NRS § 701A.210(3).
951. *See* NRS § 374.357.
952. NRS § 374.357(1).
953. NRS § 374.357; NRS § 360.750.
954. NRS § 374.357; NRS § 360.750.
955. NRS § 360.750. *See also* NRS § 374.357.
956. NRS § 372.397. The tax may be deferred interest free, however, payment of deferred taxes must be made each month in an amount sufficient to pay the total obligation within the specified time period. NRS § 372.397. The CED, whenever it deems it necessary to insure compliance with state law, may require security for such a deferred payment. NRS § 372.510.

957. NRS § 372.397(2). If a purchase is made outside of the state from a retailer not registered with the CED, an application for deferment must be made in advance or within 60 days after the date on which the tax is due. If a purchase is made in Nevada from a retailer registered with the CED and to whom the tax is paid, an application must be made within 60 days after the payment of the tax. NRS § 372.397(2).
958. *See* NRS § 372.397(3).
959. NRS § 372.397(4).
960. NRS § 231.147.
961. NRS § 231.143. *See* NRS § 231.147.
962. NRS § 231.147(4).
963. NRS § 231.147(2).
964. NRS § 363B.120(1). *See also* NRS § 360.750.
965. NRS § 360.750(2).
966. NRS § 363B.120(1).
967. NRS § 360.750(7). *See also* NRS § 99.040.
968. *See* NRS § 662.015(1).
969. NRS § 662.015(1).
970. NRS § 662.015(1)(f).
971. *See* NRS § 660.015.
972. *See* NRS § 659.045, “chartering” a bank means to license the bank under state banking laws and regulations.
973. NRS § 659.045.
974. *See* NRS §§ 659.045, 659.085. Generally, a state chartered bank commencing business in Nevada must have an initial capitalization of at least \$2,000,000 to meet the FDIC’s minimum capitalization requirements. This amount is substantially larger than Nevada’s capitalization requirements.
975. This requirement does not apply to a foreign bank transacting business authorized under federal law or to a foreign bank with no in-state branch making loans secured by real property. In addition, a foreign bank organized under the law of a United States territory may operate an interstate branch in Nevada. *See* NRS § 666A.080.
976. NRS § 666A.130.
977. NRS § 666.002. “Acquire” or “acquisition” means to acquire control, acquire all or substantially all assets, assume all liability for deposits, or establish a new institution.
978. NRS § 666.305.
979. NRS § 666.305.
980. NRS § 666.390.
981. NRS § 666.390(1).
982. NRS § 666.390(2).
983. NRS §§ 669.029, 669.070.
984. NRS § 669.045 (defining “fiduciary”).
985. *See* NRS § 669.110.
986. *See* NRS § 669.100.
987. *See* NRS § 669.190.
988. *See* NRS § 669.210.
989. *See* NRS § 669.240.
990. NRS § 677.790.
991. NRS § 677.190.
992. *See* NRS § 677.210.
993. NRS § 677.247.
994. NRS § 659.015.
995. NRS § 673.070.
996. NRS § 673.080.
997. *See, e.g.*, NRS §§ 673.113, 673.250 - 673.2758, 673.377.
998. *See* NRS §§ 673.595 – 673.750.
999. *See, e.g.*, NRS § 673.377(1).

1000. NRS § 673.070(2).
1001. NRS §§ 673.276 - 673.316, 673.324 - 673.332.
1002. NRS § 645B.020; *see also* NRS §§ 645B.015, 645B.016.
1003. *See* NRS § 645B.020(1).
1004. *See* NRS § 645B.020(1).
1005. *See* NRS § 645B.020(1)(b); Nev. Op. Att’y. Gen. 98-33.
1006. NRS § 645E.100.
1007. NRS §§ 645B.0127, 645E.100.
1008. NRS § 645E.200(5).
1009. *See* NRS § 645B.018.
1010. NRS §§ 645B.015, 645E.150.
1011. NRS § 645B.016.
1012. *See* NRS § 80.015(3)(c - d).
1013. *See* NRS §§ 675.040, 675.060.
1014. *See* NRS § 675.120.
1015. *See* NRS § 97.285, *see also* NRS § 97.115.
1016. NRS § 675.210.
1017. NRS § 675.210.
1018. NRS § 675.250.
1019. NRS § 675.230.
1020. *See, e.g.*, NRS §§ 675.300, 675.310, 675.330, 675.340, 675.350, 675.361, 675.363, 675.367, and 675.369.
1021. *See* NRS Chapter 658.
1022. *See* NRS Chapters 205, 598D, 604, and 645F.
1023. NRS § 90.460.
1024. NRS § 90.830(4).
1025. NRS § 90.830(5), (6), (7).
1026. NAC § 90.534(1).
1027. NRS § 90.460.
1028. NRS § 90.295.
1029. *Compare* NRS § 90.490, *with* §§ 90.470 and 90.480.
1030. NRS § 90.470(1).
1031. NRS § 90.470(1); if a firm meets these requirements, however, they are typically qualified for an exemption (*see* NRS §§ 90.520, 90.530), and will not need to register by filing.
1032. NRS § 90.470(2).
1033. NRS § 90.470(3).
1034. NRS § 90.480(1).
1035. NRS § 90.480(2).
1036. NRS §§ 90.480(3), (7).
1037. NRS § 90.490(1).
1038. NRS § 90.490(2).
1039. *See* NRS § 90.520 (exempt securities); NRS § 90.530 (exempt transactions).
1040. NRS § 90.540.
1041. NRS §§ 90.520(2)(g) - 90.520(2)(h); NAC § 90.500.
1042. NAC § 90.525.
1043. NRS § 90.530(7).
1044. *See* NRS §§ 90.520 - 90.540.
1045. *See* NRS §§ 90.520 - 90.540.
1046. NRS §§ 90.310 - 90.320.
1047. NRS §§ 90.330 - 90.340.
1048. NRS § 90.340(1).
1049. NRS § 90.340(1)(b).
1050. NRS § 90.340(1)(c).
1051. NRS § 90.570.
1052. NRS §§ 90.615 - 90.630.
1053. *See* NRS § 90.630.
1054. Secretary of State, Securities Division v. Tretiak, 117 Nev. 299, 308, 22 P.3d 1134, 1139-40 (2001).
1055. *See, e.g.*, NRS § 78.070(4) (“Subject to such limitations, if any, as may be contained in its articles of incorporation, every corporation has the following powers: (4)

- To . . . hold, purchase, lease, mortgage, convey and take by devise or bequest real . . . property in [Nevada.]”).
1056. *See, e.g.*, NRS § 80.015.
1057. NRS § 111.060. *See also* Chapter 23 of this Guide on “Spousal Rights” for special rules that apply to married persons.
1058. *Rasmussen v. Thomas*, 98 Nev. 216, 220, 644 P.2d 1030, 1033 (1982).
1059. *Sack v. Tomlin*, 110 Nev. 204, 213, 871 P.2d 298, 304 (1994); *see also* *Pathland Dev. Corp. v. William Peccole 1982 Trust*, 110 Nev. 678, 680, 877 P.2d 1036, 1038 (1994).
1060. NRS § 111.065.
1061. NRS § 132.210; *Smith v. Shrieves*, 13 Nev. 303, 314 (1878).
1062. *Forrest v. Forrest*, 99 Nev. 602, 605, 668 P.2d 275, 277 (1983).
1063. NRS § 111.312(1)(a).
1064. NRS § 111.312(1)(b).
1065. NRS §§ 111.105, 111.240; *see also* NRS §§ 240.040, 240.1635 - 240.1655, 240.166, 240.1665.
1066. *See, e.g.*, NRS §§ 111.312, 247.110(3).
1067. NRS §§ 107.080 - 107.090.
1068. *See* NRS §§ 40.430 - 40.462, 107.080 - 107.095.
1069. NRS § 107.080(5).
1070. NRS § 21.210.
1071. NRS § 40.430.
1072. *McDonald v. Alexander*, 123 P.3d 748, 751 (2005); *Bonicamp v. Vasquez*, 120 Nev. 377, 380 (2004) (“As a general matter, should the creditor fail to follow the single action procedure by bringing a separate action directly on the obligation, the one-action rule dictates the creditor’s loss of rights in the real estate collateral securing the debt in question.”).
1073. NRS § 40.435(1)(a).
1074. NRS § 40.455.
1075. NRS §§ 40.455(1)-(2).
1076. NRS § 40.457(1).
1077. NRS § 40.459.
1078. NRS §§ 106.350 - 106.360.
1079. NRS § 106.370.
1080. *See* *J.A. Jones Constr. Co. v. Wilmington Trust Co. (In re Resort at Summerlin Litig.)*, 127 P.3d 1076, 1080 (2006); *S. Trust Mortgage Co. v. K & B Door Co.*, 104 Nev. 564, 567-68, 763 P.2d 353, 355 (1988).
1081. NRS § 106.380.
1082. NRS § 40.430.
1083. NRS §§ 40.495, 40.453.
1084. NRS § 40.495.
1085. NRS § 32.010.
1086. NRS § 32.010(2).
1087. NRS § 107.100(2).
1088. *See* *Moore v. Prindle*, 80 Nev. 369, 377-79, 394 P.2d 352, 357-58 (1964).
1089. *See* *Flyge v. Flynn*, 63 Nev. 201, 223, 166 P.2d 539, 549 (1946).
1090. *Jordan v. Bailey*, 113 Nev. 1038, 1044, 944 P.2d 828, 832 (1997).
1091. *Jackson v. Nash*, 109 Nev. 1202, 1210, 866 P.2d 262, 268 (1993).
1092. *Boyd v. McDonald*, 81 Nev. 642, 649, 408 P.2d 717, 721 (1965).
1093. NRS §§ 111.205(1), 111.210.
1094. The doctrine of part performance may allow enforcement of an oral agreement when (1) the terms of the oral agreement are definitely established, (2) the acts of the performing party are done with a view to the agreement being

performed, and (3) the party seeking to enforce the agreement has performed or is ready and willing to perform all essentials of the agreement required to be performed by such party. *Summa Corp. v. Greenspun*, 96 Nev. 247, 252, 607 P.2d 569, 572 (1980), *modified on rehearing* 655 P.2d 513 (1982).

The doctrine of estoppel may be asserted as a defense to the application of the statute of frauds if the party asserting estoppel has been influenced by the acts or silence of the other party. *See Zunino v. Paramore*, 83 Nev. 506, 508, 435 P.2d 196, 197 (1967). *See also Edwards Indus. v. DTE/BTE, Inc.*, 923 P.2d 569, 574 (1996) (despite lack of written agreement tenant's conduct of occupying the premises and paying rent created month-to-month tenancy supporting landlord's claim for unpaid rents); *Jones v. Barnhart*, 89 Nev. 74, 76, 506 P.2d 430, 431 (1973) (complaint for specific performance of oral contracts for sale of real property contained allegations of reliance sufficient to defeat conclusion that statute of frauds necessarily applied).

1095. *See* NRS § 375.090(3).
1096. NRS §§ 108.222, 108.234.
1097. NRS §§ 108.222, 108.234(2)(a).
1098. NRS §§ 108.234(7), 108.2403.
1099. NRS § 108.234(6).
1100. NRS §§ 40.215 *et seq.* *See also Aikins v. Andrews*, 91 Nev. 746, 748, 542 P.2d 734, 736 (1975) (strict compliance with 5-day statutory notice required for summary eviction under NRS § 40.250 despite contrary lease provision).

1101. NRS § 40.360. Rents are not among the damages which may be trebled. *Regan v. King*, 39 Nev. 216, 156 Pac. 688 (1916).
1102. *See Davidsohn v. Doyle*, 108 Nev. 145, 148, 825 P.2d 1227, 1229 (1992) (notice requirements for unlawful detainer action do not apply when a landlord seeks termination under a lease provision in an action for declaratory relief). *Davidsohn* did not discuss how a landlord would regain possession of the premises in the event of such a termination.
1103. NRS §§ 118A.010 - 118A.530.
1104. NRS § 118A.180(2).
1105. NRS § 118A.200(1).
1106. NRS § 118A.200(2). *See also* NRS § 118A.220 (enumeration of prohibited provisions).
1107. NRS § 118A.242.
1108. NRS § 118A.260.
1109. NRS § 118A.310.
1110. NRS § 118A.290.
1111. NRS § 118A.355.
1112. NRS § 118A.320.
1113. NRS § 118A.330.
1114. NRS § 40.250. Tenants who possess the property after a notice to quit, after defaulting on rent payments or who otherwise violate their lease are also guilty of unlawful detainers. NRS §§ 40.251 *et seq.*
1115. NRS § 40.251(1)(b)(1) (requiring 7 days notice for week to week tenancies and 30 days' notice for all other periodic tenancies). All notices must be clear and unequivocal statements; a conditional or uncertain notice will not meet the statutory requirements. *See, e.g., Roberts v. Second Judicial Dist. Court*, 43 Nev. 332, 185 Pac. 1067 (1920).

- In addition, a landlord may choose to use the Las Vegas Constable's Office to serve such notices.
1116. See http://www.co.clark.nv.us/Constable/Eviction_Process.htm (last visited November 25, 2007).
1117. This section is not applicable to tenants with week-to-week tenancies. NRS § 40.251(2).
1118. NRS §§ 40.251(b)(2), NRS 40.251(2).
1119. NRS § 118B.020.
1120. NRS § 118B.040(2).
1121. NRS § 118B.040(3).
1122. NRS § 118B.060(3).
1123. NRS § 118B.060(4).
1124. NRS § 118B.060(4).
1125. See, e.g., NRS §§ 118B.065, 118B.067, 118B.070, 118B.075, 118B.077, 118B.090, 118B.157, 118B.173.
1126. NRS §§ 118B.086 - 118B.089.
1127. See, e.g., NRS §§ 40.251(1), 40.2512 (providing that a tenant of a manufactured home lot can be guilty of unlawful detainer); *cf.* NRS §§ 40.253(10), 40.255(2) (these sections state that the summary eviction procedures do not apply to tenant of a mobile home lot).
1128. NRS §§ 40.300(1), (2).
1129. NRS § 40.300(3).
1130. NRS § 278.020.
1131. NRS § 278.030.
1132. NRS § 278.02514.
1133. NRS § 278.02528(1).
1134. Las Vegas Mun. Code § 19A.00.030(A)(2).
1135. Reno Annexation & Land Dev. Code § 18.02.103(h).
1136. See, e.g., NRS § 278.250 (granting the governing bodies of cities, counties, and regions the power to adopt zoning districts and zoning regulations).
1137. NRS § 522.050; see also NAC § 522.210.
1138. NAC § 522.400.
1139. NAC § 522.380.
1140. NAC § 522.255.
1141. NAC § 522.440.
1142. NAC §§ 522.345, 522.365, 522.415, 522.465, 522.480, 522.540.
1143. NRS Chapter 534A (geothermal resources); NAC Chapter 534A.
1144. *Jones v. Adams*, 19 Nev. 78, 6 P. 442 (1885). Under the riparian rights doctrine, a landowner has control over the waterways passing over or under his or her land, and decisions regarding the use and management of the water are left to the discretion of the individual landowner. *United States v. State Engineer*, 117 Nev. 585, 591, 27 P.3d 51, 55 (2001).
1145. *Reno Smelting, Milling & Reduction Works v. Stevenson*, 20 Nev. 269, 21 P. 317 (1889). The appropriative water rights doctrine recognizes water rights based on the time of use, as well as actual use, of water without regard to the ownership of land contiguous to a waterway, and the government, not the landowner, makes decisions regarding the use and management of the water. *United States v. State Engineer*, 117 Nev. 585, 591-592, 27 P.3d 51, 55 (2001).
1146. Nevada Department of Conservation and Natural Resources, Division of Water Resources, Our Mission, <http://water.nv.gov/home/Mission.cfm> (last visited July 25, 2007).

1147. NRS § 532.010.
1148. NRS § 532.020.
1149. NRS §§ 532.120, 533.090.
1150. NRS § 532.165.
1151. NRS § 532.170.
1152. NRS § 532.220.
1153. NRS § 533.325.
1154. NRS §§ 533.437, 533.4375.
1155. NAC § 513.100.
1156. NAC § 513.110.
1157. NAC § 513.120.
1158. NAC § 513.330.
1159. NAC § 513.340.
1160. NAC § 513.390.
1161. NRS §§ 37.0095, 37.030.
1162. NRS § 37.070.
1163. NRS § 37.040.
1164. NRS § 37.010.
1165. *See, e.g.*, NRS §§ 268.008 (cities), 244.157 (counties), 318.190 (general improvement districts), 408.489 (Nev. Dep't of Transp.).
1166. NRS § 37.010(3).
1167. NRS §§ 37.010(1)-(2).
1168. NRS § 37.270.
1169. NRS § 37.060.
1170. NRS § 37.100(2). Before obtaining possession of the property, the plaintiff must give the property owner a copy of all appraisals of the property obtained by the plaintiff. NRS § 37.100(1).
1171. NRS § 37.100(5).
1172. NRS § 37.100(6).
1173. NRS § 37.120(3). Nevada Revised Statutes Chapter 37 does not define "government offsets".
1174. NRS §§ 37.110, 37.111.
1175. NRS § 37.009(6).
1176. NRS § 37.100(6).
1177. NRS § 37.100(6).
1178. *See State ex rel. Dep't. of Transp. v. Barsy*, 113 Nev. 712, 941 P.2d 971 (1997).
1179. *See State Dep't. of Transp. v. Cowan*, 120 Nev. 851, 103 P.3d 1 (2004); *see also* NRS § 37.111.
1180. *See State ex rel. Dep't. of Transp. v. Las Vegas Bldg. Materials, Inc.*, 104 Nev. 479, 482, 761 P.2d 843, 846 (1988).
1181. NRS § 37.115; *see also County of Clark v. Sun State Props., Ltd.*, 119 Nev. 329, 337, 72 P.3d 954, 959 (2003).
1182. *See County of Clark v. Sun State Props., Ltd.*, 119 Nev. 329, 72 P.3d 954 (2003).
1183. NRS § 123.130.
1184. NRS § 123.220.
1185. *Forrest v. Forrest*, 99 Nev. 602, 604-05, 668 P.2d 275, 277 (1983); *Zahringer v. Zahringer*, 76 Nev. 21, 25, 348 P.2d 161, 164 (1960).
1186. *Fick v. Fick*, 109 Nev. 458, 461, 851 P.2d 445, 448 (1993).
1187. *Johnson v. Johnson*, 89 Nev. 244, 246-47, 510 P.2d 625, 626 (1973).
1188. NRS § 111.064.
1189. NRS § 123.170.
1190. NRS § 123.230.
1191. NRS § 125.150(1)(b).
1192. NRS § 123.250(1).
1193. NRS § 111.064(2) (allowing survivorship right to be created between husband and wife).
1194. *Choate v. Ransom*, 74 Nev. 100, 104, 323 P.2d 700, 702 (1958).
1195. NRS § 111.210.
1196. NRS § 111.210(1).
1197. *See, e.g.*, NRS §§ 113.100 - 113.150.
1198. NRS § 692A.120.

1199. NRS § 205.330.
1200. NRS § 205.365(1).
1201. *Mackintosh v. Jack Matthews & Co.*, 109 Nev. 628, 632-33; 855 P.2d 549, 552-53 (1993). Rescission of the contract and the awarding of attorneys' fees are two possible remedies that may be sought in legal actions brought to enforce the seller's duty to disclose. *Mackintosh v. Cal. Fed. Sav. & Loan Ass'n*, 113 Nev. 393, 403-06 (1997).
1202. NRS § 361.483(1)-(2). If a person elects to pay in quarterly installments, the installments are due on the third Monday of August, the first Monday of October, the first Monday of January, and the first Monday of March, respectively. NRS § 361.483(6).
1203. *See* Chapter 7 of this Guide on "Taxation."
1204. NRS § 111.105.
1205. NRS § 111.315.
1206. *See, e.g.*, NRS §§ 111.312, 247.110(3).
1207. Nevada has adopted the Uniform Real Property Electronic Recording Act. NRS §§ 111.366 - 111.3697.
1208. NRS § 111.170.
1209. NRS §§ 692A.105(1)(f)-(g), 645A.090 (setting forth disciplinary actions and fines for title agents, escrow officers, escrow agents and escrow agencies who fail, without reasonable cause, to deliver the parties their respective buyer/seller closing statement within a reasonable period of time after the closing). *See also* NRS § 645.635(4) (imposing an obligation on a broker, broker-salesman and a salesman of real estate to deliver to the buyer a final closing statement within 10 days of the closing).
1210. *See, e.g.*, NRS §§ 80.001 - 80.280 (corporations, including non-profits); NRS §§ 86.543 - 86.549 (limited liability companies); NRS §§ 87.541 - 87.544 (registered limited liability partnerships); NRS §§ 88.570 - 88.605 (limited partnerships); NRS §§ 88A.700 - 88A.750 (business trusts); NRS §§ 88.350 - 88.565 (limited partnerships formed before October 1, 2007, which do not voluntarily elect to be governed by the provisions of NRS Chapter 87A; or formed on or after October 1, 2007, which voluntarily elect to be governed by the provisions of this chapter); NRS §§ 87A.235 - 87A.565, which adopt the Uniform Limited Partnership Act (2001), and provide the default statutory scheme governing limited partnerships formed on or after October 1, 2007, except those voluntarily electing to be governed by NRS Chapter 88.
1211. Nev. Att'y. Gen. Op. 47-436 (March 26, 1947) opined that a foreign non-profit cooperative needed to comply with Nevada statutory provisions governing qualification of corporations in Nevada.
1212. *See, e.g.*, NRS §§ 80.001 - 80.280 (corporations, including non-profits); NRS §§ 86.543 - 86.549 (limited liability companies); NRS §§ 87.541 - 87.544 (registered limited liability partnerships); NRS §§ 88.570 - 88.605 (limited partnerships); NRS §§ 88A.700 - 88A.750 (business trusts); NRS § 87A.615 (limited partnerships).
1213. *See* Chapter 7 of this Guide on "Taxation."
1214. NRS §§ 80.015, 86.5483, 88.602.

1215. *See* NRS § 80.015(3) (foreign corporations); NRS § 86.5483(3) (limited liability companies); NRS § 88.602(3) (limited partnerships); NRS §§ 87A.615, 88.602 (limited partnerships).
1216. For example, mortgage bankers and brokers. *See* Chapter 14 of this guide.
1217. *See, e.g.*, NRS §§ 80.010, 80.060, 80.110, 80.140; NRS §§ 86.543 - 86.549.
1218. NRS § 80.190.
1219. Nev. Att’y. Gen. Op. 59-16 (March 4, 1959).
1220. *See* Chapter 29 of this Guide on “Gaming.” Although, arguably, a corporation does not have to be licensed in the State of Nevada to obtain a gaming license, “[i]t is the policy of the [Nevada Gaming Commission] that, ordinarily, it will not grant a state gaming license to a corporation which is not incorporated in the State of Nevada.” Regulations of the Nevada Gaming Commission and State Gaming Control Board § 15.490.1b-1. Other forms of entities, such as limited liability companies and limited partnerships, are required to be organized in Nevada.
1221. *See* Chapter 2 of this Guide on “Business Organization.”
1222. NRS § 78.039.
1223. NAC §§ 78.020 - 78.100.
1224. *See, e.g.*, NRS § 78.039(3).
1225. *See* NRS § 78.045. This list should be considered illustrative only; there may be names not on the list that may also be rejected if the Secretary of State believes that a name implies an entity is subject to one of the specified regulatory agencies.
1226. NRS § 78.045.
1227. NRS § 78.040.
1228. NRS § 78.040.
1229. NRS § 99.050; *see also* Consumers Distrib. Co. v. Hermann, 107 Nev. 387, 393, 812 P.2d 1274, 1278 (1991).
1230. NRS §§ 99.050, 99.065.
1231. NRS § 646.050(1).
1232. NRS Chapters 462, 463, 463B, 464, 465, 466 (casinos); NAC Chapter 657 (financial institutions); NAC Chapters 679A - 697 (insurance companies); NRS Chapter 704 and NAC Chapter 704 (utilities).
1233. *See* NAC Chapter 628 (accountants); NAC Chapter 624 (contractors); NAC Chapter 369 (intoxicating liquor).
1234. *See, e.g.*, NAC Chapter 623 (architects); SCR Part III (attorneys); NRS Chapter 467 and NAC Chapter 467 (boxing promoters); NAC Chapter 634 (chiropractors); NAC Chapter 649 (collection agencies); NAC Chapter 584 (dairy distributors); NAC Chapter 676 (debt adjusters); NAC Chapter 631 (dentists); NRS Chapter 611 (employment agencies); NAC Chapter 625 (engineers); NAC Chapter 645A (escrow agencies); NRS Chapter 463 and Nev. Gaming Comm’n. Reg. 14 (gaming device manufacturers and distributors); NRS Chapter 625 (land surveyors); NAC Chapter 573 (livestock auctioneers); NAC Chapter 489 (mobile home manufacturers and dealers); NAC Chapter 645E (mortgage companies); NAC Chapter 632 (nurses); NAC Chapter 636 (optometrists); NAC Chapter 639 (pharmacists); NAC Chapter 630 (physicians); NAC Chapter 648 (private investigators); NAC Chapter 641 (psychologists); NRS Chapter 463 and Nev.

- Gaming Comm'n. Reg. 22 (race and sports book operators); NAC Chapter 645 (real estate brokers); NRS Chapter 463, Nev. Gaming Comm'n. Reg. 1 and Nev. Gaming Comm'n. Reg. 4 (slot route operators); NAC Chapter 641B (social workers); NAC Chapter 706 (taxi companies); NAC Chapter 638 (veterinarians).
1235. NRS § 463.1405.
1236. NRS §§ 463.022 - 463.029, 463.120 - 463.144.
1237. NRS § 463.346.
1238. NRS § 463.160.
1239. Nev. Gaming Comm'n. Reg. § 8.030(1), NRS § 463.300.
1240. Nev. Gaming Comm'n. Reg. § 8.060(1).
1241. NRS §§ 463.010 - 463.790.
1242. *See, e.g.*, NRS §§ 463.0129, 463.162, 463.165, 463.167, 463.530, 463.569, 463.5735, 463.637.
1243. *See, e.g.*, NRS §§ 463.160, 463.161, 463.162, 463.520, 463.568, 463.573, 463.635.
1244. NRS §§ 463.430, 463.650, 463.730, 463.750, 464.010
1245. NRS §§ 463.160, 463.161; Nev. Gaming Comm'n. Reg. 4.030.
1246. NRS §§ 463.1405, 463.220.
1247. NRS § 463.318.
1248. NRS § 463.162.
1249. *See, e.g.*, NRS §§ 463.160, 463.161, 463.162, 463.520, 463.569, 463.5735, 463.635.
1250. NRS §§ 463.160, 463.161, 463.162, 463.520, 463.569, 463.5735, 463.635.
1251. *See, e.g.*, Nev. Gaming Comm'n. Reg. 15.490.1b-1; *but see* NRS §§ 463.4862, 463.4864, 463.4865, 463.564, 463.5731.
1252. NRS §§ 463.489 - 463.560; Nev. Gaming Comm'n. Reg. 15.
1253. NRS §§ 463.625 - 463.643; Nev. Gaming Comm'n. Reg. 16.
1254. NRS §§ 463.563 - 463.572; Nev. Gaming Comm'n. Reg. 15A.
1255. NRS §§ 463.573 - 463.5737; Nev. Gaming Comm'n. Reg. 15B.
1256. Nev. Gaming Comm'n. Reg. 15.430 & 16.430.
1257. *See, e.g.*, NRS §§ 463.575 - 463.615; Nev. Gaming Comm'n. Reg. 15, 15A, 15B & 16.
1258. NRS §§ 463.625 - 463.643; Nev. Gaming Comm'n. Reg. 16.
1259. Nev. Gaming Comm'n. Reg. § 3.010.
1260. *See e.g.* Clark County Code Chapter 8.04.
1261. NRS § 463.1605.
1262. NRS §§ 463.3072 - 463.3094.
1263. NRS § 463.370.
1264. NRS §§ 463.373, 463.375.
1265. NRS § 463.380.
1266. Nev. Gaming Comm'n. Reg. § 8.130.
1267. Nev. Gaming Comm'n. Reg. § 8.130.
1268. Nev. Gaming Comm'n. Reg. § 8.130(9).

I N D E X

- Air quality..... 87
Alternative dispute resolution..... 107
 Arbitration 105, 107
 Mediation..... 107
Anti-trust 62-63
 Clayton Act 62
 Sherman Act..... 62
 Unfair Trade Practices Act 62
 Automobiles 62
 Price fixing..... 62-63
 Public contracts 63
Bank excise tax 70
Banking, *see Financial institutions*
Black list 80
Brownfields 91
Bureau of Air Pollution Control..... 87
Bureau of Air Quality (BAQ) 87
Bureau of Corrective Actions 90
Bureau of Mining Regulation and
 Reclamation (BMRR)..... 90
Bureau of Waste Management..... 88-89
Bureau of Water Pollution Control
 (BWPC) 88
Business license 69-70
Business name registration 146-147
 Name reservation 146
 Regulated industries 146
Business tax..... 69, 108, 110
 Abatement..... 109
Business trusts 52-56
 Annual list..... 53
 Beneficial owner 53-54
 Certificate of trust..... 53-55
 Contributions 55
 Dissolution 56
 Certificate of cancellation 56
 Governing instrument..... 53
 Indemnification..... 56
 Initial list 53
 Organization 53
 Records 53-54
 Inspection..... 54
 Registered agent 11-14
 Trustee..... 52
 Duties 56
 Liability..... 55-56
CERCLA..... 91
Child labor..... 75
 Apprenticeship..... 75
 Regulation 76
 Work authorization 75
Clayton Act..... 62
Collection agencies..... 65
Compound interest..... 148
Condemnation, *see Eminent domain*
Consumer protection..... 64-67
 Automotive repairs 67
 Collection agencies 65
 Prohibited practices 65
 Consumer Reporting Act 64
 Requirements..... 64
 Consumer rights 64
 Deceptive Trade Practices Act..... 64
 Consumer remedies 64-65
 Penalties 65
 Memberships..... 67
 Retail installment contracts 66
 Telephone solicitation..... 65
 Penalties 65
 Requirements..... 65
 Warranties 66
 Express warranties..... 66
 Implied warranties..... 66
Consumer Reporting Act..... 64
Conversion..... 57-58
 Plan of conversion 57
Copyright..... 98-99
Corporations..... 11-22
 Annual list..... 12
 Articles of incorporation..... 11-13
 Board of directors..... 14-18
 Alter-ego..... 17
 Board size 14
 Classes of board members 14
 Committees 15
 Election of members 15
 Factors to be considered by board ... 16
 Fiduciary duty 17-18
 Indemnification..... 18
 Meetings..... 14
 Written consent 14
 Powers of the board..... 15
 Removal 15
 Residency 14

Self dealing	16	Employee training.....	109
Bylaws	14-17	Tax abatement.....	110
Central Index Key.....	12	Business tax.....	110
Corporate seal	12	Personal and real property.....	108
Dissolution	13, 20	Sales and use.....	108-109
Generally	14	Electronic record	102
Officers.....	15	Government use	103
Eligibility	15	Electronic signature.....	102
Removal	15	E-mail	102
Required documents.....	12-13	Eminent domain.....	135-137
Registered Agent.....	11-14	Employment records	79-80
Resignation.....	13	Confidential files.....	79
Courts	104-107	Inspection	79
Appellate Court, <i>see Supreme Court</i>		Non-compete agreements	80-81
District Court	104-105	Employment Security Division	84
Court Annexed Arbitration Program ...	105	Employee privacy rights	85
Eighth Judicial District	105	Endangered species.....	91
Jurisdiction	104	Equal Rights Commission, <i>see Nevada</i>	
Number	104	<i>Equal Rights Commission</i>	
Rules	104	Family and Medical Leave Act (FMLA) 82	
Second Judicial District.....	105	Fictitious firm name	46, 97
Justice Court.....	105-106	Prohibited terms	97
Jurisdiction	105	Registration	97
Justice of the Peace	105	Financial institutions.....	111-116
Rules	105	Foreign banks.....	112
Small Claims, <i>see Justice Court</i>		Industrial loan bank (ILB)	113
Supreme Court	106	Installment loan company.....	115-116
Appellate process.....	106	Licensing	115
Jurisdiction	106	Records	116
Rules	106	Out-of-state banks.....	112
Settlement Program	106	Savings & loan	114
Structure.....	106	Conversion to state chartered	114
Deceptive Trade Practices Act	64	Licensing	114
Department of Air Quality and		Limitations	114
Environmental Management		Services provided.....	114
(DAQEM)	87	State chartered banks.....	111-112
Digital signature, <i>see Electronic signature</i>		Branches	111
Discharge permits.....	88	FDIC membership	112
National Pollutant Discharge		Principal office location	111
Elimination System (NDPES).....	88	Services provided.....	111
Stormwater.....	88	Thrift companies	113-114
Underground Injection Control (UIC)88		Conversion to state chartered	114
Discrimination, laws against	81-82	Deposit insurance	113
Dissenter	59	Licensing	113
Fair value.....	59	Services provided.....	113
Rights.....	59	Trust companies	112-113
Domestication.....	58	Licensing	113
Articles of domestication	58	Organization	113
Date of existence	58	Services provided.....	112
Economic development incentives 108-110		Foreign direct investment	60-61
		Foreign corporation qualification 144-145	

Franchises	68	Manager	41
Gaming Commission, <i>see Nevada Gaming Commission</i>		Meetings.....	43
Gaming Control Board, <i>see Nevada State Gaming Control Board</i>		Member.....	41-42
Gaming	150-156	Organization	38-40
Fees	156	Articles of Organization	39
Licensing	151-155	Initial list	39
Business entities	152-153	Operating agreement	39
Gaming devices.....	149-151	Records	40-41
Holding company	154	Inspection	41
Institutional investor.....	154	Location	40
Landlords	152	Registered agent	39, 41
Licensed persons.....	151	Series LLC	38-40
Limited liability company	154	Dissolution	44-45
Limited partnership	153	Liability	38
Local licensing.....	155	Members	39
Operator.....	152	Organization	38-40
Owner	152	Records	40-41
Private corporation.....	153	Registered agent	39, 41
Public corporation	153	Taxation	44
State licensing.....	151-155	Voting.....	41
Types of license.....	151	Taxation	38, 44
Location	155-156	Winding-up	44
Taxation	156	Written consent	41
Transactions	156	Limited Liability Partnership, <i>see Partnership</i>	
General Partnership, <i>see Partnership</i>		Limited Partnership, <i>see Partnership</i>	
Harassment	65, 79, 106	Live entertainment tax	73
Hazardous materials	88-90	Marriage, <i>see Spousal rights</i>	
Hazardous waste.....	88-90	Meal periods	76
Hazardous Waste Management Program..	89	Merger	56-57
89		Plan of merger	57
High interest loan.....	65	Mineral rights	133-134
Lender licensing.....	65	Division of Minerals.....	134
Interest limits.....	65	Gas.....	133
Payment amount limit	65	Geothermal.....	133
Income tax	69	Minerals	134
Corporate.....	69	Oil.....	133
Personal.....	69	Water.....	133-134
Interstate banking	112	Division of Water Resources.....	133
Joint Venture.....	23	State Engineer.....	134
Labor unions.....	74	Mining	4, 90, 133-134
Lie detector	85	Exploration	90
Limited Liability Company (LLC) ...	38-45	Mine closure.....	90
Annual list	39	Water protection.....	90
Classes of members.....	42	Mortgage banker.....	111, 114-115
Contributions	42	Definition	115
Dissolution	44-45	Licensing	115
Distributions.....	39, 42-43	Operations.....	115
Indemnification.....	43	Mortgage broker	111, 114-115
Liability	38-39, 43	Exemptions.....	115
		Licensing	114

Operations.....	114	Fictitious name certificate	24
Registration.....	114	Formation.....	24
Nevada Commission on Economic Development (CED)	9, 108	Liability of partners	25
Nevada Department of Business and Industry	83, 111	Records	25
Nevada Division of Environmental Protection (NDEP).....	87-91	Inspection	25
Nevada Division of Financial Institutions (NFID).....	111-113	Location	25
Nevada Division of Forestry	92	Statement of partnership.....	24
Nevada Division of Wildlife	91	Termination.....	26
Nevada Equal Rights Commission	81	Uniform Partnership Act of 1914	24
Nevada Gaming Commission ("Gaming Commission")... 75, 150-156		Uniform Partnership Act of 1997	24
Nevada Industrial Insurance Act	83	Winding-up	26
Nevada Mortgage Lending Division (NMLD)	111, 115	Limited Liability, <i>see Registered Limited Liability</i>	
Nevada Occupational Diseases Act	84	Limited partnership	29-37
Nevada Occupational Safety and Health Act	82-83	Annual list.....	31
Nevada State Forester	92	Certificate of limited partnership	29
Nevada State Gaming Control Board.....	73, 75, 150	Charging order	34
Nevada Thrift Companies Act.....	113-114	Dissolution	35-37
Non-compete agreements.....	80-81	General partner	31
Non-profit corporations.....	47-52	Duties	31
Articles of incorporation.....	47	Liability	33
Board of directors.....	47	Removal	32
Classification	49	Rights.....	31-32
Committees	49	Governance	31-32
Duties.....	48	Initial list	30
Election	49	Limited partner.....	33
Liability.....	49	Admission.....	33
Delegates	49-50	Contributions	31, 34-35
Dissolution	51	Distributions.....	31, 34-35
Members	50-51	Liability	33-34
Dues	50	Limited liability shield	32
Resignation.....	50	Voting.....	32
Voting.....	50	Records	30
Records	48	Inspection	31
Inspection	48	Location	30-31
Location	48	Registered agent	30
Receiver.....	52	Voting.....	32
Registered agent	47	Winding-up	36
Occupational licensing	149	Certificate of cancellation	36
Partnerships	24-38	Payment of creditors.....	36-37
General partnership.....	24	Registered Limited Liability.....	37-38
Capital contributions.....	25	Certificate of registration.....	37
Dissolution	26	Dissolution	38
Election of structure	24	Initial partners.....	38
		Liability	37-38
		Records	38
		Registered agent	38
		Dissolution	38
		Patent.....	96, 101
		Pawnbrokers	148
		Payday loan.....	65

Persona, <i>see Right of publicity</i>	
Pregnancy.....	82
Property tax.....	70-71
Assessment rate.....	70
Exemptions.....	71
Tax cap.....	71
Property transfer tax.....	71-72
Declaration of value.....	71
Exemptions.....	72
Pyramid scheme.....	64
Radioactive waste.....	89
Real Estate.....	121
Closing documents.....	142-143
Closing statement.....	143
Deed.....	142
Escrow.....	140, 143
Financing documents.....	142-143
Settlement statement.....	143
Deed of trust.....	122
Advances.....	123
Definition.....	122
One-action rule.....	123
Recording requirements.....	122
Subrogation.....	123
Easement.....	126
Foreclosure.....	122-123
Judicial foreclosure.....	122
Deficiency judgment.....	123
Receiver.....	124
Trustee sale.....	122
Compliance.....	122
Process.....	122
Title.....	122
Fraud protection.....	141
Land sale contract.....	124
Notice.....	124
Lease.....	127
Commercial.....	127
Default.....	128
Eviction.....	128
Improvements by tenant.....	127
Mechanics lien.....	127
Notice of non-responsibility.....	127
Recording.....	127
Requirements.....	127-128
Termination.....	128
Unlawful detainer.....	128
Mobile home parks.....	129-130
Deposit.....	130
Eviction.....	130
Requirements.....	129-130
Residential.....	128-129
Eviction.....	129
Requirements.....	128-129
Security deposit.....	128
Tenant.....	128-129
Disabled.....	129
Elderly.....	129
Unlawful detainer.....	129
Ownership.....	121
Community property.....	121
Foreign entities.....	121
Joint tenancy.....	121
Tenancy in common.....	121
Proration of prepaid items.....	141
Purchase agreement.....	140
Consideration.....	140
Residential property.....	140
Recycling.....	89, 108
Registered Limited Liability Partnership, <i>see Partnership</i>	
Registered agent.....	11-14, 27-28, 38-41, 47-48, 52-53, 58, 144
Resource Conservation and Recovery Act (RCRA).....	88
Rest periods.....	76
Retail installment contracts.....	66
Right of publicity.....	100-101
Deceased person.....	100
Uses not requiring consent.....	100
Right to work.....	74
Safety.....	82
Sales and use tax.....	72-73
Abatement.....	72
Deferral.....	73
Exemptions.....	73
Re-seller.....	73
Use tax account.....	72
Use tax permit.....	73
Securities.....	117-120
Broker/Dealer.....	118, 120
Registration.....	117-119
Exemptions.....	119
Fraud.....	120
Internet sale or offer.....	117
Investment advisor.....	120
Registration.....	120
Registration methods.....	118
Coordination.....	118
Filing.....	118
Qualification.....	118
Service mark.....	93

Shareholder	60, 111, 113, 153	Trade name	93
Alter-ego	17	Trade secret	80, 98
Fiduciary duty	17	Underground storage tanks	90
Inspection of records	14	Unemployment	69, 84
Preemptive rights	20	Unfair Trade Practices Act	62
Proxy	19	Uniform Arbitration Act	107
Expiration	19	Uniform Electronic Transactions Act (ETA)	102-103
Revocation	19	Uniform Trade Secrets Act	98
Rights	19	Use tax, <i>see Sales and use tax</i>	
Business Combination Act	22	Usury	148
Control Share Act	21	Wages	69-70, 74, 76-79
Shareholder meeting	17	Discharged employees	77
Notice	19	Garnishment	76
Quorum	18	Method of payment	76
Voting trust	19	Minimum wage	77-78
Term	19	Overtime	78
Shares	14-19	Paydays	76
Classes of shares	18	Prevailing rate	79
Record date	19	Resigning employees	77
Stock splits	18	Withheld wages	76
Uncertified	18	Warranties	66, 140
Voting	14-19	Water Pollution Control Law	88
Sherman Act	62	Water quality	88-90
Sole Proprietorship	46	Workers' compensation	83
Solid waste	89	Works of art	99
Special waste	89	Authorship	99
Spousal rights	138-139	Damages for inappropriate display	99
Community property	138	Zoning	131-132
Death of spouse	138	Process	132
Divorce, distribution of property	138	Regional Planning Coalition	131
Right of survivorship	138-139		
Separate property	138		
Statutory exchange	57		
Plan of exchange	57		
Stockholder, <i>see Shareholder</i>			
Termination of employment	79		
Title insurance	140-141		
Trademark	93-97		
Arbitrary mark	94		
Cancellation	96		
Descriptive mark	94		
Fanciful mark	95		
First use	93		
Notice	93, 96		
Use of symbols	93-96		
Protection	93-95		
Registration	93		
Period of protection	96		
Process	96		
Prohibited marks	95		
Use	94		

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THIRD EDITION

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