

DISTRICT COURT CIVIL COVER SHEET

A- 15- 720959- C

County, Nevada

XXXI I

Case No.

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Dollar Loan Center, LLC, a domestic limited-liability company

Defendant(s) (name/address/phone):

State of Nevada, Department of Business and
Industry Financial Institutions Division

Attorney (name/address/phone):

Patrick J. Reilly and Joseph G. Went
Holland & Hart LLP, 9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
702-669-4600

Attorney (name/address/phone):

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Negligence	Torts
Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate	Construction Defect & Contract	Judicial Review/Appeal
Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ	Other Civil Filing	
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

7/6/15

Date

Signature of initiating party or representative

See other side for family-related case filings.

1 **COMP**

2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

Electronically Filed
07/06/2015 10:48:56 AM


CLERK OF THE COURT

9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DOLLAR LOAN CENTER, LLC, a domestic
12 limited-liability company,

13 Plaintiff,

14 vs.

15 STATE OF NEVADA, DEPARTMENT OF
16 BUSINESS AND INDUSTRY FINANCIAL
17 INSTITUTIONS DIVISION,

18 Defendant.

Case No.: A- 15- 720959- C

Dept. No.: XXXI I

COMPLAINT

Exempt from Arbitration—NAR 3(A)
Action Seeking Declaratory Relief

18 Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, the
19 law firm of Holland & Hart LLP, for its Complaint against State of Nevada, Department of
20 Business and Industry, Financial Institutions Division (the "FID"), hereby states and alleges as
21 follows:

22 **PARTIES, JURISDICTION, AND VENUE**

23 1. DLC is an entity created pursuant to the laws of the State of Nevada and is
24 authorized to do business in Clark County, Nevada.

25 2. The FID is an agency of the State of Nevada.

26 3. This Court has subject matter jurisdiction pursuant to Article VI of the Nevada
27 Constitution, and personal jurisdiction over the Defendant in accordance with NRS 14.065, on
28 the grounds that such jurisdiction is not inconsistent with the Nevada Constitution or the

1 United States Constitution, and in accordance with NRS 41.031, under which the State of
2 Nevada waives its sovereign immunity.

3 4. Venue is proper in the Eighth Judicial District Court in accordance NRS 41.031.

4 **GENERAL ALLEGATIONS**

5 5. DLC is a lender licensed pursuant to NRS Chapter 604A and is a "licensee"
6 within the meaning of NRS 604A.075.

7 6. DLC provides a "high-interest loan service" as that term is defined by NRS
8 604A.0705 and makes "high-interest loans" as that term is defined by NRS 604A.0703.

9 7. NRS 604A.480(1) imposes strict limitations upon high-interest lenders from
10 agreeing in writing "to establish or extend the period for the repayment, renewal, refinancing
11 or consolidation of an outstanding loan by using the proceeds of a new . . . high-interest loan to
12 pay the balance of the outstanding loan...."

13 8. NRS 604A.480(2) provides an exception to the foregoing rule, allowing more
14 liberal terms for the repayment, renewal, refinancing or consolidation of an outstanding loan,
15 but only if the licensee satisfies certain terms and does not "commence a civil action or process
16 of alternative dispute resolution on a defaulted loan or any extension or repayment plan
17 thereof."

18 9. The legislative purpose of the foregoing rules—which were enacted in 2005 as
19 part of Assembly Bill 384 in the 73rd Session of the Nevada Legislature—was to prevent
20 borrowers from falling onto the so-called "debt treadmill."

21 10. As a result, NRS 604A.480 bars a licensee from commencing a civil action or
22 process of alternative dispute resolution upon the default of a loan that has been renewed,
23 refinanced, or consolidated under NRS 604A.480(2), and in which its proceeds are used to
24 repay a prior loan underwritten by the licensee.

25 11. However, NRS 604A.480 imposes no restriction on the right to commence a
26 civil action or alternative dispute resolution proceeding upon the default of a high-interest loan
27 in which the proceeds of that loan are not being used to renew, refinance, or consolidate an
28 outstanding loan previously made by the licensee.

1 12. The State of Nevada has provided conflicting authorities to licensees as to the
2 interpretation of the "right to sue" provisions of NRS 604A.480:

- 3 a. In a letter dated July 26, 2011, the State of Nevada Legislative Counsel Bureau
4 opined that NRS 604A.480 does not bar a licensee from commencing a civil
5 action or alternative dispute resolution proceedings upon the default of a high-
6 interest loan that has not been made for the purpose of refinancing, renewing or
7 consolidating an outstanding loan. A true and correct copy of this opinion is
8 attached hereto as **Exhibit "1"**.
- 9 b. In a letter dated October 30, 2012, counsel for the FID opined that NRS
10 604A.480 barred the commencement of any civil action or alternative dispute
11 resolution proceedings upon the default of any high-interest loan, regardless of
12 whether it was an original "loan" as defined by NRS 604A.080. A true and
13 correct copy of this opinion is attached hereto as **Exhibit "2"**.
- 14 c. When considering Senate Bill 123 in the 78th Session of the Nevada
15 Legislature, on March 16, 2015, the Legislative Counsel Bureau stated that
16 high-interest lenders "absolutely" had the ability and right to sue upon a
17 defaulted "original" loan, and that the prohibition against commencing a civil
18 action or alternative dispute resolution proceedings was limited—by both the
19 text of the statute and consistent with its purpose—to refinances of subsequent
20 loans to prevent customers from falling onto a "debt treadmill." Based upon
21 said testimony, Senate Bill 123 was deemed "unnecessary" and "irrelevant" and
22 thus withdrawn from consideration by the Legislature. A true and correct copy
23 of the minutes for this hearing are attached hereto as **Exhibit "3"**.

24 **FIRST CLAIM FOR RELIEF**

25 **(Declaratory Relief)**

26 13. Plaintiff hereby repeats, realleges, and incorporates all of the allegations
27 contained in the preceding paragraphs as though fully set forth herein.
28

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1 14. A true and ripe controversy exists between Plaintiff and the FID as to the
2 interpretation of NRS 604A.480, in particular as to whether said statute prohibits a high-
3 interest lender from commencing a civil action or alternative dispute resolution proceedings
4 upon the default of an original or initial loan to a customer.

5 15. Given the inconsistency of the State as to its position regarding the
6 interpretation of NRS 604A.480, Plaintiff seeks a declaration by this Court interpreting said
7 statute.

8 16. Declaratory relief is necessary to determine the foregoing rights, status, or other
9 legal relations thereunder.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 12 1. For declaratory relief as described herein;
13 2. For preliminary and permanent injunctive relief; and
14 3. For such other and further relief as the Court deems just and proper.

15 DATED this 6th day of July, 2015.

16
17 
18 Patrick J. Neilly, Esq.
19 Joseph G. Went, Esq.
20 HOLLAND & HART LLP
21 9555 Hillwood Drive, Second Floor
22 Las Vegas, Nevada 89134

23 Attorneys for Plaintiff
24
25
26
27
28

EXHIBIT 1

EXHIBIT 1

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6800



LEGISLATIVE COMMISSION (775) 684-6800
STEVEN A. THORP, *Senator, Chairman*
Lorne J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
DEBBIE SMITH, *Assemblywoman, Chair*
Rick Combs, *Fiscal Analyst*
Mark Knapik, *Fiscal Analyst*

LORNE J. MALKIEWICH, *Director*
(775) 684-6800

BRENDA J. PRIDDIS, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD G. WILLIAMS, *Research Director* (775) 684-6825

July 26, 2011

Assemblyman Marcus Conklin
2251 N. Rampart, #305
Las Vegas, NV 89128

Dear Assemblyman Conklin:

You have asked for the opinion of this office concerning whether the provisions of NRS 604A.480 prohibit a licensee under chapter 604A of NRS from commencing a civil action or process of alternative dispute resolution against a customer upon his or her default on a new deferred deposit loan or high-interest loan which is made by the licensee in compliance with the conditions of subsection 2 of NRS 604A.480 and used to pay the balance of an outstanding loan of the customer. It is the opinion of this office that NRS 604A.480 does not impose such a prohibition on a licensee.

The statutory provision about which you have inquired, NRS 604A.480, provides:

- 604A.480 1. Except as otherwise provided in subsection 2, if a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan, the licensee shall not establish or extend the period beyond 60 days after the expiration of the initial loan period. The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.
2. This section does not apply to a new deferred deposit loan or high-interest loan if the licensee:
- (a) Makes the new deferred deposit loan or high-interest loan to a customer pursuant to a loan agreement which, under its original terms:
 - (1) Charges an annual percentage rate of less than 200 percent;
 - (2) Requires the customer to make a payment on the loan at least once every 30 days;

- (3) Requires the loan to be paid in full in not less than 150 days; and
- (4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;
- (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;
- (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;
- (d) Gives the customer the right to rescind the new deferred deposit loan or high-interest loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;
- (e) Participates in good faith with a counseling agency that is:
 - (1) Accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor organization; and
 - (2) A member of the National Foundation for Credit Counseling, or its successor organization; and
- (f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

Subsection 1 of NRS 604A.480 sets forth the generally applicable limitations that apply to a licensee when a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan. Under such circumstances, a licensee is prohibited from: (1) establishing or extending the period beyond 60 days after the expiration of the initial loan period; and (2) adding any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.

The prohibitions set forth in subsection 1 of NRS 604A.480 do not apply to a licensee who complies with the conditions set forth in subsection 2 of NRS 604A.480. The items set forth in paragraphs (a) to (f), inclusive, of subsection 2 of NRS 604A.480 are not affirmative prohibitions against a licensee, but are conditions with which a licensee must comply to qualify for exemption from the general requirements of subsection 1 of NRS 604A.480 and make a new deferred deposit loan or high-interest loan to a customer pursuant to subsection 2 of NRS 604A.480. It is the opinion of this office that, whereas the provisions of NRS 604A.480 apply whether or not the outstanding loan is in default, the provisions of subsection 2 of NRS 604A.480 impose on a licensee as a condition of proceeding under that subsection that, if the outstanding loan is in default, the licensee not commence any civil action or process of alternative dispute resolution on the loan or any extension or repayment plan thereof. It is further the opinion of this office that paragraph (f) of subsection 2 of NRS 604A.480 does not impose upon a licensee a prohibition against commencing any civil action or process of alternative dispute resolution against a customer who subsequently defaults on a new deferred

Assemblyman Conklin
July 26, 2011
Page 3

deposit loan or high-interest loan that is made by a licensee in compliance with the provisions of subsection 2 of NRS 604A.480.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By Timothy M. Chandler
Timothy M. Chandler
Senior Principal Deputy Legislative Counsel

TMC:dtm
Encl.
Ref No. 1107251311
File No. OP Conklin11072693436

EXHIBIT 2

EXHIBIT 2



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
100 North Carson Street
Carson City, Nevada 89701-4717

CATHERINE CORTEZ MASTO
Attorney General

KEITH MUNRO
Assistant Attorney General
GREGORY M. SMITH
Chief of Staff

October 30, 2012

George E. Burns, Commissioner
State of Nevada
Department of Business and Industry
Financial Institutions Division
2785 E. Desert Inn Rd., #180
Las Vegas, Nevada 89121

Dear Mr. Burns:

You have requested an opinion from the Office of the Attorney General regarding the interpretation and application of NRS 604A.480.

QUESTION

Is the prohibition against civil suits or alternative dispute resolution set forth in NRS 604A.480(2)(f) applicable to a new deferred deposit loan or high-interest loan made pursuant to NRS 604A.480(2) to pay the balance of an outstanding loan, or does it only limit actions to collect on the outstanding loan?

ANALYSIS

Nevada Revised Statutes Chapter 604A regulates short term lending in the State of Nevada. The chapter recognizes three forms of lending: deferred deposit loans, high-interest loans, and title loans.¹ A deferred deposit loan is a transaction in which the customer provides the licensee² with a check or authorization for electronic transfer of funds on a future date in exchange for immediate receipt of a lesser sum of money from

¹ For the purposes of this analysis, title loans are not relevant.

² "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service pursuant to the provisions of this chapter." NRS 604A.076.

the licensee. NRS 604A.050. A high-interest loan is a loan which has single or multiple installments and charges more than 40 percent in annual interest rate. NRS 604A.0703. The original loan term of a deferred deposit loan or high-interest loan usually does not exceed 35 days. NRS 604A.408(1). Further, the licensee cannot extend either type of loan contract beyond 90 days from the date of execution of the loan contract. NRS 604A.408(3).³ A high-interest loan may be made for a period of 90 days as long as it requires fully amortized installments, is not subject to extension, and does not contain a balloon payment. NRS 604A.408(2).

Nevada Revised Statutes 604A.480 is separated into two subsections and reads in full as follows:

1. *Except as otherwise provided in subsection 2, if a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan, the licensee shall not establish or extend the period beyond 60 days after the expiration of the initial loan period.* The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.

2. *This section does not apply to a new deferred deposit loan or high-interest loan if the licensee:*

(a) Makes the new deferred deposit loan or high-interest loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

³ "Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan."

- (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;
- (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;
- (d) Gives the customer the right to rescind the new deferred deposit loan or high-interest loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;
- (e) Participates in good faith with a counseling agency that is:
 - (1) Accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor organization; and
 - (2) A member of the National Foundation for Credit Counseling, or its successor organization; and
- (f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

NRS 604A.480 (emphasis added).

The first subsection establishes the rule that a licensee can only extend a deferred deposit loan or high-interest loan through the proceeds of a new⁴ deferred deposit loan or high-interest loan for an additional 60 days beyond the term of the original loan. NRS 604A.480(1). The limitation on the term of deferred deposit and high-interest loans thus protects customers from falling into a cycle of debt.

The second section establishes that the restrictions set forth in NRS 604A.480(1) do not apply if the licensee satisfies all of the applicable requirements. Among them, subsection 2(f) prohibits certain collection actions by a licensee. Specifically, it bars a licensee from commencing a civil action or process of alternative dispute resolution "on a defaulted loan or any extension or repayment plan thereof." NRS 604A.480(2)(f). The question that you ask is whether this language bars collection only of the outstanding loan; or, as well, the new loan used to pay the balance of the outstanding loan.

To begin the analysis, deference is given to an interpretation of the agency charged with administering a statute, in this case the Financial Institutions Division (Division). See *Pyramid Lake Paiute Tribe of Indians v. Washoe County*, 112 Nev. 743, 747-48, 918 P.2d 697, 463 (1996) ("An agency charged with the duty of administering

⁴ The term "new deferred deposit or high-interest loan" as used herein and in the statute means the source of proceeds for "the repayment, renewal, refinancing or consolidation of an outstanding loan" NRS 604A.480(1).

George E. Burns
October 30, 2012
Page 4

an act is impliedly clothed with power to construe it as a necessary precedent to administrative action. Further, great deference should be given to the [administrative] agency's interpretation when it is within the language of the statute") (internal citations and quotation marks omitted).

On December 10, 2009, the Division issued a Declaratory Order and Advisory Opinion Regarding Mandatory Disclosures for Loans Made Pursuant to NRS 604A.480 (Advisory Opinion). In it, the Division concluded that (1) 604A.480(2)(f) bars collection action on *any* loan, new or outstanding. Advisory Opinion at 7.

The Division's interpretation is reasonable. First, if a statute is clear and unambiguous, this court gives effect to the plain and ordinary meaning of the statute's language. . . ." *Western Sur. Co. v. ADCO Credit, Inc.*, 127 Nev. ___, ___, 251 P.3d 714, 716 (Adv. Op. 8, March 17, 2011). In this case, the statute provides that a licensee who utilizes the exception in section 2 may not commence a civil action or process of alternative dispute resolution "on a defaulted loan or any extension or repayment plan thereof." NRS 604A.480(2)(f). The statute does not confine the prohibition to the outstanding loan; it applies to "a defaulted loan or any extension or repayment plan thereof." The bar reasonably applies to either an outstanding loan or a new loan used to pay the balance on an outstanding loan. Therefore on its face the statute is clear and there is no occasion for statutory construction. "[W]here there is no ambiguity in a statute, there is no opportunity for judicial construction and the law must be followed regardless of result." *Krahn v. State, Dep't of Motor Vehicles and Pub. Safety*, 108 Nev. 1015, 1016, 842 P.2d 728, 729 (1992) (internal citations and quotation marks omitted). See also *Washoe County v. Baker*, 75 Nev. 335, 338, 340 P.2d 1003, 1004 (1953) ("[w]e shall not, then, permit a resort to legislative history for the purpose of rendering ambiguous that which otherwise appears to be both clear and reasonable").

Even if ambiguity did exist and construction were necessary, two canons of statutory construction would require the same result. First a statute is construed "in line with what reason and public policy would indicate the legislature intended." *Bacher v. State Eng'r*, 122 Nev. 1110, 1117, 146 P.3d 793, 798 (2006) (internal quotation marks omitted).

Originally enacted in 2005, one of the main goals of NRS Chapter 604A was to stop what was called the "debt treadmill." This problem occurs when a customer who is unable to repay the original loan either continues to make interest-only payments just to keep the loan current; or takes out another, larger loan to pay the principal and interest incurred from the first loan. The result is a cycle of debt in which the customer becomes trapped. See Hearing on A.B. 384 Before the Assembly Committee on Commerce and Labor, 2005 Leg., 73rd Sess. 46 (April 6, 2005).

Removing the ability to pursue civil action and alternative dispute resolution methods is reasonably related to the legitimate purpose of ensuring that licensees make

George E. Burns
October 30, 2012
Page 5

loans in amounts and under terms the customer can repay. *Silver State Elec. Supply Co. v. State ex rel. Dep't of Taxation*, 123 Nev. 80, 84, 157 P.3d 710, 712 (2007) ("When a party contends that a statute violates its equal protection rights but does not allege the involvement of a suspect class or fundamental right, the statute is constitutional if the classification scheme created by that statute is rationally related to furthering a legitimate state interest").⁵

CONCLUSION

The prohibition against civil suits or alternative dispute resolution under NRS 604A.480(2)(f) is applicable to all loans made pursuant to NRS 604A.480(2). It applies to both an outstanding loan as well as a new loan the proceeds of which are used to extend the "repayment, renewal, refinancing or consolidation of an outstanding loan." NRS 604A.480(1). All loans made pursuant to this section must comply with all of the requirements under subsection (2), including waiving the ability to pursue civil action or alternative dispute resolution procedures if the customer defaults.

Sincerely,

CATHERINE CORTEZ MASTO

Attorney General

By:


DANIEL D. EBINARA

Deputy Attorney General
Bureau of Government Affairs
Business & Taxation Division
(702) 486-3326

DDE:MAS

⁵ Cf. *Guralnick v. Sup. Ct. of New Jersey*, 747 F. Supp. 1109 (D.N.J., 1990) (compulsory attorney fee arbitration system does not unconstitutionally impair attorneys' contractual rights; impairment of attorney-client contract was not substantial. Further, such impairment was justified by legitimate state purpose of maintaining public confidence in judicial system. State action which substantially impairs contracts entered into by private parties is nevertheless constitutional if justified by significant and legitimate public purpose, based on reasonable conditions and of character appropriate to public purpose justifying its adoption) (relying on *Energy Reserves Grp, Inc. v. Kansas Power & Light Co.*, 469 U.S. 400 (1983) establishing three-part test requiring (1) a substantial impairment of the contractual relationship, (2) that is justified by a significant and legitimate public purpose, and (3) is based on "reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption." *Id.* at 411-12).

EXHIBIT 3

EXHIBIT 3

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
March 16, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settlemeyer at 8:32 a.m. on Monday, March 16, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settlemeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Michael Roberson, Senatorial District No. 20

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Alfredo Alonso, Community Financial Services Association of America; Southern
Wine and Spirits; Nevada Beer Wholesalers Association
Chris Ferrari, Dollar Loan Center, LLC
Jon Sasser, Legal Aid Center of Southern Nevada, Inc.; Washoe Legal Services;
Southern Nevada Senior Law Program

Senate Committee on Commerce, Labor and Energy

March 16, 2015

Page 2

Keith Lee, Nevada Title and Payday Loans, Inc.; Distilled Spirits Council of the United States

Barry Gold, AARP Nevada

George Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry

Michael Hillerby, Bently Heritage Distillery, Bently Enterprises, LLC

Susan Carblener, Vice President of Operations, Bently Enterprises, LLC

Brady Frey, Chief Operating Officer, Bently Enterprises, LLC

Mike Draper, Frey Ranch Estate Distillery; Churchill Vineyards, LLC

Colby Frey, Owner, Frey Ranch Estate Distillery, Churchill Vineyards, LLC

Ray Bacon, Nevada Manufacturers Association

George Racz, Owner, Las Vegas Distillery, LLC

Tom Adams, President, Seven Troughs Distilling Company, LLC

Kimberly Surratt, Reno Rodeo Association

Chris Shanks, Co-Owner, The Depot Craft Brewery Distillery

Lisa Granahan, Economic Vitality Manager, Douglas County

Jesse Wadhams, Wirtz Beverage Nevada; Guaranteed Asset Protection Alliance

Tyre Gray

Dan Wulz, Legal Aid Center of Southern Nevada, Inc.

Jim Wadhams

Chair Settlemeyer:

I will open the hearing with Senate Bill (S.B.) 242.

SENATE BILL 242: Requires payday lenders to use best practices. (BDR 52-953)

Senator Michael Roberson (Senatorial District No. 20):

The payday lending industry has had dramatic growth over the last couple of decades since its inception as a check-cashing business in the early 1990s. The Community Financial Services Association of America (CFSA), the national payday lending trade group which represents over half of the payday advance stores, reports there are approximately 20,600 payday advance stores across America. Nevada has regulated this industry for over 10 years to protect customers.

The CFSA believes that payday advance transactions should be conducted safely and responsibly with appropriate consumer protection, and has developed best practices used to maintain quality in the payday advance industry and can be used as a benchmark for payday lenders. The development of best practices

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 3

ensures responsible conduct among lenders, protects borrowers' rights and encourages self-governance within the industry.

Senate Bill 242 requires a licensed individual to provide check-cashing services, deferred deposit loan services, high-interest loan services and title loan services, to comply with the provisions set forth by this bill. Section 4 of S.B. 242 states a licensee must comply with the disclosure requirements of *Nevada Revised Statute* (NRS) 604A.405 and the federal Truth in Lending Act. A licensee must disclose the cost of the service fee as both a dollar amount and an annual percentage rate, as well as making rates clearly visible to customers prior to entering into the transaction process.

Section 5 of S.B. 242 forbids charging a fee for any service that is prohibited by State or federal law. Section 6 addresses truthful advertising. Section 7 encourages consumer responsibility and requires a licensee to be forthcoming about the intended use of the payday advance service. Notices should advise consumers that payday services should be used for short-term financial needs, and customers with credit difficulties should seek credit counseling prior to entering into a loan transaction.

Section 8 of S.B. 242 prohibits customers from rolling over a payday advance. Section 9 makes clear under NRS 604A.460 a licensee must advise a consumer of the ability to rescind, at no cost, any transaction on or before the close of business the following business day. Section 10 denotes collection of past due accounts in a professional, fair and lawful manner, without threats, intimidation or harassment. Section 11 requires the industry to self-police and report violations to the Commissioner, Division of Financial Institutions. Section 12 makes a repayment plan available to customers unable to repay a loan agreement. Section 13 requires a licensee that offers payday advances via the Internet to be licensed in each state and comply with regulations of each state.

Alfredo Alonso (Community Financial Services Association of America):

Senate Bill 242 codifies many of the same practices done within our association. This bill is good for the industry, as there have been abuses in the payday advance industry. The check-cashing service should be removed, as it is not part of a repayment issue as established in the bill. Section 12 should also be removed since it duplicates a repayment plan within the deferred deposit section.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 4

Chris Ferrari (Dollar Loan Center, LLC):

We agree with the comments of Mr. Alonso and are glad to see best practices added to the payday advance industry. We have a couple of clarifications to work out with Senator Roberson and Mr. Alonso; otherwise, we approve and support S.B. 242.

Jon Sasser (Legal Aid Center of Southern Nevada, Inc.; Washoe Legal Services):
Senate Bill 242 is an excellent idea to have Legislative intent for the payday advance industry to conduct itself utilizing best practices. We support the bill as written. Therefore, I would like to review any proposed amendments prior to scheduling the final work session.

Keith Lee (Nevada Title and Payday Loans, Inc.):

We support S.B. 242 with the proposed amendments by Mr. Alonso.

Senator Harris:

What is the average amount of debt taken out by individuals using the payday advance service?

Mr. Lee:

I do not know what the average loan amount is through the industry as a whole. I can get the information for the companies I represent.

Senator Harris:

Section 8 references NRS 604A.408, which only allows a 90-day rollover on a loan. Are we taking away the ability for consumers to pay back a high-interest loan in such a short period?

Mr. Lee:

The intent of this code of ethics and the NRS is to stop the debt treadmill. Each individual and circumstance is different.

Senator Harris:

When individuals are in a debt situation bad enough to require a payday loan, their income will not likely allow them to pay the loan back in 90 days. How does this help the individual find appropriate ways to cover their monthly expenses and reduce their debt?

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 5

Barry Gold (AARP Nevada):

The AARP is pleased that S.B. 242 has been brought before the Committee. It is important that standards be enacted for best practices for the payday loan industry. We would also like to understand the proposed amendments before deciding to support this bill.

George Burns (Commissioner, Division of Financial Institutions, Department of Business and Industry):

Our agency is responsible for licensing, examinations and enforcement of NRS 604A. I have submitted a copy of my written testimony (Exhibit C). The Division of Financial Institutions is generally neutral with duplication of established provisions. Language that is generic and all-encompassing may generate confusion in an already complex statute.

In section 2 of S.B. 242, the term "payday lender" is generic, used to define a "deferred deposit lender" as listed in NRS 604A. The term "payday lender" does not really apply to check cashers, high-interest lenders and title lenders, which S.B. 242, the "Payday Lender Best Practices Act," appears to address directly and indirectly. The term "licensee" encompasses all businesses listed under NRS 604A. As section 7 is a new requirement to the statute, the advertising disclosure is not applicable to check-cashing services and is confusing for long-term, high-interest and title loans. Again, the term licensee listed in section 8 reiterates the extension period limits in NRS 604A.408, therefore, not applicable to 30-day title loans that allow up to six extensions, and 210-day title loans that do not permit any extensions. Our agency looks forward to working with the sponsor to address the technical concerns outlined in my testimony Exhibit C.

Senator Roberson:

I am willing to meet with any concerned individuals and take all proposed amendments into consideration.

Chair Settlemeyer:

I will now close the hearing on S.B. 242 and open the hearing on S.B. 246.

SENATE BILL 246: Revises provisions governing craft distilleries. (BDR 52-631)

Michael Hillerby (Bently Heritage Distillery, Bently Enterprises, LLC):

Bently Enterprises has invested heavily in Nevada and supports S.B. 246.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 6

Susan Carblener (Vice President of Operations, Bently Enterprises, LLC):

Bently Enterprises is a diverse group of companies based in Minden and San Francisco. Please refer to my slide presentation (Exhibit D). We have 150 employees consisting of cowboys, graphic designers, property managers and front-end developers, all experts in their fields and active in their industries. Our roots in Carson Valley started in 1961 when Don Bently started Bently Nevada operations. We now occupy a 200,000 square foot, state-of-the-art building in the Bently Science Park. Bently Nevada was one of Northern Nevada's largest non-gaming employers before being sold to General Electric in 2002. We continue to create new business in the Carson Valley and to enhance our agricultural operation at Bently ranch. We have renovated historical buildings with modern technology and energy efficiency. Our focus remains on agriculture, sustainability and historic preservation.

With the passage of A.B. No. 153 of the 77th Legislative Session, allowing craft distilling in Nevada, we formulated a plan for revitalization of downtown Minden. We purchased the iconic flour mill building and silos in the late 1960s. The original, historic mill building was built in 1906. Across from the mill building is the Minden Creamery, constructed in 1916. Bently will be renovating these buildings, which will be the Bently Heritage Distillery. The entire site will be designed for pedestrian access through the estate and to downtown Minden.

We will manufacture vodka, gin, rye whiskey, bourbon and single malt whiskey. We will use grains grown locally on Bently Ranch. We will be exporting a significant amount of sales, our main business focus. The first grain crop testing is under way. The mill building will contain a tasting room, tours for the public, space for public events and catering. Our whiskey pot stills will be in the silos. The creamery building will contain stills for the production of gin and vodka. Bently will purchase state-of-the-art equipment from Vendome Copper & Brass Works, Inc. located in Kentucky, Forsyths located in Scotland, Kothe Distilling Technologies located in Germany, and local suppliers such as Silver State Stainless located in Carson City.

The total project budget, including construction, renovations and land value, is in excess of \$44 million. By completion in late 2016, we expect to hire 13 new positions paying more than \$25 per hour. Our investment in Minden has a significant impact on our regional economy. In addition to benefits to local retailers, such as dining and lodging, we will target the estimated 2.7 million Lake Tahoe visitors, encouraging them to experience Bently Heritage.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 7

Senate Bill 246 will enable craft distillers to meet customer demand, export Nevada's craft spirits, allow a reasonable return on investment (ROI) and be an important driver of economic development.

Mr. Hillerby:

I will outline some of the modifications brought forth in S.B. 246 starting with section 1, subsection 2, paragraph (b), which references the changes that are forthcoming. The craft distillery law was created in the 77th Session with A.B. 153. Nevada has a three-tier system for how liquor is sold and taxed, which is very specific and detailed. It is not relevant to smaller distilleries, craft distilleries or estate distilleries. More of the public is interested in seeing where the crops are grown for the manufacturing of their food and liquor as well as to meet the people involved in the process. Nevada's laws do not take this into consideration; therefore, A.B. No. 153 from the 77th Session as well as S.B. 246 are important to the distillery industry.

The changes begin in section 1, subsection 2, paragraph (c) of S.B. 246, moving the export cap to 60,000 cases. To put this into perspective, Nevada imported 176,797 cases in December 2014, 144,889 cases in November 2014 and 149,287 in June 2014. Senate Bill 246 only requests an annual total of 60,000 cases for any distiller in Nevada to export to 49 other states. Section 1, subsection 2, paragraph (d) and paragraph (e) add an additional location, other than the distillery, to offer taste samples and direct sale of spirits. Section 1, subsection 2, paragraph (e) also increases direct sales to the public to one case per day. Section 1, subsection 2, paragraph (f) allows any distiller to donate directly to charities with approval from the Department of Taxation. Section 1, subsection 2, paragraph (g) allows transfer of bulk, neutral spirits, manufactured at the distillery, to another supplier. Section 2, subsection 2, paragraph (g), subparagraph (2) would not classify the bulk transfer as a sale. The other supplier would blend the neutral spirits and sell their own mixture. For clarification, a case is 12 bottles.

Wholesalers and distributors support S.B. 246, and we are working together on the language in the bill to determine the most economical sense for all involved. One other item I would like to point out is the removal of the limit of samples to any one individual, section 1, subsection 2, paragraph (d), which will put distilleries on par with bars, restaurants, hotel casinos, brew pubs and wineries within Nevada.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 8

Senator Farley:

How many bottles or cases do other states allow to be sold directly to customers on the distillery property?

Mr. Hillerby:

Direct sales on a distillery property vary from state to state dependent on the laws of that state.

Senator Hardy:

What is a neutral spirit versus distilled spirit?

Brady Frey (Chief Operating Officer, Bently Enterprises, LLC):

Within the process of distilling alcohol, prior to final cuts, you have a neutral spirit that can be blended with other ingredients to produce a final product. A neutral spirit has some, but not all, ingredients, which can be used for other products by other suppliers.

Senator Harris:

The reference to the one other location, found in section 1, subsection 2, paragraph (d), do you anticipate the other location to be a retail facility such as a restaurant?

Mr. Hillerby:

The second location would be determined by the individual distillery. Other locations could include restaurants, on or off the premises, special events such as the Nevada Day Parade or the Fallon Cantaloupe Festival. A second location would be a temporary sales or tasting location, or both.

Senator Harris:

If the distillery is one location and you have a full-time second location, such as a restaurant or pub owned by the distillery, would you also be able to have a temporary location for special events?

Mr. Hillerby:

Having more than one or two locations is important. The more opportunities there are to market products, the better for any distillery, but we fully understand and support the three-tier system. We have a wholesaler/distributor partnering with Bently Enterprises, but would like to have some control over the marketing and sales.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 9

Mike Draper (Frey Ranch Estate Distillery; Churchill Vineyards, LLC):

Nevada has seen a boom in craft breweries and distilleries, which have earned a reputation for producing quality products. It is imperative that Nevada see this industry as legitimate with significant economic potential and the ability to attract visitors from all over the world. In the 6 months from its inception, the Frey Ranch Estate Distillery has received substantial attention from all over the Country for its premium products and its unique grain-to-glass operation.

Frey Ranch, also home to Churchill Vineyards, is the only estate distillery and estate winery in the Country. The editor for Drink Spirits online publication recently visited Frey Ranch and called their white whiskey the best he had ever tasted. White whiskey comes right out of the still before it is aged in barrels, and their vodka rivaled some of the best vodka on the market. Frey Ranch aspires to be a national brand and is quickly gaining notoriety. We support S.B. 246 as a needed evolution in Nevada's liquor laws. This bill will allow wider platforms to expose products to consumers. Existing law succeeds in allowing for the initial beginnings of the craft distillery, but does not create a business environment that allows for growth and expansion. Current law does not invite, encourage and reward entrepreneurial spirit within Nevada.

Colby Frey (Owner, Frey Ranch Estate Distillery, Churchill Vineyards, LLC):

The Frey family has spent five generations building the economy in Northern Nevada. We started farming in the Genoa area in the 1850s before Nevada was declared a U.S. state, and we now occupy the Lake Ridge area in Reno. My great-grandparents owned the Peckham Ranch. My grandfather invented a tree stump puller to clear trees on ground considered not farmable, turning the land into prime farmland. In 1944, the land was sold to my grandfather's brother. My grandfather then saved enough money to purchase what is now the Frey Ranch, originally the residence of Senator Robert Douglas. My grandfather sold this land to my father in 1980, and I was able to purchase the ranch from my father in 2009. To maintain income in months of bad times, we created a winery and eventually a distillery.

We researched crops that would require less water to survive drought conditions yet generate more revenue. This year, our water allocation in Churchill County was set to 20 percent, the worst allocation our irrigation district has seen in its 100-year history. Lower water allocation is catastrophic for farmers. Lack of water does not mean lack of bills, land payments and

property taxes. It is important to us to seek ways to conserve water while creating better income potential.

Alfalfa is the primary crop in Churchill County. Wine grapes consume only 10 percent of the water needed by alfalfa, and grains in the distillery consume 40 percent to 80 percent. By diversifying our crops, we are able to save water. Churchill Vineyards started planting wine grapes in 2001 and produced our first wines in 2004. We received our federal distilling license in 2006. We have been experimenting with turning different wines into brandy. With the passage of A.B. No. 153 of the 77th Legislative Session, we drastically expanded our plans to construct a state-of-the-art distillery. We are farmers first. Frey Ranch Estate Distillery started as a way to create product from the grains grown on our farm. Previously, the grain was fed to dairy cows. With the distillery, we are able to sell the spent grains to dairy farms after the alcohol is distilled. Spent grain still has nutritional value and practically zero waste.

The distillery was designed so we could produce enough product in the winter months to shut down for the summer months, thus we can farm in the summer and distill in the winter. In addition, this allows us to maintain employment for our workers year-round. The distillery is capable of producing 10,000 cases of 12 bottles each of spirits per month. I believe Frey Ranch distillery has the largest production capacity of any distillery on the West Coast. We have a one-of-a-kind Vendome still, that is capable of making any spirit in the manner it was intended. Our whiskey, vodka and gin are produced 100 percent by our own grown crops. This produces a truly unique, 100 percent Nevada product.

We have been able to overcome obstacles that many farms face, and our goal is to create a high quality product that can be distributed nationally, also aiding Nevada's economy. With legislative assistance, Frey Ranch Estate Distillery can be a national brand, making Nevada a household name.

Ray Bacon (Nevada Manufacturers Association):

I spent many years of my career at Bently Nevada and can attest that the old mill building and silos had become infested with various vermin. I had personal dealings with the owner who was deciding whether to tear the buildings down. Instead, the owner decided to spend the necessary money to clean up the structures in hopes it would be something historic and useful.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 11

From an economic development standpoint, the Freys helped contribute to the diversification of Nevada's economy, along with the electronics company that started with 3 employees, and grew to employ over 1,000 when it was sold. The Freys are now using their agricultural products to manufacture additional products.

George Racz (Owner, Las Vegas Distillery, LLC):

I wrote the draft for what became A.B. No. 153 of the 77th Legislative Session. That bill has helped my family and many others to start the distilling industry in Nevada. During the last 4 years, we have had more than 20,000 visitors. Our distillery produced the first Nevada-made bourbon, named Nevada 150, to honor and celebrate Nevada's 150th anniversary. Within the last 2 years, four distilleries opened in northern Nevada for a total of five distilleries. It is amazing to have Bently join the industry. Senate Bill 246 gives our industry better opportunities to grow and succeed.

Tom Adams (President, Seven Troughs Distilling Company, LLC):

Here are some facts from the microbrewer perspective since the passage of A.B. No. 153 of the 77th Legislative Session. As of this past year, there are five operating distilleries in Nevada. Seven Troughs was able to hire two full-time employees. Distribution has been gained throughout Nevada and into California. Seven Troughs has over 100 retail accounts. Last year our distillery consumed 30 tons of Nevada grown grain from Winnemucca Ranch, Frey Ranch and Bently Ranch. We will consume 50 tons this year. Nevada distilleries have proven they can make outstanding products.

Seven Troughs has made significant support to local charities. Senate Bill 246 will allow distilleries to donate to more local charities and nonprofit organizations. We offer support through donation of goods and a royalty program to raise funds for the Reno Rodeo Association's Legacy Vodka Project. We provide direct assistance to the Boys and Girls Clubs of Western Nevada, Care Chest of Sierra Nevada, Veterans Guest House, Reno Rodeo Association and more.

Despite the small successes the distilleries have had, S.B. 246 would have a significant impact to help our industry grow and flourish. Tasting rooms are very important for the public to see and taste what we manufacture. Our tasting room sales are approximately four times higher than the sales to our 100 statewide distributor accounts. Customers want a connection to the

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 12

process and like that the product is made locally. Limiting the number of bottle sales in the tasting room causes us a loss of revenue. We can only sell two bottles per month to any person, resulting in unsatisfied customers.

Our most effective marketing comes through direct interaction with our customers. We do not have large marketing budgets. We reach customers through charity and special events. The offsite privileges permitted by S.B. 246 would allow distilleries to grow such interactions by attending farmers markets, special events, sporting events and charity events, which will cultivate brand recognition and longer sustainable sales growth.

Kimberly Surratt (Sponsor Chair, Reno Rodeo Association):

We are the beneficiaries of a project with Seven Troughs Distillery Company. We created the Reno Rodeo Legacy Vodka project. Senate Bill 246 is very important and beneficial for us. The Reno Rodeo began in 1919 and is quickly coming to its 100-year anniversary. We are landlocked in our current location. Except for bad weather days, the rodeo has a sellout crowd every night. We are in desperate need for expansion, and the Legacy project is for that purpose. Without expansion our economic impact on the community is \$57,391,543 from non-locals who come to Reno specifically to see the rodeo. We are a nonprofit organization, with only three paid employees paid through our foundation dollars. Total employment impact from the visitor expenditures is 652 full-time jobs supported for one year by the Reno Rodeo Association and Foundation. Please note the dollar figures listed do not include the economic impact from residents.

For contributions to the Legacy Vodka project, our partner, Seven Troughs Distillery, is limited on the amount of sales and charitable interactions. With the passage of S.B. 246, there could be taste testing on the grounds at the rodeo, and the benefit to the rodeo would grow dramatically. Our expansion project is budgeted at \$60 million, growing from 30-40 acres to over 100 acres, which will double or triple our economic impact to the community. We are modeling our vodka project after the Pendleton whiskey project, which is tied to the Pendleton Round-Up, a rodeo located in Pendleton, Oregon. The Pendleton project is immensely successful. The Reno Rodeo can be just as successful. The Reno Rodeo is able to purchase alcohol for use at a party at the National Finals Rodeo in Las Vegas. We had hundreds of spectators that attended the National Finals Rodeo who stated they wanted to purchase the brand of vodka supplied at the party, but were unable to do so at the rodeo.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 13

Chris Shanks (Co-Owner, The Depot Craft Brewery Distillery):

We are the first combined craft brewery and distillery in Nevada. We support S.B. 246 for the same reasons as the other testifiers have stated. We have 75 employees and are a full-service restaurant, craft brewery and craft distillery, located in the historic Nevada-California-Oregon Railway depot in downtown Reno. We spent over \$4 million renovating our property. Assembly Bill No. 153 of the 77th Legislative Session was a great first step to diversify our economy.

Reno has many older industrial buildings, warehouses and mills that would need to be demolished without the distillery industry. Being able to sell more bottles on the premises and additional locations would allow us to pay back our initial capital investment quicker and help us realize a better ROI. Senate Bill 246 helps us expand and grow to a full-fledged distillery.

Lisa Granahan (Economic Vitality Manager, Douglas County):

The local government perspective is important. During the 77th Legislative Session, Douglas County supported A.B. 153 to allow distilleries. Subsequently, in 2014, Douglas County allowed large and small craft food and beverage production in commercial and tourist zoning areas. The result is a rehabilitation of the former historic mill building in downtown Minden. The multimillion dollar project is in the design review stage. One core value of the economic vitality program is creating a distinctive downtown area where residents and tourists want to visit to experience local cuisine, shopping and tasting the wares of the distillery, which they can purchase, share with friends and family, encouraging a desire to return.

Douglas County has worked hard to diversify the industries and economy so we are not as dependent on gaming and construction. Senate Bill 246 furthers manufacturing export opportunities and enables the sale of locally made spirits, creating additional reasons to attract more visitors, and contributing to the success of our eateries and retail shops. Douglas County supports S.B. 246 as a step towards furthering our economic vitality. I am submitting my written testimony (Exhibit E).

Alfredo Alonso (Southern Wine and Spirits; Nevada Beer Wholesalers Association):

Our goal is for a balance in terms of how liquor is produced and sold, as well as proper tax collection and enforcement of that balance. There has been significant growth in the small sectors of the distilling industry. Limits on the

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 14

number of bottles sold to any individual vary in different states. Some states only allow the sale of one bottle per customer; other states allow more than two. This is largely dependent on the ability of a state's enforcement.

We applaud anyone coming to Nevada to start production of distilled spirits; however, we oppose S.B. 246. One concern is the cost of Nevada's enforcement ability. With respect to the bill, we do not have concerns with exportation, unless the industry size of craft distilling takes the place of a standard distillery. The initial goal was to have craft distilling be a smaller tier. Another concern is the definition of a taste, or sample. If you change a taste from two fluid ounces to an unlimited amount, it is no longer a sample. These are distilled spirits and can be very potent. If a customer samples five or six different bottles at an ounce per shot, there is a significant concern.

We are also concerned about customers being able to purchase a case of spirits per day. This amount is drastically more than two bottles per month. Regarding the transfer of bulk neutral spirits, it is important that the recipient distillery be properly licensed and any resulting sales be taxed appropriately. Distilled spirits are not beer or wine; therefore, our concern is whether a case size should be six or twelve bottles.

Jesse Wadhams (Wirtz Beverage):

I echo the comments of Mr. Alonso. We oppose S.B. 246, however we are willing to work with the proponents to find a mutually beneficial agreement. One concern is that craft distilleries are requesting to export and sell a total of 70,000 cases per year. Keep in mind that Jack Daniels in Las Vegas sells 92,000 cases per year. Do we want our craft distilleries to be 75 percent of the size of America's most popular whiskey brand?

Keith Lee (Distilled Spirits Council of the United States):

We agree with the comments and concerns of Mr. Alonso and Mr. Wadhams. While recognizing the need for entrepreneurs, we support the three-tier rule. Our market share increases with the addition of different spirits, but it needs to be accomplished wisely. I will also be working with the proponents of S.B. 246 to determine if we can agree on the language.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 15

Senator Farley:

Do distilleries need a liquor license to dispense tasting samples? How much does a distillery make on sales per bottle from their premises versus selling through the distribution process?

Mr. Alonso:

It is not more expensive for a distillery to sell through a wholesaler.

Senator Farley:

Would I make more money selling a bottle of spirits from my premises than if I sold it through distribution?

Mr. Alonso:

Yes, you would make more money selling a bottle from your distillery. Our concern is keeping tabs on what is actually sold so the State does not lose out on the taxes. We are worried about those distilleries not following the rules.

Senator Manendo:

Depending on tasting size limits, if a consumer has too much to drink, then has a car accident after leaving the distillery, is there any liability on the distillery?

Senator Farley:

Any distillery or winery should be responsible enough to know if someone has had too much to drink, that individual should not be served additional alcohol.

Chair Settlemeyer:

I will now close the hearing on S.B. 246 and open the hearing on S.B. 253.

SENATE BILL 253: Enacts provisions governing the sale of guaranteed asset protection waivers. (BDR 57-795)

Senator Patricia Farley (Senatorial District No. 8):

I would like to present S.B. 253 to enact guaranteed asset protection (GAP) waivers. A GAP waiver may be referred to as debt cancellation agreement. Auto insurance typically provides enough protection to cover costs of repair or replacement on a vehicle that is damaged or stolen. However, if the cash value is less than an individual owes on his or her loan, this gap in amounts is not covered by insurance policies. Hence, if that individual had purchased a GAP

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 16

waiver, the auto creditor will waive some or all of the loan balance, after insurance coverage.

Sections 3-14 of S.B. 253 provide definitions of terms. Section 16 provides that marketing, issuance, sale and administration of GAP waivers are not subject to the provisions of Nevada's insurance codes, except for those provisions giving the Commissioner of Insurance authority to regulate, investigate and conduct hearings on violations of the law. Additionally, this section states that GAP waivers do not apply to debt cancellation or suspension agreements regulated by federal laws or policies of insurance. Section 17 prohibits a creditor who sells GAP waivers from including the words "in the name of the business" that could indicate the creditor is not the insured. These words include insurance, casualty, surety and mutual.

Section 18 of S.B. 253 authorizes a creditor to sell a GAP waiver to a borrower owing money to that creditor pursuant to a finance agreement. The cost of the GAP waiver must be separately stated as a part of the amount financed and can be paid for with one lump payment or in installments. Section 19 prohibits a creditor from requiring the purchase of a GAP waiver as a condition of credit approval or terms of the sale. Section 20 requires certain information to be disclosed in the GAP waiver. The free-look period is addressed in section 21, allowing a consumer a minimum of 30 days to cancel the GAP waiver for some, or all, of the amount as a refund.

Section 22 of S.B. 253 requires a retail car dealer to purchase a contractual liability insurance policy that insures the obligation of each GAP waiver. Section 24 requires a creditor to make records of GAP waivers available to the Commissioner of Insurance for compliance checks and enforcement of rules and regulations, if necessary. A GAP waiver is not insurance; it is a debt waiver. Auto dealers must acquire insurance to insure the obligation of each GAP waiver; however, the GAP waiver is not an insurance policy for the consumer.

Jesse Wadhams (Guaranteed Asset Protection Alliance):

Senate Bill 253 will standardize the sale of GAP waivers. Debt cancellation is between two parties, the creditor and an individual, agreeing to waive any debt collection if the proceeds from an insurance company do not cover the full balance on a loan. An important component of this bill is that it will add more consumer protection.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 17

Tyre Gray:

I agree with all statements from Senator Farley and Mr. Wadhams, extend my support of S.B. 253 and am available to answer any questions.

Senator Atkinson:

Whom exactly is this contract between?

Mr. Wadhams:

The contract for a GAP waiver is between the creditor giving the person a loan and the individual financing a vehicle.

Senator Atkinson:

Is a GAP waiver the same as GAP insurance?

Mr. Wadhams:

A GAP waiver is a waiver against collecting on a debt. It is a debt cancellation for the amount of money remaining on a debt that was not paid by an insurance policy. There is still GAP insurance available, which is regulated under *Nevada Administrative Code* 691C.

Senator Atkinson:

Suppose I have an accident in my vehicle, which is totaled, and Kelley Blue Book says my car is worth \$15,000, but I owe \$25,000. If I have purchased GAP coverage, is it insurance? What does S.B. 253 change?

Mr. Grey:

Insurance is a third-party contract. A GAP waiver is only between the creditor and the debtor. The creditors waive their right to collect a portion of the debt not covered by the debtor's insurance company.

Senator Atkinson:

We already have this law in effect. What is S.B. 253 changing or adding?

Mr. Wadhams:

Senate Bill 253 is an attempt to put together a model act for GAP products to provide a standard methodology for offering them that will provide appropriate terms and conditions and appropriate consumer protections.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 18

Senator Atkinson:

What makes a GAP waiver different from GAP insurance? Are laws not clear?

Mr. Wadhams:

Some of the confusion is in the sale of GAP products. We are attempting to make sure the process is standardized with clear, understandable rules.

Senator Harris:

What form does a GAP waiver come in? Is it a certificate? How can a consumer prove they purchased a GAP waiver? Does it ensure consumer protection?

Mr. Wadhams:

Senate Bill 253 will make clear rules on the offering of GAP products. There is typically a pamphlet or set of instructions which will clarify language such as the free-look period or disclosures that this is an optional product. The other component is the GAP waiver becomes part of the finance agreement. Therefore, the terms are included within the finance agreement.

Senator Harris:

With the variety of products offered, how are we protecting the consumer? Will a consumer's credit be protected if there is a deficient amount owed to the creditor?

Mr. Wadhams:

Senate Bill 253 provides for consumer protection by clarifying there be an administrator backing the GAP products and providing appropriate record keeping. Documentation would follow the loan paperwork to each successive lender; therefore, each lender would know a GAP waiver exists.

Senator Spearman:

If a consumer purchases GAP coverage then determines the coverage is not needed, is a refund available?

Mr. Wadhams:

There are different products available. Some products are cancellable; some are not. There are options such as a 30-day free-look period, which offers a full refund. Refund options are disclosed at the initial transaction.

Senate Committee on Commerce, Labor and Energy
March 18, 2015
Page 19

Senator Spearman:

Is a GAP waiver rolled into the life of the loan? Does it include interest?

Mr. Wadhams:

A GAP waiver is included in the financial agreement that can have interest accrued. It is important to note that for consumer protection, there must be a disclosure that GAP waivers are optional, and the consumer is not obligated to purchase a GAP waiver.

Senator Hardy:

Since this is not considered an insurance product, is there any model act from the National Conference of Insurance Legislators? You mentioned a model act. Are you implying other states are selling GAP waivers now or will be selling, so we have footsteps to follow? What is the amount of risk the creditor is taking since no one is paying the deficiency value? Does S.B. 253 apply to other GAP waivers besides vehicles?

Mr. Wadhams:

There is a cost to GAP waivers. A creditor would build any cost into the finance agreement. Should there be any deficiency in the loan amount, the loan would be marked "paid in full."

Senator Hardy:

Does the customer know the cost of the GAP waiver?

Mr. Wadhams:

Yes, a customer knows the cost of a GAP waiver before agreeing to purchase it. The cost of the GAP waiver is not for the full amount of any possible deficiency, but a smaller amount.

Senator Hardy:

What is the cost of a GAP waiver?

Mr. Wadhams:

The available products vary. A GAP waiver can range in price from a few hundred dollars to several hundreds of dollars.

Senator Hardy:

Would this apply to a leased vehicle?

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 20

Mr. Wadhams:

Yes, you can purchase GAP waivers for leased vehicles.

Senator Hardy:

Does the consumer pay the creditor for a GAP waiver?

Senator Farley:

As an example, I agree to purchase a vehicle for \$23,000. I agree to pay an additional \$1,200 for a GAP waiver, which becomes part of the financial agreement. If I wreck my vehicle and my auto insurance does not cover the total amount due on the loan, the creditor forgives the balance, and I owe nothing further. There is no fighting between lenders and insurance companies for any balance of money.

Senator Hardy:

Is this a model act now, or are you trying to start a model act?

Mr. Wadhams:

The Guaranteed Asset Protection Alliance is an alliance of various vendors of GAP products. This model act is their trade organization attempting to standardize the selling of this product throughout the United States. There are 47 states moving towards this model language.

Senator Hardy:

Is this language modeled after something else that worked?

Mr. Wadhams:

Yes, the bill uses proven model language.

Senator Atkinson:

Are there multiple GAP products? Why are we adding additional product to what exists? Did the Attorney General (AG) and Insurance Commissioner issue opinions referencing this product as insurance? Should GAP products be regulated under insurance laws?

Mr. Wadhams:

There has been some dispute between the AG and Division of Insurance as to whether this should be regulated as insurance. Senate Bill 253 is attempting to

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 21

clarify the two-party situation between a creditor and a borrower. The GAP product is not insurance because there are only two parties to that agreement.

Dan Wulz (Legal Aid Center of Southern Nevada, Inc.):

I am confused as to why S.B. 253 is necessary, and I am in opposition to this bill. Car dealers are already able to make deals with buyers. The proponents are saying that an insurance-like contract is not insurance, therefore not being bound by law. The AG has stated that a similar contract "is" insurance. It is not good policy to create a new category of an insurance-like contract that is not subject to insurance laws.

When a contract has no known value and is sold on credit, it does not help the economy. Conservative principles should dictate great care and skepticism in the creation of such exotic contracts. I am curious to know how many cars, per thousand, are totaled in an accident or an unrecovered theft, as a GAP waiver acts like insurance against a very remote event. Senate Bill 253 is creating a consumer product that no consumer has requested, which operates exactly like GAP insurance. It is not wise to endorse the sale of a contract that has no known value at an unknown price, as well as being exempt from our insurance laws.

I have prepared testimony and exhibits from my testimony on A.B. No 88 of the 77th Legislative Session (Exhibit F). The points made during this hearing were that for similar products, consumers do not know they have purchased such a product, or are led to believe the product is not optional. If the product is not insurance, then consumers are not protected.

We have no way to determine if GAP waivers are grossly over-priced, and have no way to regulate the pricing. Similar contracts written to date are incomprehensible. There are some samples within Exhibit F. These contracts contain binding, mandatory arbitration clauses, which strip consumers of rights and remedies. GAP products are subject to discriminatory pricing since consumers cannot determine their value.

To clarify exactly what a creditor would waive in a GAP waiver, S.B. 253 does not state the creditor will waive the remaining balance. Section 10 states the creditor agrees to waive part or all of a remaining balance. The creditor chooses to write the contract that only makes them waive part of a remaining balance.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 22

Mr Sasser:

I agree with Mr. Wulz and am in opposition to S.B. 253. I would like to point out that with regards to the model act that has been tested in 47 states, there are no facts stating if any of these states have actually passed the act or have any experience with it. There are no guarantees of consumer protections. The only difference I hear is that a GAP waiver is between two parties instead of three.

Jim Wadhams:

There is a big difference between insurance coverage and financing agreements. Financing companies are not insurance companies, and each is regulated differently. Insurance laws are in statutes and remain unchanged. There is no AG opinion; in fact, there are conflicting opinions of the office of the Commissioner of Insurance. Finance companies are not regulated the same as insurance companies.

Chair Settlemeyer:

I will close the hearing on S.B. 253, and open the work session on S.B. 159.

SENATE BILL 159: Revises provisions relating to insurance. (BDR 57-829)

Marji Paslov Thomas (Policy Analyst):

I will read the summary of the bill from the work session document (Exhibit G). There are no proposed amendments.

Chair Settlemeyer:

As there is no discussion, I will now close the work session on S.B. 159.

SENATOR HARDY MOVED TO DO PASS S.B. 159.

SENATOR FARLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 181.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 23

SENATE BILL 181: Provides for the licensure of certified anesthesiology assistants. (BDR 54-240)

Ms. Paslov Thomas:

Please note there is an additional amendment, submitted by Senator Hardy. I will read the summary of the bill from the work session document and five proposed amendments (Exhibit H).

Chair Settlemeyer:

As there is no discussion, I will now close the work session on S.B. 181.

SENATOR SPEARMAN MOVED TO AMEND WITH ALL THE PROPOSED AMENDMENTS AND DO PASS AS AMENDED S.B. 181.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 233.

SENATE BILL 233: Revises provisions relating to occupational safety. (BDR 53-990)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document and two proposed amendments (Exhibit I).

Chair Settlemeyer:

The Committee agrees this bill is not problematic. The testimony received by the proponents was they would rather formulate their own training, which allows them to specialize such training.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 24

Senator Atkinson:

I was approached by an individual who has concerns regarding this bill. I am honoring my commitment, but advising you that this individual will follow up with you shortly.

Chair Settlemeyer:

I will now close the work session on S.B. 233.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 233.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on A.B. 75.

ASSEMBLY BILL 75: Revises provisions governing certain proposed changes in the schedule of rates or services of a public utility. (BDR 58-351)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document (Exhibit J). There are no proposed amendments.

Chair Settlemeyer:

As there is no discussion, I will now close the work session on A.B. 75.

SENATOR HARDY MOVED TO DO PASS A.B. 75.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 25

Chair Settlemeyer:

I will now open the work session on A.B. 154.

ASSEMBLY BILL 154: Makes various changes to the Nevada Employment Security Council. (BDR 53-553)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document (Exhibit K). There are no proposed amendments.

Chair Settlemeyer:

As there is no discussion, I will now close the work session on A.B. 154.

SENATOR HARRIS MOVED TO DO PASS A.B.154.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 123. The work session documentation is submitted (Exhibit L).

SENATE BILL 123: Revises provisions governing certain loans. (BDR 52-634)

Chair Settlemeyer:

Discussion on S.B. 123 regarded the right for remedy at law. Everyone should have a remedy at law so a person does not look for his or her own remedy. Clarification by legal counsel indicated there might be an ability for remedy at law already, which would result in S.B. 123 not being necessary. For final clarification, do individuals have a right to their initial loan? Can an individual go to court to acquire their original loan?

Dan Yu (Counsel):

Based on my review of NRS 604.480, the lender of a deferred deposit loan or high-interest loan can seek access to court as a remedy at law for an outstanding or defaulted original loan. Subsection 2 of NRS 604.480 pertains to

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 26

treadmill, or cycle of debt referencing a second loan for purposes of paying back an original loan.

Chair Settlemeyer:

With clarification from counsel, it is determined that S.B. 123 is no longer relevant. I will now close the work session on S.B. 123.

SENATOR ATKINSON MOVED TO POSTPONE INDEFINITELY S.B. 123.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 113.

SENATE BILL 113: Revises provisions relating to insurance. (BDR 57-690)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document and three proposed amendments (Exhibit M).

Senator Atkinson:

I have not had many issues resolved on S.B. 113. I am not in favor of this bill, yet I reserve my right to change my vote if the proponents can clarify the issues. I have major concerns with this bill.

Senator Spearman:

I have had the opportunity to speak with a few individuals; however, my concerns are with the religious implications. I oppose the bill, yet reserve the right to change my vote on the floor.

Chair Settlemeyer:

I will now close the work session on S.B. 113.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 113.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 27

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS ATKINSON, MANENDO AND
SPEARMAN VOTED NO.)

* * * * *

Chair Settlemeyer:

With no further business, the meeting is adjourned at 10:45 a.m.

RESPECTFULLY SUBMITTED:

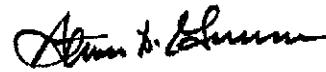
Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 242	C	3	George Burns	Written Testimony
S.B. 246	D	22	Susan Carbiener	Slide Presentation
S.B. 246	E	1	Lisa Granahan	Written Testimony
S.B. 253	F	37	Dan Wulz	Written Testimony and Exhibits from the 77th Legislative Session on A.B. 88
S.B. 159	G	1	Marji Paslov Thomas	Work Session Document
S.B. 181	H	6	Marji Paslov Thomas	Work Session Document
S.B. 233	I	1	Marji Paslov Thomas	Work Session Document
A.B. 75	J	1	Marji Paslov Thomas	Work Session Document
A.B. 154	K	1	Marji Paslov Thomas	Work Session Document
S.B. 123	L	1	Chair James A. Settelmeyer	Work Session Document
S.B. 113	M	2	Marji Paslov Thomas	Work Session Document



CLERK OF THE COURT

1 **IAFD**
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

8
9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

12 Plaintiff,

13 vs.

14 STATE OF NEVADA, DEPARTMENT OF
15 BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

16 Defendant.

Case No.: A-15-720959-C

Dept. No.: XXXII

INITIAL APPEARANCE FEE
DISCLOSURE

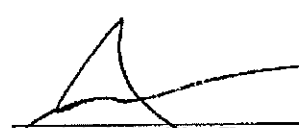
(NRS CHAPTER 19)

17
18 Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for
19 parties appearing in the above-entitled action as indicated below:

20 DOLLAR LOAN CENTER, LLC \$270.00

21 TOTAL REMITTED \$270.00

22 DATED this 6th day of July, 2015.

23
24 
25 Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
26 HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

27 *Attorneys for Plaintiff*

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134


CLERK OF THE COURT

1 **CHLG**

2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 **Plaintiff,**

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 **Defendant.**


Case No.: A-15-720959-C

Dept. No.: XXXII

**NOTICE OF PEREMPTORY
CHALLENGE OF JUDGE**

24 Pursuant to Supreme Court Rule 48.1, Plaintiff Dollar Loan Center, LLC ("DLC"), by
25 and through its attorneys of record, the law firm of Holland & Hart LLP, hereby exercises its right
26 to the peremptory challenge of Honorable Rob Bare and deposits with the Clerk of the Court a
27 fee in the amount of Four Hundred Fifty Dollars and No/100 (\$450.00).

28 DATED this 10th day of July, 2015.


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2015, a true and correct copy of the foregoing **NOTICE OF PEREMPTORY CHALLENGE OF JUDGE** was served by the following method(s):

☐ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

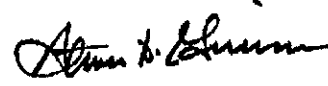
☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Christopher A. Eccles
Attorney General of Nevada
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101
ceccles@ag.nv.gov

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP


CLERK OF THE COURT

CHLG
Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
Email: preilly@hollandhart.com
jgwent@hollandhart.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Defendant.

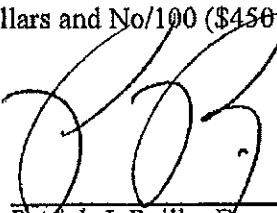
Case No.: A-15-720959-C

Dept. No.: XXXII

**NOTICE OF PEREMPTORY
CHALLENGE OF JUDGE**

Pursuant to Supreme Court Rule 48.1, Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby exercises its right to the peremptory challenge of Honorable Rob Bare and deposits with the Clerk of the Court a fee in the amount of Four Hundred Fifty Dollars and No/100 (\$450.00).

DATED this 10th day of July, 2015.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of July, 2015, a true and correct copy of the foregoing **NOTICE OF PEREMPTORY CHALLENGE OF JUDGE** was served by the following method(s):

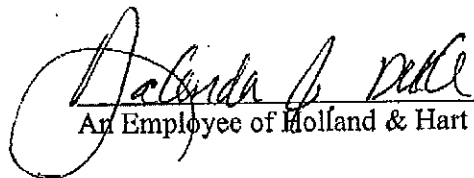
☐ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Christopher A. Eccles
Attorney General of Nevada
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101
ceccles@ag.nv.gov

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * *

DOLLAR LOAN CENTER LLC, PLAINTIFF(S)

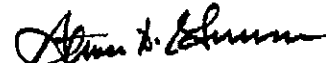
VS.

NEVADA DEPT OF BUSINESS AND
INDUSTRY FINANCIAL INSTITUTIONS,
DEFENDANT(S)

Case No.: A-15-720959-C

Electronically Filed
07/10/2015 06:11:58 PM

DEPARTMENT 13


CLERK OF THE COURT

NOTICE OF DEPARTMENT REASSIGNMENT

NOTICE IS HEREBY GIVEN that the above-entitled action has been randomly reassigned to
Judge Mark R. Denton.

- ☒ This reassignment follows the filing of a Peremptory Challenge of Judge Rob Bare..
☐ This reassignment is due to the recusal of Judge . See minutes in file.
☐ This reassignment is due to:

ANY TRIAL DATE AND ASSOCIATED TRIAL HEARINGS STAND BUT MAY BE RESET BY THE
NEW DEPARTMENT. PLEASE INCLUDE THE NEW DEPARTMENT NUMBER ON ALL FUTURE
FILINGS.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Ivonne Hernandez

Ivonne Hernandez,
Deputy Clerk of the Court

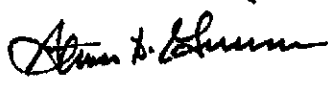
CERTIFICATE OF SERVICE

I hereby certify that this 10th day of July, 2015

- ☒ The foregoing Notice of Department Reassignment was electronically served to all registered
parties for case number A-15-720959-C.

/s/ Ivonne Hernandez

Ivonne Hernandez
Deputy Clerk of the Court


CLERK OF THE COURT

SUMM
Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
preilly@hollandhart.com

Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Defendant.

Case No.: A-15-720959-C

Dept. No.: XXXII

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS.
READ THE INFORMATION BELOW.**

**TO THE DEFENDANT, STATE OF NEVADA, DEPARTMENT OF BUSINESS AND
INDUSTRY FINANCIAL INSTITUTIONS DIVISION:** A civil Complaint has been filed by
the Plaintiff(s) against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served
on you, exclusive of the day of service, you must do the following:

- (a) File with the Clerk of this Court, whose address is shown below, a formal
written response to the Complaint in accordance with the rules of the
Court, with the appropriate filing fee.
- (b) Serve a copy of your response upon the attorney whose name and address

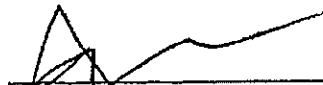
Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1 is shown below.

- 2 2. Unless you respond, your default will be entered upon application of the
3 Plaintiff(s) and failure to so respond will result in a judgment of default against
4 you for the relief demanded in the Complaint, which could result in the taking of
5 money or property or other relief requested in the Complaint.
- 6 3. If you intend to seek the advice of an attorney in this matter, you should do so
7 promptly so that your response may be filed on time.
- 8 4. The State of Nevada, its political subdivisions, agencies, officers, employees,
9 board members, commission members and legislators, each have 45 days after
10 service of this Summons within which to file an Answer or other responsive
11 pleadings to the Complaint.

12 Submitted by:

STEVEN D. GRIERSON
CLERK OF COURT

13
14 
15 Patrick J. Reilly, Esq.
16 Nevada Bar No. 6103
17 Joseph G. Went, Esq.
18 Nevada Bar No. 9220
19 HOLLAND & HART LLP
20 9555 Hillwood Drive, Second Floor
21 Las Vegas, Nevada 89134
22 Attorneys for Plaintiff

By: 

23
24
25
26
27
28
JUL 06 2015
Deputy Clerk
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
Date

JANEL WASHINGTON

NOTE: When service is by publication, add a brief statement of the object of the action. See Rules of Civil Procedure, Rule 4(b).

AFFIDAVIT OF SERVICE

STATE OF _____
COUNTY OF _____ } ss.

_____, being duly sworn says: That at all times herein affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. That affiant received _____ copy(ies) of the Summons and Complaint, _____ on the _____ day of _____, 2015 and served the same on the _____ day of _____, 2015 by:

(Affiant must complete the appropriate paragraph)

1. Delivering and leaving a copy with the Defendant _____ at (state address) _____.
2. Serving the Defendant _____ by personally delivering and leaving a copy with _____, a person of suitable age and discretion residing at the Defendant's usual place of abode located at: (state address) _____.

[Use paragraph 3 for service upon agent, completing (a) or (b)]

3. Serving the Defendant _____ by personally delivery and leaving a copy at (state address) _____.
 - (a) With _____ as _____, an agent lawfully designated by statute to accept service of process;
 - (b) With _____, pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.
4. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

Ordinary mail

Certified mail, return receipt requested

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

_____ Registered mail, return receipt requested
addressed to the Defendant _____ at the Defendant's
last known address which is: (state address) _____
_____.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing
is true and correct.

EXECUTED this _____ day of _____, 2015.

Signature of person making service

EIGHTH JUDICIAL DISTRICT COURT
STATE OF NEVADA CLARK COUNTY

DOLLAR LOAN CENTER, LLC, A
DOMESTIC LIMITED-LIABILITY
COMPANY

Plaintiff,

Case No:A-15-720959

vs.

STATE OF NEVADA, DEPARTMENT
OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

Defendant

DECLARATION OF SERVICE

STATE OF NEVADA
COUNTY OF CARSON CITY

ss.:



WADE MORLAN, being duly sworn says: That at all times herein affiant was and is a citizen of the United States over 18 years of age, not a party to nor interested in the proceedings in which this affidavit is made.

The affiant received copy(ies) of the **SUMMONS - CIVIL; COMPLAINT; CIVIL CASE COVER SHEET**, on 07/15/2015 and served the same on 07/16/2015 at 2:39 PM by delivering and leaving a copy with:

KIERSTYN TAYLOR, OF THE OFFICE OF THE ATTORNEY GENERAL who stated he/she is authorized to accept service on behalf of **STATE OF NEVADA, DEPARTMENT OF BUSINESS AND INDUSTRY FINANCIAL INSTITUTIONS DIVISION.**

Service address: 100 N CARSON ST OFFICE OF THE ATTORNEY GENERAL CARSON CITY, NV 89701

A description of **KIERSTYN TAYLOR** is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	Caucasian	Brown	20-30	5ft 5in	131-140lbs
Other Features:					

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on: 07/20/2015
by WADE MORLAN

No Notary is Required per NRS 53.045



66034

X
WADE MORLAN
Registration#: R-006823
Reno/Carson Messenger Service, Inc. (Lic# 322)
185 Martin Street
Reno, NV 89509
775.322.2424
Atty File#: 71516-0034

DISTRICT COURT
CLARK COUNTY, NEVADA

STATE OF NEVADA)

CASE NO.: A-15-720959-C

ss:)

DEPT NO.: XXX11

COUNTY OF CLARK)

AFFIDAVIT OF SERVICE

(Name of person who served the documents, the "Affiant")

CARL T. ACETO 2060618, being duly sworn, states that at all times herein Affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this affidavit is made. Affiant is a licensed process server whose license number is stated below. That Affiant received a copy of the (list the documents) SUMMONS, COMPLAINT

on the 14 day of JULY, 2015. That Affiant personally served ST. OF NEVADA, DEPT OF BUSINESS & INDUSTRY with a copy of the above stated documents on the 16 day of JULY, 2015 at (time) 10:00 AM.

(Check and complete option A, B or C)

☐ A. Delivering and leaving the documents with said party at (street address)

(city) _____ (state) _____ (zip) _____

☐ B. Delivering and leaving a copy with (first and last name of person that the documents were given to) _____ who is a person of suitable age and discretion that lives with the above stated party at (street address)

(city) _____ (state) _____ (zip) _____

☒ C. Delivering and leaving a copy with LEONARD J. ESTERLY

[] registered agent, [] officer, [] general partner, [] member, [] manager, [] trustee, [] director or [] other (specify) DEPUTY COMMISSIONER at (street address) 2785 E. DESERT INN RD. SUITE 180

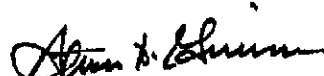
(city) LAS VEGAS (state) NV (zip) _____

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated this 16 day of JULY, 2015.

Carl T. Aceto

Signature of Affiant
Clark County Process Service, LLC dba CCPS LV
720 E. Charleston Blvd. Suite 135
Las Vegas, Nevada 89104
State License #2031C



CLERK OF THE COURT

1 **SAO**
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

DEPARTMENT XIII
NOTICE OF HEARING
DATE 10/26/15 TIME 9:00 AM
APPROVED BY RT

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 **DOLLAR LOAN CENTER, LLC**, a domestic
limited-liability company,

12 **Plaintiff,**

13 **vs.**

14 **STATE OF NEVADA, DEPARTMENT OF**
15 **BUSINESS AND INDUSTRY FINANCIAL**
16 **INSTITUTIONS DIVISION,**

17 **Defendant.**

Case No.: A-15-720959-C

Dept. No.: XIII

STIPULATION AND ORDER TO: (i)
CONVERT THE CIVIL ACTION TO A
PROCEEDING AS SET FORTH IN NRS
29.010; AND (ii) TO SET BRIEFING
SCHEDULE

18 **STIPULATION**

19 Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and
20 the State of Nevada, Department of Business and Industry Financial Institutions Division
21 ("FID"), by and through its attorneys of record, stipulate and agree as follows:

- 22 1. DLC commenced this action on July 6, 2015, seeking declaratory relief as to the
23 interpretation of NRS 604A.480, namely, whether a Chapter 604A licensee has a
24 right to sue a debtor that has defaulted on a high interest loan that has not been
25 renewed, refinanced, or consolidated, and in which its proceeds are used to repay a
26 prior loan underwritten by the licensee.
27 2. DLC and the FID (collectively, the "Parties") agree to convert the above-captioned
28 action to a proceeding as set forth in Nevada Revised Statutes ("NRS") 29.010.

RECEIVED

SEP 14 2015

DISTRICT COURT DEPT#13

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

FID0057

3. In converting the action to a proceeding as set forth in NRS 29.010, the Parties agree that there is question among the Parties as to the interpretation and application of NRS 604A.480.
4. The affidavits supporting the conversion of the above-captioned action to a proceeding as set forth in NRS 29.010 are attached hereto as Exhibit 1 and Exhibit 2.
5. To obtain a resolution to the Parties dispute over the interpretation and application of NRS 604A.480, the Parties have agreed to the following briefing schedule:
 - i. Parties to each file Opening Briefs on or before September 25, 2015;
 - ii. Parties to each file Answering Briefs on or before October 16, 2015; and,
 - iii. For oral argument to be set at the Court's earliest convenience following briefing.
6. As a result of the conversion, this matter will proceed in accordance with NRS Chapter 29 and therefore FID is not required to file an answer to the complaint and the complaint is not part of the record to be considered by court for purposes of rendering a decision.
7. Pending a final ruling by this Court on the merits of the dispute between the parties, the FID agrees to refrain from undertaking any administrative enforcement action against DLC as to the issues pending in this proceeding.

DATED this 11th day of September 2015.

DATED this 10th day of September t 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

IT IS HEREBY ORDERED that this action be converted to a case that will proceed as set forth in NRS 29.010.

IT IS HEREBY FURTHER ORDERED that the Parties shall each file Opening Briefs as to the dispute on or before September 25, 2015, and the Parties shall each file Answering Briefs on or before October 16, 2015, with Court to have oral argument after briefing is concluded on the 26th day of October 2015, at 9:00 a.m./p.m.

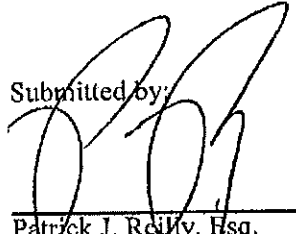
IT IS HEREBY FURTHER ORDERED that pending a ruling from this Court on the merits of this proceeding, the FID shall refrain from any and all administrative enforcement proceedings against DLC in connection with the legal issues presented in this proceeding.

IT IS SO ORDERED.

DATED this 14th day of September 2015.


DISTRICT COURT JUDGE
TS

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs

EXHIBIT “1”

AFFT
Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
Email: preilly@hollandhart.com
jgwent@hollandhart.com

Attorneys for Plaintiff

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

Plaintiff,

vs.

STATE OF NEVADA, DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

**AFFIDAVIT OF PATRICK J. REILLY,
ESQ.**

STATE OF NEVADA }
COUNTY OF CLARK } ss

I, PATRICK J. REILLY, ESQ., being first duly sworn, says:

1. I have personal knowledge of the facts and circumstances set forth in this Affidavit and could and would competently testify thereto in a court of law.

2. I am a partner at the law firm of Holland & Hart LLP, counsel for Plaintiff in the above-referenced matter.

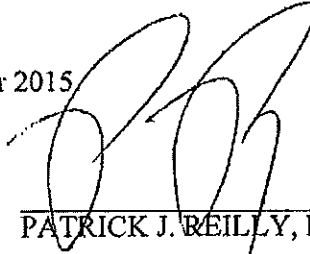
3. Plaintiff commenced this action on July 6, 2015, seeking declaratory relief as to the interpretation of NRS 604A.480.

4. Plaintiff and the Defendant (collectively, the "Parties") agree to convert the above-captioned action to a proceeding as set forth in Nevada Revised Statutes ("NRS") 29.010.

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1 5. The controversy among the Parties is real and the proceeding is sought in good
2 faith to determine the rights of the Parties.

3 DATED this 11th day of September 2015.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PATRICK J. REILLY, ESQ.

SUBSCRIBED AND SWORN to
before me this 11th day of September 2015.


NOTARY PUBLIC, in and for said
County and State

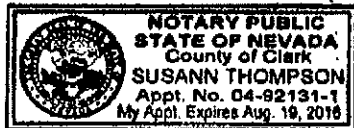


EXHIBIT “2”

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1 **AFFT**
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

8
9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

12 Plaintiff,

13 vs.

14 STATE OF NEVADA, DEPARTMENT OF
15 BUSINESS AND INDUSTRY FINANCIAL
16 INSTITUTIONS DIVISION,

17 Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

**AFFIDAVIT OF CHRISTOPHER
ECCLES, ESQ.**

18 STATE OF NEVADA }
19 COUNTY OF CLARK } ss

20 I, CHRISTOPHER ECCLES, ESQ., being first duly sworn, says:

21 1. I have personal knowledge of the facts and circumstances set forth in this
22 Affidavit and could and would competently testify thereto in a court of law.

23 2. I am a Deputy Attorney General and counsel for Defendant in the above-
24 referenced matter.

25 3. Plaintiff commenced this action on July 6, 2015, seeking declaratory relief as to
26 the interpretation of NRS 604A.480.

27 4. Plaintiff and the Defendant (collectively, the "Parties") agree to convert the
28 above-captioned action to a proceeding as set forth in Nevada Revised Statutes ("NRS") 29.010.

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

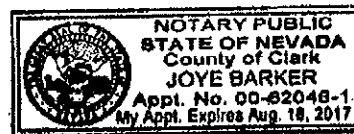
1 5. The controversy among the Parties is real and the proceeding is sought in good
2 faith to determine the rights of the Parties.

3 DATED this 10 day of September 2015.

4
5 
6 CHRISTOPHER ECCLES, ESQ.

7 SUBSCRIBED AND SWORN to
8 before me this 10 day of September 2015.

9 
10 NOTARY PUBLIC, in and for said
11 County and State




CLERK OF THE COURT

1 **NTSO**
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 **HOLLAND & HART LLP**
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 **DOLLAR LOAN CENTER, LLC, a domestic**
17 **limited-liability company,**

18 **Plaintiff,**

19 **vs.**

20 **STATE OF NEVADA, DEPARTMENT OF**
21 **BUSINESS AND INDUSTRY FINANCIAL**
22 **INSTITUTIONS DIVISION,**

23 **Defendant.**

Case No.: A-15-720959-C

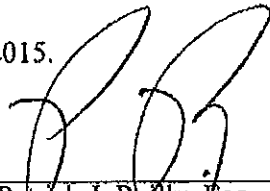
Dept. No.: XIII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

Date of Hearing: October 26, 2015
Time of Hearing: 9:00 a.m.

24 PLEASE TAKE NOTICE that a Stipulation and Order To: (i) Convert The Civil Action
25 To A Proceeding As Set Forth In NRS 29/010; And (ii) to Set Briefing Schedule was entered in
26 the above-captioned matter on September 15, 2015. A copy of said Stipulation and Order is
27 attached hereto.

28 DATED this 16th day of September, 2015.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September, 2015, a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER** was served by the following method(s):

☐ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

☒ Email: by electronically delivering a copy via email to the following e-mail address:

Christopher A. Eccles, Esq.
Email: ceccles@ag.nv.gov

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

Susann Thompson

From: Susann Thompson
Sent: Wednesday, September 16, 2015 11:20 AM
To: Christopher A. Eccles
Cc: Patrick Reilly
Subject: Dollar Loan Center/State of Nevada - Notice of Entry of Stipulation and Order
Attachments: Notice of Entry of Stip and Order

Please see attached Notice of Entry of Stipulation and Order

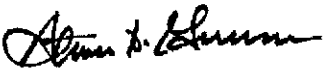
Thank you.

Susann Thompson

Legal Assistant for Patrick J. Reilly, Constance L. Akridge and David J. Freeman
Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, NV 89134
Phone (702) 222-2527
Fax (702) 669-4650
E-mail: sthompson@hollandhart.com



CONFIDENTIALITY NOTICE: This message is confidential and may be privileged. If you believe that this email has been sent to you in error, please reply to the sender that you received the message in error; then please delete this e-mail. Thank you.



CLERK OF THE COURT

1 SAO
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

24 **STIPULATION AND ORDER TO**
25 **CONTINUE BRIEFING SCHEDULE**
26 **AND HEARING THEREON**

27 ///

28 ///

RECEIVED
SEP 29 2015
DISTRICT COURT DEPT# 13

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

1. To extend the briefing schedule as follows: (i) Parties to each file Opening Briefs on or before October 9, 2015; and (ii) Parties to each file Answering Briefs on or before November 2, 2015.

2. To continue the hearing that is currently set for October 26, 2015 at 9 am to November 9, 2015 at 9 am, or the earliest available date and time convenient for the Court thereafter.

DATED this 24th day of September 2015.

DATED this 29th day of September 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

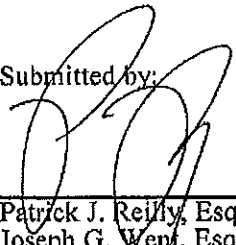
IT IS HEREBY FURTHER ORDERED that the Parties shall each file Opening Briefs as to the dispute on or before October 9, 2015 and the Parties shall each file Answering Briefs on or before November 2, 2015, with Court to have oral argument after briefing is concluded on the 9th day of November 2015, at 9:00 a.m./p.m.

IT IS SO ORDERED.

DATED this 1st October day of ~~September~~ 2015.


DISTRICT COURT JUDGE 

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs


CLERK OF THE COURT

1 NTSO
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

8
9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

12 **Plaintiff,**

13 vs.

14 STATE OF NEVADA, DEPARTMENT OF
15 BUSINESS AND INDUSTRY FINANCIAL
16 INSTITUTIONS DIVISION,

17 **Defendant.**

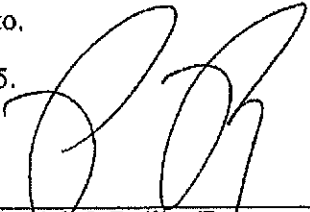
Case No.: A-15-720959-C

Dept. No.: XIII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

18 PLEASE TAKE NOTICE that a Stipulation and Order To Continue Briefing Schedule
19 And Hearing Thereon was entered in the above-captioned matter on October 2, 2015. A copy
20 of said Stipulation and Order is attached hereto.

21 DATED this 5th day of October, 2015.

22
23 
24 Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
25 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

26 *Attorneys for Plaintiff*

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of October, 2015, a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
Email: ceccles@ag.nv.gov

*Attorneys for Defendant
State of Nevada, Department of Business And
Industry Financial Institutions Division*

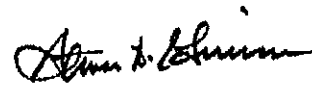
☒ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP



CLERK OF THE COURT

1 **SAO**
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 **HOLLAND & HART LLP**
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 **DOLLAR LOAN CENTER, LLC, a domestic**
17 **limited-liability company,**

18 **Plaintiff,**

19 **vs.**

20 **STATE OF NEVADA, DEPARTMENT OF**
21 **BUSINESS AND INDUSTRY FINANCIAL**
22 **INSTITUTIONS DIVISION,**

23 **Defendant.**

Case No.: A-15-720959-C

Dept. No.: XIII

STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE
AND HEARING THEREON

24 **///**

25 **///**

RECEIVED

SEP 23 2015

DISTRICT COURT DEPT# 13

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

1. To extend the briefing schedule as follows: (i) Parties to each file Opening Briefs on or before October 9, 2015; and (ii) Parties to each file Answering Briefs on or before November 2, 2015.

2. To continue the hearing that is currently set for October 26, 2015 at 9 am to November 9, 2015 at 9 am, or the earliest available date and time convenient for the Court thereafter.

DATED this 29th day of September 2015.

DATED this 29th day of September 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///
///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

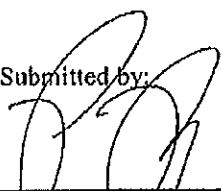
IT IS HEREBY FURTHER ORDERED that the Parties shall each file Opening Briefs as to the dispute on or before October 9, 2015 and the Parties shall each file Answering Briefs on or before November 2, 2015, with Court to have oral argument after briefing is concluded on the 9th day of November 2015, at 9:00 a.m./p.m.

IT IS SO ORDERED.

DATED this 7th day of October ~~September~~ 2015.



DISTRICT COURT JUDGE PS

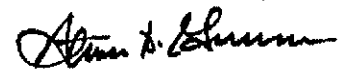
Submitted by: 

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs

THIS PAGE INTENTIONALLY LEFT BLANK

THIS PAGE INTENTIONALLY LEFT BLANK



CLERK OF THE COURT

MEMO

Patrick J. Reilly, Esq.
Nevada Bar No. 6103
Joseph G. Went, Esq.
Nevada Bar No. 9220
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Tel: (702) 669-4600
Fax: (702) 669-4650
Email: preilly@hollandhart.com
jgwent@hollandhart.com

Attorneys for Claimant

**DISTRICT COURT
CLARK COUNTY, NEVADA**

DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

Claimant,

vs.

STATE OF NEVADA, DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

Respondent.


Case No.: A-15-720959-C

Dept. No.: XIII

**DOLLAR LOAN CENTER, LLC'S
OPENING BRIEF**

Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, the law firm of Holland & Hart LLP, hereby files its Opening Brief in accordance with the order that converted this action to a case that will proceed as set forth in Nevada Revised Statutes ("NRS") 29.010.

DATED this 13th day of October, 2015.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

1 **I. INTRODUCTION**

2 The State of Nevada, Department of Business and Industry, Financial Institutions
3 Division (the "Division") takes the unsupported position that NRS 604A.480(2)(f) completely
4 bars a licensee¹ from commencing any civil action or any alternate dispute resolution proceeding
5 against any defaulted debtor on any deferred deposit loan or any high-interest loan. The
6 Division's legal position is not even remotely accurate. Indeed, NRS 604A.480 contains
7 absolutely no prohibition for a licensee to initiate an action against a debtor—even against a
8 debtor whose loan was made in compliance with NRS 604A.480. As set forth below, the
9 Division's activist interpretation of NRS 604A.480 is stunning, and there is absolutely no legal
10 basis for its position.

11 **II. THE SINGLE ISSUE PRESENTED IN THIS CHAPTER 29 SUBMISSION**

12 **Issue:** Does NRS 604A.480(2)(f) prohibit licensees from initiating civil suits or alternate
13 dispute resolution proceedings against a debtor that is in default?

14 **Answer:** No. NRS 604A.480(2)(f) merely provides that a licensee cannot be exempt from
15 the requirements set forth in NRS 604A.480(1) if the licensee has already
16 commenced any civil action or process of alternative dispute resolution against a
17 debtor.

18 / / /

19 / / /

20
21
22
23
24
25
26
27 _____
28 ¹ Licensee means any person who has been issued one or more licenses to operate a deferred deposit loan service or
high-interest loan service pursuant to the provisions of NRS Chapter 604A.

1 **III. PLAIN LANGUAGE OF STATUTE**

2 NRS 604A.480 is the sole statute that needs interpretation. This statute is separated into
3 two subsections,² which provides:

4 **604A.480. Limitations on using proceeds of new loan to pay balance of**
5 **outstanding loan; exceptions**

6 1. Except as otherwise provided in subsection 2, if a customer agrees in writing to
7 establish or extend the period for the repayment, renewal, refinancing or
8 consolidation of an outstanding loan by using the proceeds of a new deferred
9 deposit loan or high-interest loan to pay the balance of the outstanding loan, the
10 licensee shall not establish or extend the period beyond 60 days after the
11 expiration of the initial loan period. The licensee shall not add any unpaid interest
12 or other charges accrued during the original term of the outstanding loan or any
13 extension of the outstanding loan to the principal amount of the new deferred
14 deposit loan or high-interest loan.

15 **2. This section does not apply to a new deferred deposit loan or high-interest**
16 **loan if the licensee:**

17 (a) Makes the new deferred deposit loan or high-interest loan to a customer
18 pursuant to a loan agreement which, under its original terms;

- 19 (1) Charges an annual percentage rate of less than 200 percent;
20 (2) Requires the customer to make a payment on the loan at least once
21 every 30 days;
22 (3) Requires the loan to be paid in full in not less than 150 days; and
23 (4) Provides that interest does not accrue on the loan at the annual
24 percentage rate set forth in the loan agreement after the date of maturity of
25 the loan;

26 (b) Performs a credit check of the customer with a major consumer reporting
27 agency before making the loan;

28 (c) Reports information relating to the loan experience of the customer to a major
consumer reporting agency;

(d) Gives the customer the right to rescind the new deferred deposit loan or high-
interest loan within 5 days after the loan is made without charging the customer
any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is:

- (1) Accredited by the Council on Accreditation of Services for Families
and Children, Inc., or its successor organization; and
(2) A member of the National Foundation for Credit Counseling, or its
successor organization; and

(f) Does not commence any civil action or process of alternative dispute
resolution on a defaulted loan or any extension or repayment plan thereof.

²The discrete subsections shall be referred to herein as "Subsection 1" and "Subsection 2".

1 NRS 604A.480 (emphasis added).

2 Subsection 1 sets forth the general limitations that apply to a licensee when a “customer
3 agrees in writing to establish or extend the period for the repayment, renewal, refinancing or
4 consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or
5 high-interest loan to pay the balance of the outstanding loan,” NRS 604A.480(1). If the
6 customer agrees to such an action on an outstanding loan, then the licensee “shall not”:

- 7 • “establish or extend the period beyond 60 days after the expiration of the
8 initial loan period” or;
- 9 • “add any unpaid interest or other charges accrued during the original term of
10 the outstanding loan or any extension of the outstanding loan to the principal
11 amount of the new deferred deposit loan or high-interest loan.”

12 *Id.* The prohibitions set forth in Subsection 1 shall be referred to herein as the “Subsection 1
13 Prohibitions.”

14 Subsection 2 provides that the Subsection 1 Prohibitions do not apply to a licensee who
15 complies with the conditions listed in Subsection 2. The conditions set forth in Subsection 2
16 shall be referred to herein as “Subsection 2 Conditions.” Very clearly, the Subsection 2
17 Conditions are not affirmative prohibitions against a licensee—rather, they are merely the
18 conditions that must be satisfied for a licensee to be exempt from the Subsection 1 Prohibitions.

19 IV. LEGAL ARGUMENT

20 It is obvious that the Division has rewritten a plain and unambiguous statute. The
21 Division seeks to create a law that it wants, which is that a licensee cannot pursue a debtor after
22 default. This is plainly not the law in Nevada. And, this is not the first time the Division has
23 overstepped its bounds in government and improperly sought out opportunities to make law to
24 serve its own political agenda. In State v. Nevada Ass’n Services, Inc., the Nevada Supreme
25 Court strongly rebuked the Division for issuing an advisory opinion and interpreting a statute
26 over which it had absolutely no jurisdiction. 128 Nev. Adv. Op. No. 34, — P.3d. —, 2012 WL
27 3127275 (Aug. 2, 2012). While there is jurisdiction over licensees, the Division cannot
28 misinterpret the law to force Division-created laws upon licensees. As set forth below, the

1 Division's interpretation of NRS 604A.480(2)(f) is entirely without merit and should be rejected
2 by this Court.

3 **A. The Plain Language of NRS 604A.480 Rebuts the Division's Position**

4 The Division claims that NRS 604A.480(2)(f)—just one of many conditions set forth in
5 the Subsection 2 Conditions—is an absolute affirmative prohibition against a licensee to ever
6 initiate a collection action against a debtor. This interpretation is blind to the plain language of
7 the statute and confounds common sense.

8 Under Nevada law, this Court must give a clear and unambiguous statute its plain
9 meaning. *D.R. Horton, Inc. v. District Ct. ex rel. County of Clark*, 123 Nev. 468, 476, 168 P.3d.
10 731, 737 (2007); *State Dep't of Ins. v. Humana Health, Ins.*, 112 Nev. 356, 360 (1999) (quoting
11 *McKay v. Bd. of Supervisors*, 102 Nev. 644, 648 (1986)). In doing so, the Court must consider a
12 statute's provisions as a whole, reading them "in a way that would not render words or phrases
13 superfluous or make provisions nugatory." *Southern Nev. Homebuilders Ass'n v. Clark County*,
14 121 Nev. 446, 449, 117 P.3d 171, 173 (2005) (quotation omitted). Meaningless or unreasonable
15 results should be avoided by courts when interpreting statutes. *Matter of Petition of Phillip A.C.*,
16 122 Nev. 1284, 1293 (2006). Here, NRS 604A.480 is clear—there is no blanket prohibition
17 against commencing a civil action or ADR proceeding against a defaulted debtor. Rather, NRS
18 604A.480(2)(f) is merely a condition one of the many Subsection 2 Conditions that must be
19 satisfied is a licensee wants to avoid the restrictions of Subsection 1. Nothing more.

20 Based upon this most basic of the statutory interpretation tenets, the Court must reject the
21 Division's interpretation of NRS 604A.480(2)(f). The language is clear—NRS 604A.480(2)(f)
22 does nothing more than provide that if a licensee "commence[s] any civil action or process of
23 alternative dispute resolution" then the licensee is bound by the Subsection 1 Prohibitions. Very
24 simply, a licensee cannot obtain the benefits of being exempt from the Subsection 1 Prohibitions
25 *if* a licensee has already "commenced any civil action or process of alternative dispute resolution
26 on a defaulted loan or any extension or repayment plan thereof" against the debtor. Nothing in
27 this statute prevents a licensee from brining an action or ADR proceeding to enforce its rights.

28 / / /

1 The Legislative Counsel Bureau ("LCB") agrees with DLC's interpretation. Attached
2 hereto as **Exhibit 1** is a true and correct copy of the LCB Opinion. The LCB found that:

3 [P]aragraph (f) of subsection 2 of NRS 604A.480 does not
4 impose upon a licensee a prohibition against commencing
5 any civil action or process of alternative dispute resolution
6 against a customer who subsequently defaults on a new
deferred deposit loan or high-interest loan that is made by a
licensee in compliance with the provisions of subsection 2
of NRS 604A.480.

7 *Id.* 2-3. Because the LCB unequivocally held that a licensee may commence a civil action or
8 alternate dispute resolution action on a loan that was issued pursuant to NRS 604A.480, the
9 Division's position that a licensee may never take any action on a defaulted loan is all the more
10 baseless and transparent. It is clear the Division is improperly creating law, which is not the
11 Division's role in government.³

12 Moreover, Nevada law compels this Court to use common sense when interpreting NRS
13 604A.480(2)(f). See Southern Nev. Homebuilders, 121 Nev. at 449, 117 P.3d at 173; and Phillip
14 A.C., 122 Nev. at 1293. Here, if a licensee cannot be exempt from the Subsection 1 Prohibitions
15 when a "civil action or process of alternate dispute resolution" has been commenced, it stands to
16 reason that a licensee must be allowed to initiate a civil action or process of alternate dispute
17 resolution against a debtor in default.

18 **B. The Legislature Rebukes the Division's Position**

19 In the 78th Session of the Nevada Legislature, Senate Bill 123, as introduced, proposed
20 to amend NRS 604A.480 to delete paragraph (f) of subsection 2, among other things. Attached
21 hereto as **Exhibit 2** is a true and correct copy of SB 123 as introduced. The proposed bill deleted
22 the language of NRS 604A.480(2)(f) so that a licensee could pursue a civil remedy. Attached
23 hereto as **Exhibit 3** is a true and correct copy of the relevant minutes of the Senate Commerce,
24 Labor and Energy Committee (the "Commerce Committee") from February 13, 2015. Yet, the
25 portion of Senate Bill 123 that dealt with NRS 604A.480 was withdrawn after it was deemed
26

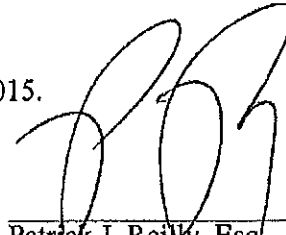
27 ³ Recently, in State v. Nevada Ass'n Services, Inc., the Nevada Supreme Court strongly rebuked the Division for
28 issuing an advisory opinion and interpreting a statute over which it had absolutely no jurisdiction. 128 Nev. Adv.
Op. No. 34, — P.3d. —, 2012 WL 3127275 (Aug. 2, 2012). This matter involves similar overreaching by the
Division.

1 “unnecessary” and “irrelevant” by the Commerce Committee because NRS 604A.480 does not
2 take away the licensee’s right to seek a civil action. Attached hereto as **Exhibit 4** is a true and
3 correct copy of the relevant minutes of the Senate Commerce, Labor and Energy from March 16,
4 2015. This legislative history is not only significant, it is dispositive of this matter, because it
5 evidences that the Legislature specifically rejected the Division’s current position that NRS
6 604A.480(2)(f) prevents a licensee from seeking an action against a debtor in default.

7 **V. CONCLUSION**

8 Based upon the plain language of the statute, the Court should find that NRS
9 604A.480(2)(f) does not prohibit licensees from initiating a civil suit or alternate dispute
10 resolution proceeding against a debtor that is in default. Rather, NRS 604A.480(2)(f) merely
11 provides that a licensee cannot be exempt from the requirements set forth in NRS 604A.480(1) if
12 the licensee has already commenced any civil action or process of alternative dispute resolution
13 against a debtor.

14 DATED this 13th day of October, 2015.



Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of October, 2015, a true and correct copy of the foregoing **DOLLAR LOAN CENTER, LLC'S OPENING BRIEF** was served by the following method(s):

☒ **Electronic:** by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
Email: ceccles@ag.nv.gov

*Attorneys for Defendant
State of Nevada, Department of Business And
Industry Financial Institutions Division*

☐ **U.S. Mail:** by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ **Email:** by electronically delivering a copy via email to the following e-mail address:

☐ **Facsimile:** by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

EXHIBIT “1”

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No : (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
STEVEN A. HORSFORD, *Senator, Chairman*
Lance J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
DEBBIE SMITH, *Assemblywoman, Chair*
Rick Combs, *Fiscal Analyst*
Mark Knapik, *Fiscal Analyst*

LOREN J. MALKIEWICZ, *Director*
(775) 684-6800

HELEN J. BRIDGES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD D. WILLIAMS, *Research Director* (775) 684-6825

July 26, 2011

Assemblyman Marcus Conklin
2251 N. Rampart, #305
Las Vegas, NV 89128

Dear Assemblyman Conklin:

You have asked for the opinion of this office concerning whether the provisions of NRS 604A.480 prohibit a licensee under chapter 604A of NRS from commencing a civil action or process of alternative dispute resolution against a customer upon his or her default on a new deferred deposit loan or high-interest loan which is made by the licensee in compliance with the conditions of subsection 2 of NRS 604A.480 and used to pay the balance of an outstanding loan of the customer. It is the opinion of this office that NRS 604A.480 does not impose such a prohibition on a licensee.

The statutory provision about which you have inquired, NRS 604A.480, provides:

604A.480 1. Except as otherwise provided in subsection 2, if a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan, the licensee shall not establish or extend the period beyond 60 days after the expiration of the initial loan period. The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.

2. This section does not apply to a new deferred deposit loan or high-interest loan if the licensee:

(a) Makes the new deferred deposit loan or high-interest loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

- (3) Requires the loan to be paid in full in not less than 150 days; and
- (4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;
- (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;
- (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;
- (d) Gives the customer the right to rescind the new deferred deposit loan or high-interest loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;
- (e) Participates in good faith with a counseling agency that is:
 - (1) Accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor organization; and
 - (2) A member of the National Foundation for Credit Counseling, or its successor organization; and
- (f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

Subsection 1 of NRS 604A.480 sets forth the generally applicable limitations that apply to a licensee when a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan. Under such circumstances, a licensee is prohibited from: (1) establishing or extending the period beyond 60 days after the expiration of the initial loan period; and (2) adding any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.

The prohibitions set forth in subsection 1 of NRS 604A.480 do not apply to a licensee who complies with the conditions set forth in subsection 2 of NRS 604A.480. The items set forth in paragraphs (a) to (f), inclusive, of subsection 2 of NRS 604A.480 are not affirmative prohibitions against a licensee, but are conditions with which a licensee must comply to qualify for exemption from the general requirements of subsection 1 of NRS 604A.480 and make a new deferred deposit loan or high-interest loan to a customer pursuant to subsection 2 of NRS 604A.480. It is the opinion of this office that, whereas the provisions of NRS 604A.480 apply whether or not the outstanding loan is in default, the provisions of subsection 2 of NRS 604A.480 impose on a licensee as a condition of proceeding under that subsection that, if the outstanding loan is in default, the licensee not commence any civil action or process of alternative dispute resolution on the loan or any extension or repayment plan thereof. It is further the opinion of this office that paragraph (f) of subsection 2 of NRS 604A.480 does not impose upon a licensee a prohibition against commencing any civil action or process of alternative dispute resolution against a customer who subsequently defaults on a new deferred

Assemblyman Conklin
July 26, 2011
Page 3

deposit loan or high-interest loan that is made by a licensee in compliance with the provisions of subsection 2 of NRS 604A.480.

If you have any further questions regarding this matter, please do not hesitate to contact this office.

Very truly yours,

Brenda J. Erdoes
Legislative Counsel

By Timothy M. Chandler
Timothy M. Chandler
Senior Principal Deputy Legislative Counsel

TMC:dtm
Encl.
Ref No. 1107251311
File No. OP Conklin 11072693436

EXHIBIT “2”

SENATE BILL NO. 123—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 5, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing certain loans.
(BDR 52-634)

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

EXPLANATION — Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to loans; revising provisions governing certain deferred deposit loans and high-interest loans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes certain requirements that are applicable to a person
2 who has been issued a license to operate a check-cashing service, deferred deposit
3 loan service, high-interest loan service or title loan service and who makes a new
4 deferred deposit or high-interest loan to a customer to pay the balance of an
5 outstanding loan. Existing law also provides an exemption from those requirements
6 if the licensee, in making the new deferred deposit or high-interest loan, complies
7 with certain conditions, one of which is that the licensee does not commence any
8 civil action or process of alternative dispute resolution (ADR) on a defaulted loan
9 or any extension or repayment plan thereof. (NRS 604A.480) This bill removes that
10 condition, allowing such a licensee to make a new deferred deposit or high-interest
11 loan without including in the agreement therefor a provision which sets forth that
12 the licensee will not commence a civil action or ADR.

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

1 **Section 1.** NRS 604A.480 is hereby amended to read as
2 follows:
3 604A.480 1. Except as otherwise provided in subsection 2,
4 if a customer agrees in writing to establish or extend the period for
5 the repayment, renewal, refinancing or consolidation of an
6 outstanding loan by using the proceeds of a new deferred deposit



1 loan or high-interest loan to pay the balance of the outstanding loan,
2 the licensee shall not establish or extend the period beyond 60 days
3 after the expiration of the initial loan period. The licensee shall not
4 add any unpaid interest or other charges accrued during the original
5 term of the outstanding loan or any extension of the outstanding
6 loan to the principal amount of the new deferred deposit loan or
7 high-interest loan.

8 2. ~~{This section does}~~ *The requirements of subsection 1 do* not
9 apply to a new deferred deposit loan or high-interest loan if the
10 licensee:

11 (a) Makes the new deferred deposit loan or high-interest loan to
12 a customer pursuant to a loan agreement which, under its original
13 terms:

14 (1) Charges an annual percentage rate of less than 200
15 percent;

16 (2) Requires the customer to make a payment on the loan at
17 least once every 30 days;

18 (3) Requires the loan to be paid in full in not less than 150
19 days; and

20 (4) Provides that interest does not accrue on the loan at the
21 annual percentage rate set forth in the loan agreement after the date
22 of maturity of the loan;

23 (b) Performs a credit check of the customer with a major
24 consumer reporting agency before making the loan;

25 (c) Reports information relating to the loan experience of the
26 customer to a major consumer reporting agency;

27 (d) Gives the customer the right to rescind the new deferred
28 deposit loan or high-interest loan within 5 days after the loan is
29 made without charging the customer any fee for rescinding the loan;

30 *and*

31 (e) Participates in good faith with a counseling agency that is:

32 (1) Accredited by the Council on Accreditation of Services
33 for Families and Children, Inc., or its successor organization; and

34 (2) A member of the National Foundation for Credit
35 Counseling, or its successor organization. ~~}; and~~

36 ~~—(f) Does not commence any civil action or process of alternative~~
37 ~~dispute resolution on a defaulted loan or any extension or repayment~~
38 ~~plan thereof.~~

39 **Sec. 2.** This act becomes effective upon passage and approval.



EXHIBIT “3”

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
February 13, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:03 a.m. on Friday, February 13, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Christine Miner, Committee Secretary

OTHERS PRESENT:

Bob Ostrovsky, State Contractors' Board
Nicole Willis-Grimes, State Contractors' Board
Chris Ferrari, Dollar Loan Center, LLC
Alfredo Alonso, Community Financial Services Association of America
Nancy Brown, Opportunity Alliance of Nevada
Jesse Wadhams, Security Finance Corporation
Dan Wulz, Legal Aid Center of Southern Nevada, Inc.
Michelle Johnson, President and CEO, Financial Guidance Center
Venecia Considine, Legal Aid Center of Southern Nevada, Inc.
John Griffin, TitleMax of Nevada, Inc.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 2

Chair Settlemeyer:

The meeting is now open, and I am requesting Committee introduction of a bill draft request (BDR), BDR 53-635.

BILL DRAFT REQUEST 53-635: Revises provisions relating to occupational disease. (Later introduced as Senate Bill 153.)

SENATOR MANENDO MOVED TO INTRODUCE BDR 53-635.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Chair Settlemeyer:

I will open the work session on Senate Bill (S.B.) 50.

SENATE BILL 50: Makes various changes to the regulation of contractors by the State Contractors' Board. (BDR 54-387)

Marji Paslov Thomas (Policy Analyst):

I will read the summary of the bill from the work session document and three proposed amendments (Exhibit C).

Chair Settlemeyer:

Are there any questions from the Committee? The amendment clarifies the first and second degree of consanguinity. That would be the children, grandchildren, parents, siblings and grandparents.

Senator Hardy:

I agree.

Senator Atkinson:

What is the source of the language in section 6, subsection 2, paragraph (a) of the amendment to S.B. 50? The language is complicated and I would like clarity on its intent.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 3

Bob Ostrovsky (State Contractors' Board):

This language clarifies the concerns of Senator Hardy from the February 6, 2015, hearing. It mirrors language found elsewhere in law.

Senator Farley:

Is the Qualified Employee (QE) financial responsibility language included in the amendment?

Nicole Willis-Grimes (State Contractors' Board):

The language on the QEs is in *Nevada Revised Statute* (NRS) 624.260, subsection 4, in the work session document, Exhibit C.

Senator Farley:

This language covers those that abuse the system and are financially irresponsible. The bill allows the State Contractors' Board to eliminate this problem.

Chair Settlemeyer:

I will close the work session on S.B. 50.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 50.

SENATOR FARLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will open the work session on S.B. 84.

SENATE BILL 84: Includes certain alcohol and drug abuse counselors and problem gambling counselors in the definition of "provider of health care" for purposes of various provisions relating to healing arts and certain other provisions. (BDR 54-389)

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 4

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document and one proposed amendment (Exhibit D).

Chair Settlemeyer:

Hearing no discussion, I will close the work session on S.B. 84.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 84.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Settlemeyer:

I will open the work session on S.B. 85.

SENATE BILL 85: Revises certain provisions of the Nevada Insurance Code.
(BDR 57-153)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document (Exhibit E).

Chair Settlemeyer:

Hearing no discussion, I will close the work session on S.B. 85.

SENATOR ATKINSON MOVED TO DO PASS S.B. 85.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

* * * * *

Chair Settlemeyer:

I will open the hearing on S.B. 123.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 5

SENATE BILL 123: Revises provisions governing certain loans. (BDR 52-634).

Chris Ferrari (Dollar Loan Center, LLC):

Dollar Loan Center supports S.B. 123. Dollar Loan Center has an A-plus rating with the Better Business Bureau (BBB), and payrolls over \$8 million for more than 250 people in Nevada. Each employee is provided a 401K plan with a 50 percent employer match, and health insurance, including dental and vision benefits. In Nevada, this company leases 26 buildings, with 110,000 square feet, and pays over \$200,000 in monthly rents. The company makes major improvements to all of their locations, thus, increasing the safety in neighborhoods in which they operate. This company is a community partner and donor to nonprofit organizations including the Boys & Girls Clubs of Las Vegas Foundation, Inc.; Opportunity Village Foundation; St. Jude's Children's Research Hospital, Inc.; Make-A-Wish Foundation of America and Little League Baseball, Inc. This is the kind of employer we want in Nevada.

Nevada Revised Statute 604A.485 prohibits some business owners legal recourse to collect on a default after entering into a contract with a customer. An example of this is an attorney in southern Nevada who advertises regularly on television and has a client unable to pay the bill for this attorney's services. The attorney sends this person to Dollar Loan Center to borrow the money to pay the bill because the attorney knows Dollar Loan Center has no legal recourse if that borrower defaults. My client, Dollar Loan Center, has had customers come through its doors, with a torn out copy of the Yellow Pages ad for that attorney. If the borrower decides not to repay the debt, my client has little recourse.

Existing statute treats the business model of my client differently than any business in Nevada. Article 4, section 21 of the *Constitution of the State of Nevada* states that all laws shall be general and of uniform operation throughout the State. The loan center businesses have been singled out by this statute, and are victims of bad policy. All businesses should be treated the same. This precedent could one day impact other businesses like landscapers, painters, auto repair businesses or restaurant supply companies. Opposition testimony will indicate this bill is not a good or fair law. This bill will ensure every Nevada business equal opportunity to civil remedy. I have submitted an informational flyer (Exhibit F). This is not about one industry, but about fair application of NRS. I ask that you support the fair and equal application of NRS and for your support of S.B. 123. I submit a letter of support for S.B. 123 (Exhibit G).

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 6

Senator Atkinson:
What is the bill saying?

Mr. Ferrari:
Senate Bill 123 deletes paragraph (f) of subsection 2 of NRS 604A.480. Current statute prohibits any lender who operates by the guidelines of NRS 604A.480 from accessing civil remedy. This type of loan has a capped interest rate with more flexible payment terms. It offers a longer consumer right of rescission—5 days instead of 1. It requires the lender to perform credit checks, to report the consumer's loan experience to a major consumer reporting agency and to participate in good faith with a counseling agency accredited by the Council on Accreditation of Services for Families and Children, Inc.

Senator Hardy:
Does Dollar Loan Center treat a loan applicant differently than other lenders in the payday loan business?

Mr. Ferrari:
Each loan product has a different client base, requirement and application. Loans under NRS 604A.480 offer more advantages to the consumer.

Senator Hardy:
Does this change other businesses in this field?

Mr. Ferrari:
There is no impact on other lenders.

Senator Farley:
Does this bill affect lenders in the same industry of lending as your client?

Mr. Ferrari:
Any lenders providing the service specified under NRS 604A.480 are affected by this bill.

Senator Farley:
May I have legal clarification on this NRS code from our Counsel?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 7

Dan Yu (Counsel):

The proposed revision of NRS 604A.480, subsection 2, paragraph (f), removes one limitation for the lenders to charge fees and interest on initial loan installments with respect to a second loan. With respect to loan one of the customer, the operator of the payday loan office would be able to extend the repayment period for an additional 60 days. If that customer then takes out a second loan to pay off the first loan, this statute would prohibit lenders from adding interest from the first loan onto the second loan, unless they are unable to commence any civil action. Payday lenders are able to pursue civil remedies, except under certain circumstances in the existing law.

Mr. Ferrari:

There are two legal opinions issued on this matter. One from the Legislative Counsel Bureau (LCB) as represented by Mr. Yu, and one from the Office of the Attorney General, which indicates the opposite opinion.

Senator Farley:

Would you provide us with a copy of the Attorney General's opinion?

Mr. Ferrari:

I would be happy to provide that to the Committee.

Chair Settlemeyer:

Please supply that to the Committee. The Attorney General's opinion may trump the LCB opinion.

Senator Harris:

How many loan extensions would a client be able to get?

Mr. Ferrari:

I will get the details on this to you. It is not in the best interest of a lender to lend to someone unable to repay. Dollar Loan Center denies one in four applicants.

Senator Spearman:

There is a recent study by the University of Nevada, Las Vegas (UNLV) that finds one in five Nevada veterans have used payday loans and half of those still have payday lending debt. Our State has no provisions in the law to protect

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 8

military personnel. I am concerned how this bill will negatively affect the military.

Mr. Ferrari:

I cannot speak on the military impact. The loans started in the short-term lending industry as "bridge loans" for the military whose salary is paid once a month. A payday loan and a signatory loan are different. A signatory loan requires an application, credit check and agency approval. A payday loan is secured by collateral. My client only charges interest on the time the loan is unpaid.

Senator Atkinson:

I have a concern about the effect on the consumer. Are these loans compounding? This bill is weakening the law. It opens the door to litigation.

Mr. Ferrari:

There are lenders in this business who have access to the courts for breach of contract. There is a specific area of this statute with this type of lender that prohibits that access to the courts. There is no other legal business in the State that faces such a statutory reprimand. We are only asking for equality as every other business has, as it pertains to access in the courts.

Senator Atkinson:

Are you saying that without this bill, you will not be able to take people to court, and with it, you will?

Mr. Ferraro:

It does put us on equal footing and allows us to pursue civil remedy.

Senator Atkinson:

With whom is the equal footing?

Mr. Ferrari:

It will be equal footing with other lenders. Under current statute, a traditional payday lender has court access if not lending under NRS 604A.480. Dollar Loan Center lends under this NRS statute, and civil remedy is not allowed.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 9

Senator Atkinson:

This is not the way I read the other payday lending company loans. The people who use payday loan centers are not typical borrowers. They are unable to get a loan from other lending institutions. The late fees and interest that these industries charge are extreme, and now your client wants to be able to take these borrowers to court. These borrowers are people I represent in my district. Often their situations are desperate.

Chair Settlemeyer:

It would be helpful if Mr. Ferrari would forward the competing opinions from the LCB and the Attorney General's office. We do not want to deny any business the due process of the law. That is the concern here. Amendments will, potentially, come forward on this issue.

Senator Atkinson:

If there are opposing opinions, where are they?

Chair Settlemeyer:

We will review the two opinions when we receive them. More of today's testimony may reveal further points for discussion.

Senator Manendo:

I have constituents in my district who have used payday loans. What lenders are we referring to in this bill?

Mr. Ferrari:

We are referring to any lender who lends under the provisions of NRS 604A.480. The borrower needs the loan in a pinch. A bounced check overdraft fee or a late fee on rent averages \$50 and \$5 per day. This can range from 1,000 percent to 15,000 percent interest. A 1-week \$750 loan from my client will cost \$28 in interest. There are pages of testimonials of people who have an appreciation for these loans when an urgent need arises. These loans allow immediate funding and are a good alternative for your constituents. We work very closely with the regulations in Las Vegas to ensure we are offering a product that meets the clients' demands.

Senator Manendo:

Who are some of the businesses that fall under this statute?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 10

Mr. Ferrari:

I can only speak for Dollar Loan Center.

Senator Farley:

This is about an area of law, not a business practice. My employees use this model, and I become a lender of last resort when they get into trouble. This is a separate issue. We need to create parity in the laws. The Attorney General's opinion is very important to us. The social issue is a different conversation.

Chair Settlemeyer:

We need to confine ourselves to the concept within the bill, not our own opinions.

Senator Atkinson:

I do not think it is fair to redirect what questions we have. The questions are from the people I represent. These are consumer protection issues; that is what this law is about, and my questions relate to this. There is a component of this bill that has to be dealt with legally. As the Senate Commerce Committee, we should be discussing both.

Senator Hardy:

It would be helpful to compare the list of those businesses that are affected by this bill and those payday loan businesses that practice under the statutes that allow court recourse. This would aid in determining the fairness issue with your client.

Mr. Ferrari:

I will be happy to provide that list. There will be opposition to this bill. In 2007, there was a deal made when NRS 604A.480 was crafted; Dollar Loan Center was not part of that deal. It is a due process matter and an issue about the uniformity of the statute.

Senator Spearman:

Are there remedies for those lenders who choose not to lend under NRS 604A.480? It would be helpful to understand who the lenders are that choose to operate under this statute that limits due process. If this is available to short-term lenders and due process is what you are seeking, then why choose to operate under the statute that does not allow this recourse?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 11

Mr. Ferrari:

The provisions under NRS 604A.480 allow a more consumer-friendly lending product. Why deny a lender due process who chooses this avenue in lending?

Alfredo Alonso (Community Financial Services Association of America):

The Community Financial Services Association of America (CFSA) does not support this bill. Many of the larger members of the payday loan community are members of CFSA. Significant hearings and discussions took place over a two-session period. Many of the payday lenders and the NRS 604A.480 licensees were making most of their money on the back end. They were suing under a bad check law, for treble damages and putting people in a position of never repaying the loan. This was the overall problem. These high-risk loans are part of doing business and our members rarely enter into litigation. We have repeat customers because of our fairness practices. Money Tree is one member that is a community partner and a creditor for emergency loans. Repeat lending to an individual who fails to repay a loan does not exist and does not result in litigation. Members of CFSA have high collection numbers. The policy decision is to avoid litigation.

Senator Atkinson:

I was involved in many of the past discussions. These discussions resulted from what you stated in your testimony. This is a policy decision that we need to have as a committee to protect the working poor. Was there a discussion that allows a loophole for these lenders to litigate? The borrowers cannot afford court, and the resulting debt would never be recoverable.

Mr. Alonso:

The small loans that allow more interest to build continually result in poor repayment numbers and court costs. The goal of this legislation is to regulate the industry so the customer has more opportunity to repay the loan. The court remedy was taken out if the lender followed the lending provisions of NRS 640A.480. The intent is to keep a fair agreement for all parties. This is designed as a stopgap to give a borrower the small credit that a bank would not allow. The law is fair and regulates properly. We will not lend to military personnel if the commander of the base does not allow it.

Senator Atkinson:

If an individual defaults on a loan, does your organization have a mechanism in place that prevents this person from continual borrowing?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 12

Mr. Alonso:

The members of CFSA choose not to allow more borrowing by a person who is in default on a loan.

Senator Farley:

How different is the business model that your organization represents from the business model of Dollar Loan Center? Do your clients take collateral or have liens placed on property or income?

Mr. Alonso:

There has to be ability to pay off the loan. A job is one of the criteria. My clients put a set fee per \$100 on a 2-week loan. Each short-term loan is different. The NRS 604A.480 loans are longer-term loans. Compounded on a yearly basis, this results in a higher interest loan.

Senator Spearman:

Please explain the term "back end."

Mr. Alonso:

There was a time when a small loan would result in a default. Litigation would be pursued for treble damages and bad check practices; this is where the term "back end" came from. *Nevada Revised Statute* 604A.480 curbs these practices. The goal of the businesses I represent is to make money only on the interest of the loan.

Senator Spearman:

Debt for the military is considered a national security risk. If the debt-to-income ratio is too high for many of these lower ranking individuals, their careers are on the line. Working families are denied a living wage, which results in these dilemmas. These individuals are taking out these loans to enable them to survive to the next paycheck. The federal law requires an interest cap of 39 percent, the cap for this law is 200 percent, and some of the loans are made at 199 percent. This does not appear to be a good-faith effort. This is not to deny businesses the right to fair and honest commerce. The payday loans get people into trouble, including personnel in the military, and people lose more than we realize.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 13

Senator Hardy:

Are your members ever allowed to go to court, including small claims court, by statute?

Mr. Alonso:

We do not go to court even if the statute allows it.

Senator Hardy:

Who is allowed to go to court by statute?

Mr. Alonso:

I would have to check the statutes.

Senator Hardy:

Do you ever lend to military personnel?

Mr. Alonso:

The members of CFSA do not. There may be a federal law that prohibits lending to military personnel.

Senator Hardy:

Are your members working under NRS 604A.480 or under another statute?

Mr. Alonso:

Our members practice under NRS 604A.

Senator Harris:

Do your members have a one-time fee associated with their loans versus a running interest rate loan?

Mr. Alonso:

Yes, that is how most of the members of CFSA do business. A chart for the borrower discloses what this person will pay per \$100 borrowed.

Senator Harris:

If your borrower takes out a loan, defaults for 1 to 2 years and then pays it off, do the businesses in your association charge interest over that period of time?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 14

Mr. Alonso:
No.

Senator Spearman:

The 39 percent interest rate cap is a federal cap. The enforcement of not allowing a lender on a military base is at the discretion of the base commander. This happens if there is a pattern of abuse by service personnel on that particular base.

Chair Settlemeyer:

Is this for the entire base, or for an individual service member?

Senator Spearman:

When I was a company commander, several of the lower-ranked members were borrowing, unable to pay back the loans, then taking out another loan and only able to pay back the interest. They would never be able to pay back the original loan. The debt-to-income ratio was prohibitive. The commander of this base discovered that this practice was prevalent throughout the base, and the payday lending establishments were put off-limits to the military personnel assigned to that base.

Nancy Brown (Opportunity Alliance of Nevada):

The Opportunity of Alliance of Nevada strengthens individuals and families to help them attain and preserve assets, become more financially stable and achieve long-term economic stability. Our purpose is to educate and assist the consumer. I have submitted a letter and information on the Alliance (Exhibit H). We oppose any changes to NRS 604A.480. The borrower is in a tight financial situation and looking for reasonable alternatives. Many are in "debtor's prison." These are short-term payday loans to the middle class, not just the poor, who have no upward mobility. These lending practices create the opportunity for the borrower to get into a spiral of debt. Loopholes allow that spiral to continue. I urge the Committee to say no to this bill.

Senator Farley:

What is the average income of these borrowers?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 15

Ms. Brown:

Sixty-eight percent of our population has subprime credit. This includes the middle class. The recession contributed to this and incomes have decreased. We want to ensure that those with lower income have the ability to participate in the process of moving forward in Nevada.

Chair Settlemeyer:

Please find the income of these borrowers and send it to us.

Senator Hardy:

Do you refer your people to payday loans?

Ms. Brown:

No, our agency refers our customers to a Financial Guidance Center (FGC). Our first option is to share alternate available resources to people in financial need. The Opportunity Alliance is making these connections more visible and accessible. The resources are good in the State. Some of the payday lenders are sending people to the alternatives. Our goal is to prevent borrowers from getting caught in the credit trap cycle; S.B. 123 promotes this cycle.

Senator Hardy:

Your testimony indicates that all payday loans are a trap.

Ms. Brown:

That is not what I am saying. If the payday lenders encourage the borrower to apply for a second loan to pay off the first loan, with no stopgap, this is when the cycle starts and this creates the financial problem.

Senator Hardy:

Do you refer a person in a financial emergency to a payday loan?

Ms. Brown:

No, we do not refer anyone to a payday loan.

Senator Harris:

In addition to the resources you mentioned, do you also refer people to the credit counseling agencies. A number of them provide free services.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 16

Ms. Brown:

We refer people to the statewide FGC, which has many resources.

Senator Atkinson:

Is it your opinion that this bill will encourage people to borrow a loan to pay off a loan, and get into a cycle they cannot get out of?

Ms. Brown:

I do not know if it is an encouragement. The current law is a protection against the borrower's continuous cycle. We propose no change to the current law.

Jesse Wadhams (Security Finance Corporation):

Security Finance Corporation operates within the NRS 604A.480 framework. I would add that the Consumer Financial Protection Bureau (CFPB) is promulgating some new regulation in this area. It may be premature to make changes to this law. Some new federal law may be forthcoming.

Dan Wulz (Legal Aid Center of Southern Nevada, Inc.):

I am an attorney with the Legal Aid Center of Southern Nevada. I am a concerned citizen and an attorney who has represented customers of short-term, high-interest lenders. I have prepared testimony (Exhibit 1). This testimony is very detailed and includes the history of what is now NRS 604A.480. Senate Bill 123 will change the fabric of the entire chapter and fundamentally weaken consumer protections. There are 120 lenders in Nevada operating under the NRS 604A.480 provisions. It is telling that only Dollar Loan Center is represented here. Besides car title loans, the chapter covers three types of high-interest loans. Two of them are payday loans, and the other is an installment loan. They are: (1) a short term up to 35-day high-interest payday loan with a 90-day rollover limit, (2) a short-term up to 90-day high-interest payday loan if it meets certain criteria with the same 90-day rollover wall, and (3) an installment loan covered by the statute that the bill seeks to change. No lender ever has to offer this type of loan. These are longer-term loans of no less than 150 days. Exhibit 1 illustrates what the Dollar Loan Center profits over 14 months. These are not short-term payday loans, and good public policy requires different treatment. The current law states these installment loans cannot be sued upon. This encourages responsible lending, because the lender will be sure the borrower has the ability to repay the loan. Senate Bill 123 will change this, and the result will be to push borrowers into long-term, high-interest loans and result in predatory lending with the right to

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 17

sue as a weapon. A lender will be incentivized to lend to anyone with a job regardless of the ability to repay. Exhibit I demonstrates that the Dollar Loan Center practice can extend or renew these loans indefinitely. If that is true, the loan can be manipulated to avoid default for many months. That means the protections in NRS 604A.485, protecting borrowers from default, do not kick in for months or years. This again changes the fabric of the entire chapter.

Passing S.B.123 will allow lenders in this industry to write loans at just under the 200 percent annual interest rate, or for over 150 days, or for much longer. A higher amount of interest can accrue on these long-term loans. We should not want to encourage high-interest, long-term loans by providing litigation as a weapon. This opens a loophole that will be exploited on the backs of the working poor.

Senator Farley:

Where is the consumer responsibility in these loans? If a person does not like the terms of the loan, the person does not have to finalize it. Why are we trying to legislate the right of a business to collect on a contract to which both parties agreed? Should we be legislating this or the interest rate policies?

Mr. Wulz:

The party who agrees to a loan with triple-digit interest illustrates that this person has nowhere else to turn and demonstrates their financial desperation. Their finances are fragile. That person has other debt, other creditors. Those taking out these types of loans do not read the fine print. The party looks at the truth-in-lending statement to find the payment amount and due date. Their focus is on paying the interest.

Senator Farley:

A contract has to be considered by both parties. If it is an unfair contract, why not address that issue instead of not allowing a business legal recourse on that contract?

Mr. Wulz:

I was there when this exception was drafted. Security Finance asked for this exception. They could not live with the bill as drafted. This was the solution. There are nine criteria in NRS 604A.480, subsection 2, which meet the business practice. One of those criteria was that Security not sue their customers. Not having litigation as a weapon encourages underwriting of the

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 18

loan upfront and the assurance of the borrower's ability to repay the loan. It is good public policy. Longer-term loans are 200 annual percentage rate. Borrowers can get into longer and larger trouble.

Senator Farley:

A borrower can sign a contract with one of these lenders, not pay it back, and there will be no recourse. I do not know what discourages someone from making good decisions and being responsible financially. I did not get an answer on the responsibility issue.

Chair Settlemeyer:

Please respond to that question off-line.

Senator Atkinson:

Integrity plays into this issue. The Committee should look at the history of the bill. In 2011, A.B. No. 541 of the 76th Legislative Session brought forward by Mr. Wulz was not passed. These loans serve their purpose, we know who the clientele are, and statistics will show who the borrowers are. What we need are statistics on who are in default. The defaults will occur mostly among the working poor. This bill is viewed by some as weakening consumer protection. My concern is with the constituents I represent. Mr. Wulz, do you have statistics on those individuals that are in default?

Mr. Wulz:

There are many studies and statistics available. We will provide them to the Committee.

Senator Harris:

Based on today's testimony, there are different payday loan companies operating under different statutes. Can you tell me if there are differences in consumers who borrow from a lender practicing under NRS 604A.480 and those who would pursue a payday loan from a lender operating under different statutes? Who borrows on a short-term loan that Mr. Alonso spoke of with a set fee versus an installment loan the Dollar Loan Center offers? Do these differences appeal to different sectors of the population? Do the customers know the difference, or are they just going to the closest lender to secure any loan product?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 19

Mr. Wulz:

I do not have any personal knowledge of that. I suspect this is driven by advertising and location. The consumers of these loans generally do not shop the loan market.

Senator Harris:

With your experience representing people through the legal aid business, have you been able to distinguish a determining factor in the type of individual that would secure a fee-based payday loan versus a long-term product?

Mr. Wulz:

I suspect these borrowers do not shop for a product. Michelle Johnson may have a better answer to this question.

Senator Spearman:

Governor Sandoval said, although our economy is recovering and there are more jobs available, he expects there to be more people receiving food stamps and other social services. I doubt a person purchasing a home has read all the fine print on the contract before it is signed. The availability of these payday loans allows people in an emergency situation to feed their families. They do not understand the ramifications until they fall into default. It is not a consequence of economic status, but one of desperation to make ends meet and avoid default on other responsibilities. When we consider this as a business process and a consumer protection process, we must be knowledgeable about the people who are accessing these type of loans. A loan application with the closest lender is not a conscious decision. It is an immediate answer to an immediate need. Knowing the product is subjective.

Senator Hardy:

If this opens up NRS 604A where borrowers are not sued, could we make this same provision to the other lenders under NRS 604A, to level the playing field?

Mr. Wulz:

This is an interesting proposition, and there would be no enthusiasm for passing NRS 604A if the 35- and 90-day lenders had to agree not to sue.

Senator Hardy:

Is that not a statement in and of itself?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 20

Michelle Johnson (President and CEO, Financial Guidance Center):

I will read from my written testimony (Exhibit J). I am here today to address the financial hardship experienced by the thousands of Nevadans for whom we provide service. Consumers who access the short-term loans are doing so because they are in financial distress. Nine out of ten of those who seek the services of the Financial Guidance Center are victims of the short-term loan cycle. These individuals are the working poor living from paycheck to paycheck. Passing of S.B. 123 would exacerbate their situations and allow more of these individuals to fall deeper into deficiency. The cycle of debt that would result from the passing of this bill would often lead to bankruptcy for these borrowers. I urge the Committee to oppose efforts to weaken NRS 604A.480, subsection 2.

Senator Hardy:

Is the court recourse still available to payday loans of any kind?

Ms. Johnson:

Yes, but the other payday loans are short-term loans.

Senator Hardy:

Could your customers potentially fall into the same trap as with the long-term loan?

Ms. Johnson:

Potentially, they could fall into that trap.

Senator Harris:

Are those who apply for 35- to 60-day loans different from those who seek the longer-term loans? Is it the same type of individual who happens to fall into a particular product, or are there different needs serviced by different payday loan operators?

Ms. Johnson:

There is no difference. It is a matter of what is most convenient. The majority of consumers we counsel have a mixture of types of loans. They borrow from one loan to pay the interest on another loan.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 21

Venecla Considine (Legal Aid Center of Southern Nevada, Inc.):

I oppose any changes to NRS 604A.480 as proposed by S.B. 123. The difference between the installment loan and the payday loans is the length of term. The installment loan terms under NRS 604A.480 are 12 to 15 months with rollover options that can continue for multiple years. This loan accrues interest over this long term. Removing the litigation protection would allow these loans to continue for years, accruing higher interest. A payday loan must stop after one rollover of 60 to 90 days. The interest accrual cannot exceed a set period of time. The differences in these two types of loans matter. The long-term loan credit requirement and the ability to repay are built into the legislation. Allowing the litigation as proposed in S.B. 123 will blur the difference between the loans and change the entire chapter, not just NRS 604A.480.

Senator Atkinson:

Will the passing of S.B. 123 as proposed allow all lenders to pursue litigation, including Dollar Loan Center?

Ms. Considine:

The bill would encourage all lenders to lend under this provision and provide the longer-term loans. It will have unintended effects. A CFPB study shows the national average yearly income for those who utilize payday loans is \$22,400.

Senator Hardy:

On those same statistics, is the average income of a borrower of a long-term installment loan the same?

Ms. Considine:

There is no study that separates these issues. The study was a national one. Not all states allow payday loans.

Senator Hardy:

Did they group these two types of payday loans together in the study?

Ms. Considine:

Yes.

Chair Settlemeyer:

What states have outlawed the payday loans completely?

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 22

Ms. Considine:

We will get that information to the Committee. A dozen states have outlawed them completely. Other states have capped the interest rates at 36 percent.

John Griffin (TitleMax of Nevada, Inc.):

Auto title lending is different from payday installment loans. Senator Hardy posed a question about which lenders can seek recourse. In NRS 604A.455, subsection 2, the sole remedy for an auto title loan is repossession of the automobile, and those lenders do not have any other legal recourse against the borrower.

Ms. Brown:

The data from a recent VA study showed 84 percent of veterans using payday lending are accessing lenders by foot or by car.

Senate Committee on Commerce, Labor and Energy
February 13, 2015
Page 23

Chair Settlemeyer:

I will close the hearing on S.B. 123 and adjourn this meeting at 9:47 a.m.

RESPECTFULLY SUBMITTED:

Christine Miner,
Committee Secretary

APPROVED BY:

Senator James A. Settlemeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 50	C	4	Marji Paslov Thomas	Work Session Document
S.B. 84	D	2	Marji Paslov Thomas	Work Session Document
S.B. 85	E	1	Marji Paslov Thomas	Work Session Document
S.B. 123	F	1	Chris Ferrari	Everyone Deserves Their Day in Court
S.B. 123	G	1	Chris Ferrari	Letter of support from The Chamber: Reno-Sparks - Northern Nevada
S.B. 123	H	3	Nancy Brown	Letter of support
S.B. 123	I	9	Dan Wulz	Written Testimony
S.B. 123	J	2	Michelle Johnson	Written Testimony

EXHIBIT “4”

**MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session
March 16, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:32 a.m. on Monday, March 16, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator James A. Settelmeyer, Chair
Senator Patricia Farley, Vice Chair
Senator Joe P. Hardy
Senator Becky Harris
Senator Mark A. Manendo
Senator Kelvin Atkinson
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Michael Roberson, Senatorial District No. 20

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Dan Yu, Counsel
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Alfredo Alonso, Community Financial Services Association of America; Southern Wine and Spirits; Nevada Beer Wholesalers Association
Chris Ferrari, Dollar Loan Center, LLC
Jon Sasser, Legal Aid Center of Southern Nevada, Inc.; Washoe Legal Services; Southern Nevada Senior Law Program

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 2

Keith Lee, Nevada Title and Payday Loans, Inc.; Distilled Spirits Council of the United States
Barry Gold, AARP Nevada
George Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry
Michael Hillerby, Bently Heritage Distillery, Bently Enterprises, LLC
Susan Carbiener, Vice President of Operations, Bently Enterprises, LLC
Brady Frey, Chief Operating Officer, Bently Enterprises, LLC
Mike Draper, Frey Ranch Estate Distillery; Churchill Vineyards, LLC
Colby Frey, Owner, Frey Ranch Estate Distillery, Churchill Vineyards, LLC
Ray Bacon, Nevada Manufacturers Association
George Racz, Owner, Las Vegas Distillery, LLC
Tom Adams, President, Seven Troughs Distilling Company, LLC
Kimberly Surratt, Reno Rodeo Association
Chris Shanks, Co-Owner, The Depot Craft Brewery Distillery
Lisa Granahan, Economic Vitality Manager, Douglas County
Jesse Wadhams, Wirtz Beverage Nevada; Guaranteed Asset Protection Alliance
Tyre Gray
Dan Wulz, Legal Aid Center of Southern Nevada, Inc.
Jim Wadhams

Chair Settlemeyer:

I will open the hearing with Senate Bill (S.B.) 242.

SENATE BILL 242: Requires payday lenders to use best practices. (BDR 52-953)

Senator Michael Roberson (Senatorial District No. 20):

The payday lending industry has had dramatic growth over the last couple of decades since its inception as a check-cashing business in the early 1990s. The Community Financial Services Association of America (CFSA), the national payday lending trade group which represents over half of the payday advance stores, reports there are approximately 20,600 payday advance stores across America. Nevada has regulated this industry for over 10 years to protect customers.

The CFSA believes that payday advance transactions should be conducted safely and responsibly with appropriate consumer protection, and has developed best practices used to maintain quality in the payday advance industry and can be used as a benchmark for payday lenders. The development of best practices

Senate Committee on Commerce, Labor and Energy
March 18, 2015
Page 3

ensures responsible conduct among lenders, protects borrowers' rights and encourages self-governance within the industry.

Senate Bill 242 requires a licensed individual to provide check-cashing services, deferred deposit loan services, high-interest loan services and title loan services, to comply with the provisions set forth by this bill. Section 4 of S.B. 242 states a licensee must comply with the disclosure requirements of *Nevada Revised Statute* (NRS) 604A.405 and the federal Truth in Lending Act. A licensee must disclose the cost of the service fee as both a dollar amount and an annual percentage rate, as well as making rates clearly visible to customers prior to entering into the transaction process.

Section 5 of S.B. 242 forbids charging a fee for any service that is prohibited by State or federal law. Section 6 addresses truthful advertising. Section 7 encourages consumer responsibility and requires a licensee to be forthcoming about the intended use of the payday advance service. Notices should advise consumers that payday services should be used for short-term financial needs, and customers with credit difficulties should seek credit counseling prior to entering into a loan transaction.

Section 8 of S.B. 242 prohibits customers from rolling over a payday advance. Section 9 makes clear under NRS 604A.460 a licensee must advise a consumer of the ability to rescind, at no cost, any transaction on or before the close of business the following business day. Section 10 denotes collection of past due accounts in a professional, fair and lawful manner, without threats, intimidation or harassment. Section 11 requires the industry to self-police and report violations to the Commissioner, Division of Financial Institutions. Section 12 makes a repayment plan available to customers unable to repay a loan agreement. Section 13 requires a licensee that offers payday advances via the Internet to be licensed in each state and comply with regulations of each state.

Alfredo Alonso (Community Financial Services Association of America):

Senate Bill 242 codifies many of the same practices done within our association. This bill is good for the industry, as there have been abuses in the payday advance industry. The check-cashing service should be removed, as it is not part of a repayment issue as established in the bill. Section 12 should also be removed since it duplicates a repayment plan within the deferred deposit section.

Senate Committee on Commerce, Labor and Energy
March 18, 2015
Page 4

Chris Ferrari (Dollar Loan Center, LLC):

We agree with the comments of Mr. Alonso and are glad to see best practices added to the payday advance industry. We have a couple of clarifications to work out with Senator Roberson and Mr. Alonso; otherwise, we approve and support S.B. 242.

Jon Sasser (Legal Aid Center of Southern Nevada, Inc.; Washoe Legal Services):
Senate Bill 242 is an excellent idea to have Legislative intent for the payday advance industry to conduct itself utilizing best practices. We support the bill as written. Therefore, I would like to review any proposed amendments prior to scheduling the final work session.

Keith Lee (Nevada Title and Payday Loans, Inc.):

We support S.B. 242 with the proposed amendments by Mr. Alonso.

Senator Harris:

What is the average amount of debt taken out by individuals using the payday advance service?

Mr. Lee:

I do not know what the average loan amount is through the industry as a whole. I can get the information for the companies I represent.

Senator Harris:

Section 8 references NRS 604A.408, which only allows a 90-day rollover on a loan. Are we taking away the ability for consumers to pay back a high-interest loan in such a short period?

Mr. Lee:

The intent of this code of ethics and the NRS is to stop the debt treadmill. Each individual and circumstance is different.

Senator Harris:

When individuals are in a debt situation bad enough to require a payday loan, their income will not likely allow them to pay the loan back in 90 days. How does this help the individual find appropriate ways to cover their monthly expenses and reduce their debt?

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 5

Barry Gold (AARP Nevada):

The AARP is pleased that S.B. 242 has been brought before the Committee. It is important that standards be enacted for best practices for the payday loan industry. We would also like to understand the proposed amendments before deciding to support this bill.

George Burns (Commissioner, Division of Financial Institutions, Department of Business and Industry):

Our agency is responsible for licensing, examinations and enforcement of NRS 604A. I have submitted a copy of my written testimony (Exhibit C). The Division of Financial Institutions is generally neutral with duplication of established provisions. Language that is generic and all-encompassing may generate confusion in an already complex statute.

In section 2 of S.B. 242, the term "payday lender" is generic, used to define a "deferred deposit lender" as listed in NRS 604A. The term "payday lender" does not really apply to check cashers, high-interest lenders and title lenders, which S.B. 242, the "Payday Lender Best Practices Act," appears to address directly and indirectly. The term "licensee" encompasses all businesses listed under NRS 604A. As section 7 is a new requirement to the statute, the advertising disclosure is not applicable to check-cashing services and is confusing for long-term, high-interest and title loans. Again, the term licensee listed in section 8 reiterates the extension period limits in NRS 604A.408, therefore, not applicable to 30-day title loans that allow up to six extensions, and 210-day title loans that do not permit any extensions. Our agency looks forward to working with the sponsor to address the technical concerns outlined in my testimony Exhibit C.

Senator Roberson:

I am willing to meet with any concerned individuals and take all proposed amendments into consideration.

Chair Settlemeyer:

I will now close the hearing on S.B. 242 and open the hearing on S.B. 246.

SENATE BILL 246: Revises provisions governing craft distilleries. (BDR 52-631)

Michael Hillerby (Bently Heritage Distillery, Bently Enterprises, LLC):

Bently Enterprises has invested heavily in Nevada and supports S.B. 246.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 6

Susan Carblener (Vice President of Operations, Bently Enterprises, LLC):

Bently Enterprises is a diverse group of companies based in Minden and San Francisco. Please refer to my slide presentation (Exhibit D). We have 150 employees consisting of cowboys, graphic designers, property managers and front-end developers, all experts in their fields and active in their industries. Our roots in Carson Valley started in 1961 when Don Bently started Bently Nevada operations. We now occupy a 200,000 square foot, state-of-the-art building in the Bently Science Park. Bently Nevada was one of Northern Nevada's largest non-gaming employers before being sold to General Electric in 2002. We continue to create new business in the Carson Valley and to enhance our agricultural operation at Bently ranch. We have renovated historical buildings with modern technology and energy efficiency. Our focus remains on agriculture, sustainability and historic preservation.

With the passage of A.B. No. 153 of the 77th Legislative Session, allowing craft distilling in Nevada, we formulated a plan for revitalization of downtown Minden. We purchased the iconic flour mill building and silos in the late 1960s. The original, historic mill building was built in 1906. Across from the mill building is the Minden Creamery, constructed in 1916. Bently will be renovating these buildings, which will be the Bently Heritage Distillery. The entire site will be designed for pedestrian access through the estate and to downtown Minden.

We will manufacture vodka, gin, rye whiskey, bourbon and single malt whiskey. We will use grains grown locally on Bently Ranch. We will be exporting a significant amount of sales, our main business focus. The first grain crop testing is under way. The mill building will contain a tasting room, tours for the public, space for public events and catering. Our whiskey pot stills will be in the silos. The creamery building will contain stills for the production of gin and vodka. Bently will purchase state-of-the-art equipment from Vendome Copper & Brass Works, Inc. located in Kentucky, Forsythe located in Scotland, Kothé Distilling Technologies located in Germany, and local suppliers such as Silver State Stainless located in Carson City.

The total project budget, including construction, renovations and land value, is in excess of \$44 million. By completion in late 2016, we expect to hire 13 new positions paying more than \$25 per hour. Our investment in Minden has a significant impact on our regional economy. In addition to benefits to local retailers, such as dining and lodging, we will target the estimated 2.7 million Lake Tahoe visitors, encouraging them to experience Bently Heritage.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 7

Senate Bill 246 will enable craft distillers to meet customer demand, export Nevada's craft spirits, allow a reasonable return on investment (ROI) and be an important driver of economic development.

Mr. Hillerby:

I will outline some of the modifications brought forth in S.B. 246 starting with section 1, subsection 2, paragraph (b), which references the changes that are forthcoming. The craft distillery law was created in the 77th Session with A.B. 153. Nevada has a three-tier system for how liquor is sold and taxed, which is very specific and detailed. It is not relevant to smaller distilleries, craft distilleries or estate distilleries. More of the public is interested in seeing where the crops are grown for the manufacturing of their food and liquor as well as to meet the people involved in the process. Nevada's laws do not take this into consideration; therefore, A.B. No. 153 from the 77th Session as well as S.B. 246 are important to the distillery industry.

The changes begin in section 1, subsection 2, paragraph (c) of S.B. 246, moving the export cap to 60,000 cases. To put this into perspective, Nevada imported 176,797 cases in December 2014, 144,889 cases in November 2014 and 149,287 in June 2014. Senate Bill 246 only requests an annual total of 60,000 cases for any distiller in Nevada to export to 49 other states. Section 1, subsection 2, paragraph (d) and paragraph (e) add an additional location, other than the distillery, to offer taste samples and direct sale of spirits. Section 1, subsection 2, paragraph (e) also increases direct sales to the public to one case per day. Section 1, subsection 2, paragraph (f) allows any distiller to donate directly to charities with approval from the Department of Taxation. Section 1, subsection 2, paragraph (g) allows transfer of bulk, neutral spirits, manufactured at the distillery, to another supplier. Section 2, subsection 2, paragraph (g), subparagraph (2) would not classify the bulk transfer as a sale. The other supplier would blend the neutral spirits and sell their own mixture. For clarification, a case is 12 bottles.

Wholesalers and distributors support S.B. 246, and we are working together on the language in the bill to determine the most economical sense for all involved. One other item I would like to point out is the removal of the limit of samples to any one individual, section 1, subsection 2, paragraph (d), which will put distilleries on par with bars, restaurants, hotel casinos, brew pubs and wineries within Nevada.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 8

Senator Farley:

How many bottles or cases do other states allow to be sold directly to customers on the distillery property?

Mr. Hillerby:

Direct sales on a distillery property vary from state to state dependent on the laws of that state.

Senator Hardy:

What is a neutral spirit versus distilled spirit?

Brady Frey (Chief Operating Officer, Bently Enterprises, LLC):

Within the process of distilling alcohol, prior to final cuts, you have a neutral spirit that can be blended with other ingredients to produce a final product. A neutral spirit has some, but not all, ingredients, which can be used for other products by other suppliers.

Senator Harris:

The reference to the one other location, found in section 1, subsection 2, paragraph (d), do you anticipate the other location to be a retail facility such as a restaurant?

Mr. Hillerby:

The second location would be determined by the individual distillery. Other locations could include restaurants, on or off the premises, special events such as the Nevada Day Parade or the Fallon Cantaloupe Festival. A second location would be a temporary sales or tasting location, or both.

Senator Harris:

If the distillery is one location and you have a full-time second location, such as a restaurant or pub owned by the distillery, would you also be able to have a temporary location for special events?

Mr. Hillerby:

Having more than one or two locations is important. The more opportunities there are to market products, the better for any distillery, but we fully understand and support the three-tier system. We have a wholesaler/distributor partnering with Bently Enterprises, but would like to have some control over the marketing and sales.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 9

Mike Draper (Frey Ranch Estate Distillery; Churchill Vineyards, LLC):

Nevada has seen a boom in craft breweries and distilleries, which have earned a reputation for producing quality products. It is imperative that Nevada see this industry as legitimate with significant economic potential and the ability to attract visitors from all over the world. In the 6 months from its inception, the Frey Ranch Estate Distillery has received substantial attention from all over the Country for its premium products and its unique grain-to-glass operation.

Frey Ranch, also home to Churchill Vineyards, is the only estate distillery and estate winery in the Country. The editor for Drink Spirits online publication recently visited Frey Ranch and called their white whiskey the best he had ever tasted. White whiskey comes right out of the still before it is aged in barrels, and their vodka rivaled some of the best vodka on the market. Frey Ranch aspires to be a national brand and is quickly gaining notoriety. We support S.B. 246 as a needed evolution in Nevada's liquor laws. This bill will allow wider platforms to expose products to consumers. Existing law succeeds in allowing for the initial beginnings of the craft distillery, but does not create a business environment that allows for growth and expansion. Current law does not invite, encourage and reward entrepreneurial spirit within Nevada.

Colby Frey (Owner, Frey Ranch Estate Distillery, Churchill Vineyards, LLC):

The Frey family has spent five generations building the economy in Northern Nevada. We started farming in the Genoa area in the 1850s before Nevada was declared a U.S. state, and we now occupy the Lake Ridge area in Reno. My great-grandparents owned the Peckham Ranch. My grandfather invented a tree stump puller to clear trees on ground considered not farmable, turning the land into prime farmland. In 1944, the land was sold to my grandfather's brother. My grandfather then saved enough money to purchase what is now the Frey Ranch, originally the residence of Senator Robert Douglas. My grandfather sold this land to my father in 1980, and I was able to purchase the ranch from my father in 2009. To maintain income in months of bad times, we created a winery and eventually a distillery.

We researched crops that would require less water to survive drought conditions yet generate more revenue. This year, our water allocation in Churchill County was set to 20 percent, the worst allocation our irrigation district has seen in its 100-year history. Lower water allocation is catastrophic for farmers. Lack of water does not mean lack of bills, land payments and

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 10

property taxes. It is important to us to seek ways to conserve water while creating better income potential.

Alfalfa is the primary crop in Churchill County. Wine grapes consume only 10 percent of the water needed by alfalfa, and grains in the distillery consume 40 percent to 80 percent. By diversifying our crops, we are able to save water. Churchill Vineyards started planting wine grapes in 2001 and produced our first wines in 2004. We received our federal distilling license in 2006. We have been experimenting with turning different wines into brandy. With the passage of A.B. No. 153 of the 77th Legislative Session, we drastically expanded our plans to construct a state-of-the-art distillery. We are farmers first. Frey Ranch Estate Distillery started as a way to create product from the grains grown on our farm. Previously, the grain was fed to dairy cows. With the distillery, we are able to sell the spent grains to dairy farms after the alcohol is distilled. Spent grain still has nutritional value and practically zero waste.

The distillery was designed so we could produce enough product in the winter months to shut down for the summer months, thus we can farm in the summer and distill in the winter. In addition, this allows us to maintain employment for our workers year-round. The distillery is capable of producing 10,000 cases of 12 bottles each of spirits per month. I believe Frey Ranch distillery has the largest production capacity of any distillery on the West Coast. We have a one-of-a-kind Vendome still, that is capable of making any spirit in the manner it was intended. Our whiskey, vodka and gin are produced 100 percent by our own grown crops. This produces a truly unique, 100 percent Nevada product.

We have been able to overcome obstacles that many farms face, and our goal is to create a high quality product that can be distributed nationally, also aiding Nevada's economy. With legislative assistance, Frey Ranch Estate Distillery can be a national brand, making Nevada a household name.

Ray Bacon (Nevada Manufacturers Association):

I spent many years of my career at Bently Nevada and can attest that the old mill building and silos had become infested with various vermin. I had personal dealings with the owner who was deciding whether to tear the buildings down. Instead, the owner decided to spend the necessary money to clean up the structures in hopes it would be something historic and useful.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 11

From an economic development standpoint, the Freys helped contribute to the diversification of Nevada's economy, along with the electronics company that started with 3 employees, and grew to employ over 1,000 when it was sold. The Freys are now using their agricultural products to manufacture additional products.

George Racz (Owner, Las Vegas Distillery, LLC):

I wrote the draft for what became A.B. No. 153 of the 77th Legislative Session. That bill has helped my family and many others to start the distilling industry in Nevada. During the last 4 years, we have had more than 20,000 visitors. Our distillery produced the first Nevada-made bourbon, named Nevada 150, to honor and celebrate Nevada's 150th anniversary. Within the last 2 years, four distilleries opened in northern Nevada for a total of five distilleries. It is amazing to have Bently join the industry. Senate Bill 246 gives our industry better opportunities to grow and succeed.

Tom Adams (President, Seven Troughs Distilling Company, LLC):

Here are some facts from the microbrewer perspective since the passage of A.B. No. 153 of the 77th Legislative Session. As of this past year, there are five operating distilleries in Nevada. Seven Troughs was able to hire two full-time employees. Distribution has been gained throughout Nevada and into California. Seven Troughs has over 100 retail accounts. Last year our distillery consumed 30 tons of Nevada grown grain from Winnemucca Ranch, Frey Ranch and Bently Ranch. We will consume 50 tons this year. Nevada distilleries have proven they can make outstanding products.

Seven Troughs has made significant support to local charities. Senate Bill 246 will allow distilleries to donate to more local charities and nonprofit organizations. We offer support through donation of goods and a royalty program to raise funds for the Reno Rodeo Association's Legacy Vodka Project. We provide direct assistance to the Boys and Girls Clubs of Western Nevada, Care Chest of Sierra Nevada, Veterans Guest House, Reno Rodeo Association and more.

Despite the small successes the distilleries have had, S.B. 246 would have a significant impact to help our industry grow and flourish. Tasting rooms are very important for the public to see and taste what we manufacture. Our tasting room sales are approximately four times higher than the sales to our 100 statewide distributor accounts. Customers want a connection to the

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 12

process and like that the product is made locally. Limiting the number of bottle sales in the tasting room causes us a loss of revenue. We can only sell two bottles per month to any person, resulting in unsatisfied customers.

Our most effective marketing comes through direct interaction with our customers. We do not have large marketing budgets. We reach customers through charity and special events. The offsite privileges permitted by S.B. 246 would allow distilleries to grow such interactions by attending farmers markets, special events, sporting events and charity events, which will cultivate brand recognition and longer sustainable sales growth.

Kimberly Surratt (Sponsor Chair, Reno Rodeo Association):

We are the beneficiaries of a project with Seven Troughs Distillery Company. We created the Reno Rodeo Legacy Vodka project. Senate Bill 246 is very important and beneficial for us. The Reno Rodeo began in 1919 and is quickly coming to its 100-year anniversary. We are landlocked in our current location. Except for bad weather days, the rodeo has a sellout crowd every night. We are in desperate need for expansion, and the Legacy project is for that purpose. Without expansion our economic impact on the community is \$57,391,543 from non-locals who come to Reno specifically to see the rodeo. We are a nonprofit organization, with only three paid employees paid through our foundation dollars. Total employment impact from the visitor expenditures is 652 full-time jobs supported for one year by the Reno Rodeo Association and Foundation. Please note the dollar figures listed do not include the economic impact from residents.

For contributions to the Legacy Vodka project, our partner, Seven Troughs Distillery, is limited on the amount of sales and charitable interactions. With the passage of S.B. 246, there could be taste testing on the grounds at the rodeo, and the benefit to the rodeo would grow dramatically. Our expansion project is budgeted at \$60 million, growing from 30-40 acres to over 100 acres, which will double or triple our economic impact to the community. We are modeling our vodka project after the Pendleton whiskey project, which is tied to the Pendleton Round-Up, a rodeo located in Pendleton, Oregon. The Pendleton project is immensely successful. The Reno Rodeo can be just as successful. The Reno Rodeo is able to purchase alcohol for use at a party at the National Finals Rodeo in Las Vegas. We had hundreds of spectators that attended the National Finals Rodeo who stated they wanted to purchase the brand of vodka supplied at the party, but were unable to do so at the rodeo.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 13

Chris Shanks (Co-Owner, The Depot Craft Brewery Distillery):

We are the first combined craft brewery and distillery in Nevada. We support S.B. 246 for the same reasons as the other testifiers have stated. We have 75 employees and are a full-service restaurant, craft brewery and craft distillery, located in the historic Nevada-California-Oregon Railway depot in downtown Reno. We spent over \$4 million renovating our property. Assembly Bill No. 153 of the 77th Legislative Session was a great first step to diversify our economy.

Reno has many older industrial buildings, warehouses and mills that would need to be demolished without the distillery industry. Being able to sell more bottles on the premises and additional locations would allow us to pay back our initial capital investment quicker and help us realize a better ROI. Senate Bill 246 helps us expand and grow to a full-fledged distillery.

Lisa Granahan (Economic Vitality Manager, Douglas County):

The local government perspective is important. During the 77th Legislative Session, Douglas County supported A.B. 153 to allow distilleries. Subsequently, in 2014, Douglas County allowed large and small craft food and beverage production in commercial and tourist zoning areas. The result is a rehabilitation of the former historic mill building in downtown Minden. The multimillion dollar project is in the design review stage. One core value of the economic vitality program is creating a distinctive downtown area where residents and tourists want to visit to experience local cuisine, shopping and tasting the wares of the distillery, which they can purchase, share with friends and family, encouraging a desire to return.

Douglas County has worked hard to diversify the industries and economy so we are not as dependent on gaming and construction. Senate Bill 246 furthers manufacturing export opportunities and enables the sale of locally made spirits, creating additional reasons to attract more visitors, and contributing to the success of our eateries and retail shops. Douglas County supports S.B. 246 as a step towards furthering our economic vitality. I am submitting my written testimony (Exhibit E).

Alfredo Alonso (Southern Wine and Spirits; Nevada Beer Wholesalers Association):

Our goal is for a balance in terms of how liquor is produced and sold, as well as proper tax collection and enforcement of that balance. There has been significant growth in the small sectors of the distilling industry. Limits on the

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 14

number of bottles sold to any individual vary in different states. Some states only allow the sale of one bottle per customer; other states allow more than two. This is largely dependent on the ability of a state's enforcement.

We applaud anyone coming to Nevada to start production of distilled spirits; however, we oppose S.B. 246. One concern is the cost of Nevada's enforcement ability. With respect to the bill, we do not have concerns with exportation, unless the industry size of craft distilling takes the place of a standard distillery. The initial goal was to have craft distilling be a smaller tier. Another concern is the definition of a taste, or sample. If you change a taste from two fluid ounces to an unlimited amount, it is no longer a sample. These are distilled spirits and can be very potent. If a customer samples five or six different bottles at an ounce per shot, there is a significant concern.

We are also concerned about customers being able to purchase a case of spirits per day. This amount is drastically more than two bottles per month. Regarding the transfer of bulk neutral spirits, it is important that the recipient distillery be properly licensed and any resulting sales be taxed appropriately. Distilled spirits are not beer or wine; therefore, our concern is whether a case size should be six or twelve bottles.

Jesse Wadhams (Wirtz Beverage):

I echo the comments of Mr. Alonso. We oppose S.B. 246, however we are willing to work with the proponents to find a mutually beneficial agreement. One concern is that craft distilleries are requesting to export and sell a total of 70,000 cases per year. Keep in mind that Jack Daniels in Las Vegas sells 92,000 cases per year. Do we want our craft distilleries to be 75 percent of the size of America's most popular whiskey brand?

Kelth Lee (Distilled Spirits Council of the United States):

We agree with the comments and concerns of Mr. Alonso and Mr. Wadhams. While recognizing the need for entrepreneurs, we support the three-tier rule. Our market share increases with the addition of different spirits, but it needs to be accomplished wisely. I will also be working with the proponents of S.B. 246 to determine if we can agree on the language.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 15

Senator Farley:

Do distilleries need a liquor license to dispense tasting samples? How much does a distillery make on sales per bottle from their premises versus selling through the distribution process?

Mr. Alonso:

It is not more expensive for a distillery to sell through a wholesaler.

Senator Farley:

Would I make more money selling a bottle of spirits from my premises than if I sold it through distribution?

Mr. Alonso:

Yes, you would make more money selling a bottle from your distillery. Our concern is keeping tabs on what is actually sold so the State does not lose out on the taxes. We are worried about those distilleries not following the rules.

Senator Manendo:

Depending on tasting size limits, if a consumer has too much to drink, then has a car accident after leaving the distillery, is there any liability on the distillery?

Senator Farley:

Any distillery or winery should be responsible enough to know if someone has had too much to drink, that individual should not be served additional alcohol.

Chair Settlemeyer:

I will now close the hearing on S.B. 246 and open the hearing on S.B. 253.

SENATE BILL 253: Enacts provisions governing the sale of guaranteed asset protection waivers. (BDR 57-795)

Senator Patricia Farley (Senatorial District No. 8):

I would like to present S.B. 253 to enact guaranteed asset protection (GAP) waivers. A GAP waiver may be referred to as debt cancellation agreement. Auto insurance typically provides enough protection to cover costs of repair or replacement on a vehicle that is damaged or stolen. However, if the cash value is less than an individual owes on his or her loan, this gap in amounts is not covered by insurance policies. Hence, if that individual had purchased a GAP

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 16

waiver, the auto creditor will waive some or all of the loan balance, after insurance coverage.

Sections 3-14 of S.B. 253 provide definitions of terms. Section 16 provides that marketing, issuance, sale and administration of GAP waivers are not subject to the provisions of Nevada's insurance codes, except for those provisions giving the Commissioner of Insurance authority to regulate, investigate and conduct hearings on violations of the law. Additionally, this section states that GAP waivers do not apply to debt cancellation or suspension agreements regulated by federal laws or policies of insurance. Section 17 prohibits a creditor who sells GAP waivers from including the words "in the name of the business" that could indicate the creditor is not the insured. These words include insurance, casualty, surety and mutual.

Section 18 of S.B. 253 authorizes a creditor to sell a GAP waiver to a borrower owing money to that creditor pursuant to a finance agreement. The cost of the GAP waiver must be separately stated as a part of the amount financed and can be paid for with one lump payment or in installments. Section 19 prohibits a creditor from requiring the purchase of a GAP waiver as a condition of credit approval or terms of the sale. Section 20 requires certain information to be disclosed in the GAP waiver. The free-look period is addressed in section 21, allowing a consumer a minimum of 30 days to cancel the GAP waiver for some, or all, of the amount as a refund.

Section 22 of S.B. 253 requires a retail car dealer to purchase a contractual liability insurance policy that insures the obligation of each GAP waiver. Section 24 requires a creditor to make records of GAP waivers available to the Commissioner of Insurance for compliance checks and enforcement of rules and regulations, if necessary. A GAP waiver is not insurance; it is a debt waiver. Auto dealers must acquire insurance to insure the obligation of each GAP waiver; however, the GAP waiver is not an insurance policy for the consumer.

Jesse Wadhams (Guaranteed Asset Protection Alliance):

Senate Bill 253 will standardize the sale of GAP waivers. Debt cancellation is between two parties, the creditor and an individual, agreeing to waive any debt collection if the proceeds from an insurance company do not cover the full balance on a loan. An important component of this bill is that it will add more consumer protection.

Senate Committee on Commerce, Labor and Energy
March 18, 2016
Page 17

Tyre Gray:

I agree with all statements from Senator Farley and Mr. Wadhams, extend my support of S.B. 253 and am available to answer any questions.

Senator Atkinson:

Whom exactly is this contract between?

Mr. Wadhams:

The contract for a GAP waiver is between the creditor giving the person a loan and the individual financing a vehicle.

Senator Atkinson:

Is a GAP waiver the same as GAP insurance?

Mr. Wadhams:

A GAP waiver is a waiver against collecting on a debt. It is a debt cancellation for the amount of money remaining on a debt that was not paid by an insurance policy. There is still GAP insurance available, which is regulated under *Nevada Administrative Code* 691C.

Senator Atkinson:

Suppose I have an accident in my vehicle, which is totaled, and Kelley Blue Book says my car is worth \$15,000, but I owe \$25,000. If I have purchased GAP coverage, is it insurance? What does S.B. 253 change?

Mr. Grey:

Insurance is a third-party contract. A GAP waiver is only between the creditor and the debtor. The creditors waive their right to collect a portion of the debt not covered by the debtor's insurance company.

Senator Atkinson:

We already have this law in effect. What is S.B. 253 changing or adding?

Mr. Wadhams:

Senate Bill 253 is an attempt to put together a model act for GAP products to provide a standard methodology for offering them that will provide appropriate terms and conditions and appropriate consumer protections.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 18

Senator Atkinson:

What makes a GAP waiver different from GAP insurance? Are laws not clear?

Mr. Wadhams:

Some of the confusion is in the sale of GAP products. We are attempting to make sure the process is standardized with clear, understandable rules.

Senator Harris:

What form does a GAP waiver come in? Is it a certificate? How can a consumer prove they purchased a GAP waiver? Does it ensure consumer protection?

Mr. Wadhams:

Senate Bill 253 will make clear rules on the offering of GAP products. There is typically a pamphlet or set of instructions which will clarify language such as the free-look period or disclosures that this is an optional product. The other component is the GAP waiver becomes part of the finance agreement. Therefore, the terms are included within the finance agreement.

Senator Harris:

With the variety of products offered, how are we protecting the consumer? Will a consumer's credit be protected if there is a deficient amount owed to the creditor?

Mr. Wadhams:

Senate Bill 253 provides for consumer protection by clarifying there be an administrator backing the GAP products and providing appropriate record keeping. Documentation would follow the loan paperwork to each successive lender; therefore, each lender would know a GAP waiver exists.

Senator Spearman:

If a consumer purchases GAP coverage then determines the coverage is not needed, is a refund available?

Mr. Wadhams:

There are different products available. Some products are cancellable; some are not. There are options such as a 30-day free-look period, which offers a full refund. Refund options are disclosed at the initial transaction.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 19

Senator Spearman:

Is a GAP waiver rolled into the life of the loan? Does it include interest?

Mr. Wadhams:

A GAP waiver is included in the financial agreement that can have interest accrued. It is important to note that for consumer protection, there must be a disclosure that GAP waivers are optional, and the consumer is not obligated to purchase a GAP waiver.

Senator Hardy:

Since this is not considered an insurance product, is there any model act from the National Conference of Insurance Legislators? You mentioned a model act. Are you implying other states are selling GAP waivers now or will be selling, so we have footsteps to follow? What is the amount of risk the creditor is taking since no one is paying the deficiency value? Does S.B. 253 apply to other GAP waivers besides vehicles?

Mr. Wadhams:

There is a cost to GAP waivers. A creditor would build any cost into the finance agreement. Should there be any deficiency in the loan amount, the loan would be marked "paid in full."

Senator Hardy:

Does the customer know the cost of the GAP waiver?

Mr. Wadhams:

Yes, a customer knows the cost of a GAP waiver before agreeing to purchase it. The cost of the GAP waiver is not for the full amount of any possible deficiency, but a smaller amount.

Senator Hardy:

What is the cost of a GAP waiver?

Mr. Wadhams:

The available products vary. A GAP waiver can range in price from a few hundred dollars to several hundreds of dollars.

Senator Hardy:

Would this apply to a leased vehicle?

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 20

Mr. Wadhams:

Yes, you can purchase GAP waivers for leased vehicles.

Senator Hardy:

Does the consumer pay the creditor for a GAP waiver?

Senator Farley:

As an example, I agree to purchase a vehicle for \$23,000. I agree to pay an additional \$1,200 for a GAP waiver, which becomes part of the financial agreement. If I wreck my vehicle and my auto insurance does not cover the total amount due on the loan, the creditor forgives the balance, and I owe nothing further. There is no fighting between lenders and insurance companies for any balance of money.

Senator Hardy:

Is this a model act now, or are you trying to start a model act?

Mr. Wadhams:

The Guaranteed Asset Protection Alliance is an alliance of various vendors of GAP products. This model act is their trade organization attempting to standardize the selling of this product throughout the United States. There are 47 states moving towards this model language.

Senator Hardy:

Is this language modeled after something else that worked?

Mr. Wadhams:

Yes, the bill uses proven model language.

Senator Atkinson:

Are there multiple GAP products? Why are we adding additional product to what exists? Did the Attorney General (AG) and Insurance Commissioner issue opinions referencing this product as insurance? Should GAP products be regulated under insurance laws?

Mr. Wadhams:

There has been some dispute between the AG and Division of Insurance as to whether this should be regulated as insurance. Senate Bill 253 is attempting to

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 21

clarify the two-party situation between a creditor and a borrower. The GAP product is not insurance because there are only two parties to that agreement.

Dan Wulz (Legal Aid Center of Southern Nevada, Inc.):

I am confused as to why S.B. 253 is necessary, and I am in opposition to this bill. Car dealers are already able to make deals with buyers. The proponents are saying that an insurance-like contract is not insurance, therefore not being bound by law. The AG has stated that a similar contract "is" insurance. It is not good policy to create a new category of an insurance-like contract that is not subject to insurance laws.

When a contract has no known value and is sold on credit, it does not help the economy. Conservative principles should dictate great care and skepticism in the creation of such exotic contracts. I am curious to know how many cars, per thousand, are totaled in an accident or an unrecovered theft, as a GAP waiver acts like insurance against a very remote event. Senate Bill 253 is creating a consumer product that no consumer has requested, which operates exactly like GAP insurance. It is not wise to endorse the sale of a contract that has no known value at an unknown price, as well as being exempt from our insurance laws.

I have prepared testimony and exhibits from my testimony on A.B. No 88 of the 77th Legislative Session (Exhibit F). The points made during this hearing were that for similar products, consumers do not know they have purchased such a product, or are led to believe the product is not optional. If the product is not insurance, then consumers are not protected.

We have no way to determine if GAP waivers are grossly over-priced, and have no way to regulate the pricing. Similar contracts written to date are incomprehensible. There are some samples within Exhibit F. These contracts contain binding, mandatory arbitration clauses, which strip consumers of rights and remedies. GAP products are subject to discriminatory pricing since consumers cannot determine their value.

To clarify exactly what a creditor would waive in a GAP waiver, S.B. 253 does not state the creditor will waive the remaining balance. Section 10 states the creditor agrees to waive part or all of a remaining balance. The creditor chooses to write the contract that only makes them waive part of a remaining balance.

Senate Committee on Commerce, Labor and Energy
March 16, 2016
Page 22

Mr Sasser:

I agree with Mr. Wulz and am in opposition to S.B. 253. I would like to point out that with regards to the model act that has been tested in 47 states, there are no facts stating if any of these states have actually passed the act or have any experience with it. There are no guarantees of consumer protections. The only difference I hear is that a GAP waiver is between two parties instead of three.

Jim Wadhams:

There is a big difference between insurance coverage and financing agreements. Financing companies are not insurance companies, and each is regulated differently. Insurance laws are in statutes and remain unchanged. There is no AG opinion; in fact, there are conflicting opinions of the office of the Commissioner of Insurance. Finance companies are not regulated the same as insurance companies.

Chair Settlemeyer:

I will close the hearing on S.B. 253, and open the work session on S.B. 159.

SENATE BILL 159: Revises provisions relating to insurance. (BDR 67-829)

Marji Paslov Thomas (Policy Analyst):

I will read the summary of the bill from the work session document (Exhibit G). There are no proposed amendments.

Chair Settlemeyer:

As there is no discussion, I will now close the work session on S.B. 159.

SENATOR HARDY MOVED TO DO PASS S.B. 159.

SENATOR FARLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 181.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 23

SENATE BILL 181; Provides for the licensure of certified anesthesiology assistants. (BDR 54-240)

Ms. Paslov Thomas:

Please note there is an additional amendment, submitted by Senator Hardy. I will read the summary of the bill from the work session document and five proposed amendments (Exhibit H).

Chair Settlemeyer:

As there is no discussion, I will now close the work session on S.B. 181.

SENATOR SPEARMAN MOVED TO AMEND WITH ALL THE PROPOSED AMENDMENTS AND DO PASS AS AMENDED S.B. 181.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 233.

SENATE BILL 233; Revises provisions relating to occupational safety. (BDR 53-990)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document and two proposed amendments (Exhibit I).

Chair Settlemeyer:

The Committee agrees this bill is not problematic. The testimony received by the proponents was they would rather formulate their own training, which allows them to specialize such training.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 24

Senator Atkinson:

I was approached by an individual who has concerns regarding this bill. I am honoring my commitment, but advising you that this individual will follow up with you shortly.

Chair Settlemeyer:

I will now close the work session on S.B. 233.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 233.

SENATOR ATKINSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on A.B. 75.

ASSEMBLY BILL 75: Revises provisions governing certain proposed changes in the schedule of rates or services of a public utility. (BDR 58-351)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document (Exhibit J). There are no proposed amendments.

Chair Settlemeyer:

As there is no discussion, I will now close the work session on A.B. 75.

SENATOR HARDY MOVED TO DO PASS A.B. 75.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 26

Chair Settelmeyer:

I will now open the work session on A.B. 154.

ASSEMBLY BILL 154: Makes various changes to the Nevada Employment Security Council. (BDR 53-553)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document (Exhibit K).
There are no proposed amendments.

Chair Settelmeyer:

As there is no discussion, I will now close the work session on A.B. 154.

SENATOR HARRIS MOVED TO DO PASS A.B.154.

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settelmeyer:

I will now open the work session on S.B. 123. The work session documentation is submitted (Exhibit L).

SENATE BILL 123: Revises provisions governing certain loans. (BDR 52-634)

Chair Settelmeyer:

Discussion on S.B. 123 regarded the right for remedy at law. Everyone should have a remedy at law so a person does not look for his or her own remedy. Clarification by legal counsel indicated there might be an ability for remedy at law already, which would result in S.B. 123 not being necessary. For final clarification, do individuals have a right to their initial loan? Can an individual go to court to acquire their original loan?

Dan Yu (Counsel):

Based on my review of NRS 604.480, the lender of a deferred deposit loan or high-interest loan can seek access to court as a remedy at law for an outstanding or defaulted original loan. Subsection 2 of NRS 604.480 pertains to

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 26

treadmill, or cycle of debt referencing a second loan for purposes of paying back an original loan.

Chair Settlemeyer:

With clarification from counsel, it is determined that S.B. 123 is no longer relevant. I will now close the work session on S.B. 123.

SENATOR ATKINSON MOVED TO POSTPONE INDEFINITELY S.B. 123.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Settlemeyer:

I will now open the work session on S.B. 113.

SENATE BILL 113: Revises provisions relating to insurance. (BDR 57-690)

Ms. Paslov Thomas:

I will read the summary of the bill from the work session document and three proposed amendments (Exhibit M).

Senator Atkinson:

I have not had many issues resolved on S.B. 113. I am not in favor of this bill, yet I reserve my right to change my vote if the proponents can clarify the issues. I have major concerns with this bill.

Senator Spearman:

I have had the opportunity to speak with a few individuals; however, my concerns are with the religious implications. I oppose the bill, yet reserve the right to change my vote on the floor.

Chair Settlemeyer:

I will now close the work session on S.B. 113.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
S.B. 113.

Senate Committee on Commerce, Labor and Energy
March 16, 2015
Page 27

SENATOR SETTELMAYER SECONDED THE MOTION.

THE MOTION PASSED. (SENATORS ATKINSON, MANENDO AND
SPEARMAN VOTED NO.)

Chair Settelmeyer:

With no further business, the meeting is adjourned at 10:45 a.m.

RESPECTFULLY SUBMITTED:

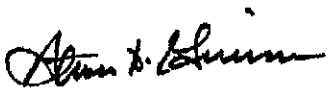
Renee Fletcher,
Committee Secretary

APPROVED BY:

Senator James A. Settelmeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	2		Agenda
	B	6		Attendance Roster
S.B. 242	C	3	George Burns	Written Testimony
S.B. 246	D	22	Susan Carbiener	Slide Presentation
S.B. 246	E	1	Lisa Granahan	Written Testimony
S.B. 253	F	37	Dan Wulz	Written Testimony and Exhibits from the 77th Legislative Session on A.B. 88
S.B. 159	G	1	Marji Paslov Thomas	Work Session Document
S.B. 181	H	6	Marji Paslov Thomas	Work Session Document
S.B. 233	I	1	Marji Paslov Thomas	Work Session Document
A.B. 75	J	1	Marji Paslov Thomas	Work Session Document
A.B. 154	K	1	Marji Paslov Thomas	Work Session Document
S.B. 123	L	1	Chair James A. Settelmeyer	Work Session Document
S.B. 113	M	2	Marji Paslov Thomas	Work Session Document



CLERK OF THE COURT

BREF
ADAM PAUL LAXALT
Attorney General
DAVID POPE, #8617
Senior Deputy Attorney General
CHRISTOPHER ECCLES, #9798
Deputy Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Telephone: (702) 486-3105
Facsimile: (702) 486-3416
E-Mail: ceccles@ag.nv.gov
Attorneys for the Defendant

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

In Re The Joint Petition of:)	Case No.: A-15-720959-C
)	
DOLLAR LOAN CENTER, LLC, a domestic)	Dept. No.: XIII
limited-liability company,)	
)	OPENING BRIEF IN SUPPORT OF
Plaintiff,)	THE POSITION OF THE FINANCIAL
)	INSTITUTIONS DIVISION
vs.)	
)	
STATE OF NEVADA, DEPARTMENT OF)	
BUSINESS AND INDUSTRY, FINANCIAL)	
INSTITUTIONS DIVISION,)	
)	
Defendant.)	

The Financial Institutions Division, Department of Business and Industry, State of Nevada (Division), through legal counsel Adam Paul Laxalt, Attorney General of Nevada, David Pope, Senior Deputy Attorney General and Christopher Eccles, Deputy Attorney

...

...

...

...

...

...

1 General, submits this Opening Brief in Support of the Position of the Financial Institutions
2 Division.

3 Dated this 13th day of October, 2015.

4 ADAM PAUL LAXALT
5 Attorney General

6 By: /s/ Christopher Eccles
7 CHRISTOPHER ECCLES
8 Deputy Attorney General
9 DAVID POPE
10 Senior Deputy Attorney General
11 Attorneys for the Defendants
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

I. ISSUE TO BE DETERMINED

Is the prohibition against civil actions or alternative dispute resolution in NRS 604A.480(2)(f) applicable to a new deferred deposit loan or high-interest loan made pursuant to NRS 604A.480(2) to pay the balance of an outstanding loan, or does it only limit actions to collect on the outstanding loan?¹

II. LEGAL ANALYSIS

NRS Chapter 604A regulates short-term loans in Nevada. The chapter regulates three forms of loans: deferred deposit loans, high-interest loans, and title loans.² A deferred deposit loan is a transaction in which the customer provides the licensee³ with a check or authorization for electronic transfer of funds on a future date in exchange for immediate receipt of a lesser sum of money from the licensee.⁴ A high-interest loan is a loan which has single or multiple installments and charges more than 40 percent in annual interest rate.⁵ The original loan term of a deferred deposit loan or high-interest loan usually does not exceed 35 days.⁶

Further, the licensee cannot extend either type of loan contract beyond 90 days from the date of execution of the loan contract.⁷ A high-interest loan may be made for a period of 90 days as long as it requires fully amortized installments, is not subject to extension, and does not contain a balloon payment.⁸

...

NRS 604A.480 reads in full as follows:

¹ See Attorney General Opinion dated October 30, 2012, attached hereto as **Exhibit 1**.

² For the purposes of this analysis, title loans are not relevant.

³ NRS 604A.075 (Licensee means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service pursuant to the provisions of this chapter).

⁴ NRS 604A.050.

⁵ NRS 604A.0703.

⁶ NRS 604A.408(1).

⁷ NRS 604A.408(3) ("Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan.").

⁸ NRS 604A.408(2).

- 1 **1. Except as otherwise provided in subsection 2, if a customer**
2 **agrees in writing to establish or extend the period for the**
3 **repayment, renewal, refinancing or consolidation of an**
4 **outstanding loan by using the proceeds of a new deferred**
5 **deposit loan or high-interest loan to pay the balance of the**
6 **outstanding loan, the licensee shall not establish or extend**
7 **the period beyond 60 days after the expiration of the initial**
8 **loan period.** The licensee shall not add any unpaid interest or
9 other charges accrued during the original term of the
10 outstanding loan or any extension of the outstanding loan to the
11 principal amount of the new deferred deposit loan or high-
12 interest loan.

13 **2. This section does not apply to a new deferred deposit loan**
14 **or high-interest loan if the licensee:**
15 (a) Makes the *new* deferred deposit loan or high-interest loan
16 to a customer pursuant to a loan agreement which, under
17 its original terms:
18 (1) Charges an annual percentage rate of less than 200
19 percent;
20 (2) Requires the customer to make a payment on the loan
21 at least once every 30 days;
22 (3) Requires the loan to be paid in full in not less than 150
23 days; and
24 (4) Provides that interest does not accrue on the loan at
25 the annual percentage rate set forth in the loan
26 agreement after the date of maturity of the loan;
27 (b) Performs a credit check of the customer with a major
28 consumer reporting agency before making the loan;

 (c) Reports information relating to the loan experience of the
 customer to a major consumer reporting agency;

 (d) Gives the customer the right to rescind the new deferred
 deposit loan or high-interest loan within 5 days after the
 loan is made without charging the customer any fee for
 rescinding the loan;

 (e) Participates in good faith with a counseling agency that is:
 (1) Accredited by the Council on Accreditation of Services
 for Families and Children, Inc., or its successor
 organization; and
 (2) A member of the National Foundation for Credit
 Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

(Emphasis added).

The first subsection establishes the rule that a licensee can only extend a deferred deposit loan or high-interest loan through the proceeds of a new⁹ deferred deposit loan or high-interest loan for an additional 60 days beyond the term of the original loan.¹⁰ The limitation on the term of deferred deposit and high-interest loans thus protects customers from falling into a cycle of debt.

The second section establishes that the restrictions set forth in NRS 604A.480(1) do not apply if the licensee satisfies all of the applicable requirements. Among them, subsection 2(f) prohibits the licensee from commencing any civil action. It bars a licensee from commencing any civil action or process of alternative dispute resolution "on a defaulted loan or any extension or repayment plan thereof."¹¹ The question is whether this language bars collection only of the outstanding loan, or collection of both the outstanding loan and the new loan used to pay the balance of the outstanding loan.

On December 10, 2009, the Division issued a Declaratory Order and Advisory Opinion Regarding Mandatory Disclosures for Loans Made Pursuant to NRS 604A.480.¹² In it, the Division concluded that NRS 604A.480 bars collection action on **any** loan, new or outstanding.¹³ Deference is given to an interpretation of the agency charged with administering a statute, in this case the Division.¹⁴ The Division's interpretation is reasonable in light of the plain language.

⁹ NRS 604A.480(1).

¹⁰ NRS 604A.480(1) The term "new deferred deposit or high-interest loan" as used herein and in the statute means the source of proceeds for "the repayment, renewal, refinancing or consolidation of an outstanding loan"

¹¹ NRS 604A.480(2)(f).

¹² Advisory Opinion, attached hereto as Exhibit 2.

¹³ *Id.* at 7, lines 3-6.

¹⁴ See Pyramid Lake Paiute Tribe of Indians v. Washoe County, 112 Nev. 743, 747-48, 918 P.2d 697, 700 (1996) ("An agency charged with the duty of administering an act is impliedly clothed with power to construe it as a necessary precedent to administrative action. Further, great deference should be given to the [administrative] agency's interpretation when it is within the language of the statute") (internal citations and quotation marks omitted).

1 If a statute is clear and unambiguous, this court gives effect to the plain and ordinary
2 meaning of the statute's language."¹⁵ In this case, the statute provides that a licensee who
3 utilizes the exception in section 2 may not commence a civil action or process of alternative
4 dispute resolution "on a defaulted loan or any extension or repayment plan thereof."¹⁶ The
5 statute does not confine the prohibition to the outstanding loan; it applies to "a defaulted loan
6 or any extension or repayment plan thereof." The bar reasonably applies to both an
7 outstanding loan and a new loan used to pay the balance on an outstanding loan. Therefore,
8 on its face, the statute is clear and there is no occasion for statutory construction. "[W]here
9 there is no ambiguity in a statute, there is no opportunity for judicial construction and the law
10 must be followed regardless of result."¹⁷

11 Even if ambiguity did exist and construction was necessary, canons of statutory
12 construction would require the same result. Statutes should be construed "in line with what
13 reason and public policy would indicate the legislature intended."¹⁸

14 Here, a main goal of NRS Chapter 604A was to stop lending abuses that locked
15 customers into a cycle of debt, often referred to as the "debt treadmill." This problem occurs
16 when a customer who is unable to repay the original loan either continues to make interest-
17 only payments just to keep the loan current, or takes out another larger loan to pay the
18 principal and interest incurred from the first loan. The result is a cycle of debt in which the
19 customer becomes trapped.¹⁹

20 . . .

21 . . .

22 . . .

24 ¹⁵ Western Sur. Co. v. ADCO Credit, Inc., 127 Nev. __, __, 251 P.3d 714, 716 (Adv. Op. 8, March 17, 2011).

25 ¹⁶ NRS 604A.480(2)(f).

26 ¹⁷ Krahn v. State, Dep't of Motor Vehicles and Pub. Safety, 108 Nev. 1015, 1016, 842 P.2d 728, 729 (1992)
27 (internal citations omitted). See also Washoe County v. Baker, 75 Nev. 335, 338, 340 P.2d 1003, 1004
(1959) ("We shall not, then, permit a resort to legislative history for the purpose of rendering ambiguous that
which otherwise appears to be both clear and reasonable").

28 ¹⁸ Bacher v. State Eng'r, 122 Nev. 1110, 1117, 146 P.3d 793, 798 (2006) (internal citation marks omitted).

¹⁹ Hearing on A.B. 384 Before the Assembly Committee on Commerce and Labor, 2005 Leg., 73rd Sess. 46
(April 6, 2005).

1 Removing the ability to pursue civil action and alternative dispute resolution is
2 reasonably related to the legitimate purpose of ensuring that licensees make loans in
3 amounts and under terms the customer can repay.²⁰

4 **IV. CONCLUSION**

5 The prohibition against civil suits or alternative dispute resolution under
6 NRS 604A.480(2)(f) is applicable to all loans made pursuant to NRS 604A.480(2). It applies
7 to both an outstanding loan as well as a new loan the proceeds of which are used to extend
8 the "repayment, renewal, refinancing or consolidation of an outstanding loan" as stated in
9 NRS 604A.480(1). All loans made pursuant to this section must comply with all of the
10 requirements under subsection (2), including waiving the ability to pursue civil action or
11 alternative dispute resolution procedures if the customer defaults.

12 Dated this 13th day of October, 2015.

13 ADAM PAUL LAXALT
14 Attorney General

15 By: /s/ Christopher Eccles
16 CHRISTOPHER ECCLES
17 Deputy Attorney General
18 DAVID POPE
19 Senior Deputy Attorney General
20 Attorneys for the Defendants

21
22 ²⁰ Silver State Elec. Supply Co. v. State ex rel. Dep't of Taxation, 123 Nev. 80, 84, 157 P.3d 710, 712 (2007)
23 ("When a party contends that a statute violates its equal protection rights but does not allege the involvement of
24 a suspect class or fundamental right, the statute is constitutional if the classification scheme created by that
25 statute is rationally related to furthering a legitimate state interest"); Cf. Guralnick v. Sup. Ct. of New Jersey, 747
26 F. Supp. 1109 (D.N.J., 1990) (Compulsory attorney fee arbitration system does not unconstitutionally impair
27 attorneys' contractual rights; impairment of attorney-client contract was not substantial. Further, such impairment
28 was justified by legitimate state purpose of maintaining public confidence in judicial system. State action which
substantially impairs contracts entered into by private parties is nevertheless constitutional if justified by
significant and legitimate public purpose, based on reasonable conditions and of character appropriate to public
purpose justifying its adoption) (relying on Energy Reserves Grp. Inc. v. Kansas Power & Light Co., 459 U.S. 400
(1983) establishing three-part test requiring (1) a substantial impairment of the contractual relationship, (2) that is
justified by a significant and legitimate public purpose, and (3) is based on "reasonable conditions and [is] of a
character appropriate to the public purpose justifying [the legislation's] adoption." *Id.* at 411-12).

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **OPENING BRIEF IN SUPPORT OF THE POSITION OF THE FINANCIAL INSTITUTIONS DIVISION** with the Clerk of the Court by using the electronic filing system on the 13th day of October, 2015.

(X) The following participants in this case are registered electronic filing systems users and will be served electronically:

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff Dollar Loan Center, LLC

() I certify that some of the participants in the case are not registered electronic filing system users in this case. I have mailed the foregoing documents by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following unregistered participants:

() I certify that I have served the foregoing documents by First-Class Mail, postage prepaid and by e-mailing same to participant's personal e-mail address as follows:

/ s / Danielle Wright
An employee of the Office of the Attorney General

EXHIBIT 1



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

CATHERINE CORTEZ MASTO
Attorney General

KEITH MUNRO
Assistant Attorney General

GREGORY M. SMITH
Chief of Staff

October 30, 2012

George E. Burns, Commissioner
State of Nevada
Department of Business and Industry
Financial Institutions Division
2785 E. Desert Inn Rd., #180
Las Vegas, Nevada 89121

Dear Mr. Burns:

You have requested an opinion from the Office of the Attorney General regarding the interpretation and application of NRS 604A.480.

QUESTION

Is the prohibition against civil suits or alternative dispute resolution set forth in NRS 604A.480(2)(f) applicable to a new deferred deposit loan or high-interest loan made pursuant to NRS 604A.480(2) to pay the balance of an outstanding loan, or does it only limit actions to collect on the outstanding loan?

ANALYSIS

Nevada Revised Statutes Chapter 604A regulates short term lending in the State of Nevada. The chapter recognizes three forms of lending: deferred deposit loans, high-interest loans, and title loans.¹ A deferred deposit loan is a transaction in which the customer provides the licensee² with a check or authorization for electronic transfer of funds on a future date in exchange for immediate receipt of a lesser sum of money from

¹ For the purposes of this analysis, title loans are not relevant.

² "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service pursuant to the provisions of this chapter.* NRS 604A.075.

the licensee. NRS 604A.050. A high-interest loan is a loan which has single or multiple installments and charges more than 40 percent in annual interest rate. NRS 604A.0703. The original loan term of a deferred deposit loan or high-interest loan usually does not exceed 35 days. NRS 604A.408(1). Further, the licensee cannot extend either type of loan contract beyond 90 days from the date of execution of the loan contract. NRS 604A.408(3).³ A high-interest loan may be made for a period of 90 days as long as it requires fully amortized installments, is not subject to extension, and does not contain a balloon payment. NRS 604A.408(2).

Nevada Revised Statutes 604A.480 is separated into two subsections and reads in full as follows:

1. *Except as otherwise provided in subsection 2, if a customer agrees in writing to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or high-interest loan to pay the balance of the outstanding loan, the licensee shall not establish or extend the period beyond 60 days after the expiration of the initial loan period.* The licensee shall not add any unpaid interest or other charges accrued during the original term of the outstanding loan or any extension of the outstanding loan to the principal amount of the new deferred deposit loan or high-interest loan.

2. *This section does not apply to a new deferred deposit loan or high-interest loan if the licensee:*

(a) Makes the new deferred deposit loan or high-interest loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

³ "Notwithstanding the provisions of NRS 604A.480, a licensee shall not agree to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding deferred deposit loan or high-interest loan for a period that exceeds 90 days after the date of origination of the loan."

- (b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;
- (c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;
- (d) Gives the customer the right to rescind the new deferred deposit loan or high-interest loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;
- (e) Participates in good faith with a counseling agency that is:
 - (1) Accredited by the Council on Accreditation of Services for Families and Children, Inc., or its successor organization; and
 - (2) A member of the National Foundation for Credit Counseling, or its successor organization; and
- (f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

NRS 604A.480 (emphasis added).

The first subsection establishes the rule that a licensee can only extend a deferred deposit loan or high-interest loan through the proceeds of a new⁴ deferred deposit loan or high-interest loan for an additional 60 days beyond the term of the original loan. NRS 604A.480(1). The limitation on the term of deferred deposit and high-interest loans thus protects customers from falling into a cycle of debt.

The second section establishes that the restrictions set forth in NRS 604A.480(1) do not apply if the licensee satisfies all of the applicable requirements. Among them, subsection 2(f) prohibits certain collection actions by a licensee. Specifically, it bars a licensee from commencing a civil action or process of alternative dispute resolution "on a defaulted loan or any extension or repayment plan thereof." NRS 604A.480(2)(f). The question that you ask is whether this language bars collection only of the outstanding loan; or, as well, the new loan used to pay the balance of the outstanding loan.

To begin the analysis, deference is given to an interpretation of the agency charged with administering a statute, in this case the Financial Institutions Division (Division). See *Pyramid Lake Paiute Tribe of Indians v. Washoe County*, 112 Nev. 743, 747-48, 918 P.2d 697, 463 (1996) ("An agency charged with the duty of administering

⁴ The term "new deferred deposit or high-interest loan" as used herein and in the statute means the source of proceeds for "the repayment, renewal, refinancing or consolidation of an outstanding loan" NRS 604A.480(1).

an act is impliedly clothed with power to construe it as a necessary precedent to administrative action. Further, great deference should be given to the [administrative] agency's interpretation when it is within the language of the statute") (internal citations and quotation marks omitted).

On December 10, 2009, the Division issued a Declaratory Order and Advisory Opinion Regarding Mandatory Disclosures for Loans Made Pursuant to NRS 604A.480 (Advisory Opinion). In it, the Division concluded that (1) 604A.480(2)(f) bars collection action on any loan, new or outstanding. Advisory Opinion at 7.

The Division's interpretation is reasonable. First, if a statute is clear and unambiguous, this court gives effect to the plain and ordinary meaning of the statute's language. . . ." *Western Sur. Co. v. ADCO Credit, Inc.*, 127 Nev. ___, ___, 251 P.3d 714, 716 (Adv. Op. 8, March 17, 2011). In this case, the statute provides that a licensee who utilizes the exception in section 2 may not commence a civil action or process of alternative dispute resolution "on a defaulted loan or any extension or repayment plan thereof." NRS 604A.480(2)(f). The statute does not confine the prohibition to the outstanding loan; it applies to "a defaulted loan or any extension or repayment plan thereof." The bar reasonably applies to either an outstanding loan or a new loan used to pay the balance on an outstanding loan. Therefore on its face the statute is clear and there is no occasion for statutory construction. "[W]here there is no ambiguity in a statute, there is no opportunity for judicial construction and the law must be followed regardless of result." *Krahn v. State, Dep't of Motor Vehicles and Pub. Safety*, 108 Nev. 1015, 1016, 842 P.2d 728, 729 (1992) (internal citations and quotation marks omitted). See also *Washoe County v. Baker*, 75 Nev. 335, 338, 340 P.2d 1003, 1004 (1953) ("[w]e shall not, then, permit a resort to legislative history for the purpose of rendering ambiguous that which otherwise appears to be both clear and reasonable").

Even if ambiguity did exist and construction were necessary, two canons of statutory construction would require the same result. First a statute is construed "in line with what reason and public policy would indicate the legislature intended." *Bacher v. State Eng'r*, 122 Nev. 1110, 1117, 146 P.3d 793, 798 (2006) (internal quotation marks omitted).

Originally enacted in 2005, one of the main goals of NRS Chapter 604A was to stop what was called the "debt treadmill." This problem occurs when a customer who is unable to repay the original loan either continues to make interest-only payments just to keep the loan current; or takes out another, larger loan to pay the principal and interest incurred from the first loan. The result is a cycle of debt in which the customer becomes trapped. See Hearing on A.B. 384 Before the Assembly Committee on Commerce and Labor, 2005 Leg., 73rd Sess. 46 (April 6, 2005).

Removing the ability to pursue civil action and alternative dispute resolution methods is reasonably related to the legitimate purpose of ensuring that licensees make

George E. Burns
October 30, 2012
Page 5

loans in amounts and under terms the customer can repay. *Silver State Elec. Supply Co. v. State ex rel. Dep't of Taxation*, 123 Nev. 80, 84, 157 P.3d 710, 712 (2007) ("When a party contends that a statute violates its equal protection rights but does not allege the involvement of a suspect class or fundamental right, the statute is constitutional if the classification scheme created by that statute is rationally related to furthering a legitimate state interest").⁵

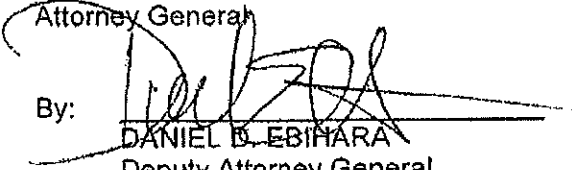
CONCLUSION

The prohibition against civil suits or alternative dispute resolution under NRS 604A.480(2)(f) is applicable to all loans made pursuant to NRS 604A.480(2). It applies to both an outstanding loan as well as a new loan the proceeds of which are used to extend the "repayment, renewal, refinancing or consolidation of an outstanding loan." NRS 604A.480(1). All loans made pursuant to this section must comply with all of the requirements under subsection (2), including waiving the ability to pursue civil action or alternative dispute resolution procedures if the customer defaults.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:


DANIEL B. EBINARA
Deputy Attorney General
Bureau of Government Affairs
Business & Taxation Division
(702) 486-3326

DDE:MAS

⁵ Cf. *Guralnick v. Sup. Ct. of New Jersey*, 747 F. Supp. 1109 (D.N.J., 1990) (compulsory attorney fee arbitration system does not unconstitutionally impair attorneys' contractual rights; impairment of attorney-client contract was not substantial. Further, such impairment was justified by legitimate state purpose of maintaining public confidence in judicial system. State action which substantially impairs contracts entered into by private parties is nevertheless constitutional if justified by significant and legitimate public purpose, based on reasonable conditions and of character appropriate to public purpose justifying its adoption) (relying on *Energy Reserves Grp, Inc. v. Kansas Power & Light Co.*, 459 U.S. 400 (1983) establishing three-part test requiring (1) a substantial impairment of the contractual relationship, (2) that is justified by a significant and legitimate public purpose, and (3) is based on "reasonable conditions and [is] of a character appropriate to the public purpose justifying [the legislation's] adoption." *Id.* at 411-12).

EXHIBIT 2



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

**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

1179 Fairview Drive, Ste. 201
Carson City, Nevada 89701
(776) 687-6522

In Re:

SFC of Nevada, LLC, d.b.a. Maverick
Financial,

Petitioner.

**DECLARATORY ORDER AND
ADVISORY OPINION REGARDING THE
MANDATORY DISCLOSURES FOR
LOANS MADE PURSUANT TO NRS
604A.480**

**DECLARATORY ORDER AND ADVISORY OPINION REGARDING
MANDATORY DISCLOSURES FOR LOANS MADE
PURSUANT TO NRS 604A.480**

Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter "Division") hereby issues its Declaratory Order and Advisory Opinion regarding SFC of Nevada, LLC, d.b.a. Maverick Financial's Petition for Advisory Opinion Pursuant to NRS 233B.120 and NAC 232.040.

JURISDICTION

1. Deferred deposit loan services, high interest loan services, title loan services and check cashing services in the State of Nevada are governed by chapter 604A of the Nevada Revised Statutes (NRS) and chapter 604A of the Nevada Administrative Code (NAC). The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in deferred deposit loan service, high interest loan service, title loan service and check cashing service activities or persons seeking to evade the application of NRS 604A. See generally NRS 604A.020-.030, 604A.050-.060, 604A.080, 604A.095-.110, 604A.200, 604A.300, 604A.400, 604A.600 and 604A.710.

2. The Division also has primary jurisdiction for the licensing and regulation of persons engaging in the business of lending in the State of Nevada where such lending is

not governed by NRS 604A. NRS 675.060. Pursuant to the authority vested by NRS 604A, the Division hereby makes the following Findings of Fact, Conclusions of Law, and Order.

STATEMENT OF FACT

3. Petitioner SFC of Nevada, LLC, d.b.a. Maverick Financial is registered under the laws of the State of Nevada and has submitted this Petition by and through its attorney, Jesse A. Wadhams, Esq., of Jones Vargas.

4. Petitioner is a company engaged in the business of lending pursuant to NRS Chapter 604A.

5. On November 14, 2009, Petitioner filed its Petition for an Advisory Opinion with the Division.

6. The Petitioner requests and advisory opinion as to whether the mandatory disclosure required under NRS 604A.410 are applicable to loans made under NRS 604A.480.

STATEMENT OF LAW

7. The rule regarding the issuing of Advisory Opinions by this agency is governed by NRS 233B.120, which reads as follows:

Each agency shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability of any statutory provision, agency regulation or decision of the agency. Declaratory orders disposing of petitions in such cases shall have the same status as agency decisions. A copy of the declaratory order or advisory opinion shall be mailed to the petitioner.

8. NAC 323.040(1) establishes the procedure for filing a petition for declaratory order or advisory opinions as follows:

Except as otherwise provided in subsection 4, an interested person may petition the Director to issue a declaratory order or advisory opinion concerning the applicability of a statute, regulation or decision of the Department or any of its divisions.

1 9. Upon receipt by the Director, the petition is then referred to the Commissioner
2 for the Financial Institutions Division for determination. NAC 232.045.

3 **STATUTORY BACKGROUND**

4 10. The requirements for the subject loans are set forth in NRS 604A.480 as
5 follows:

6 NRS 604A.480 Limitations on using proceeds of new loan to pay
7 balance of outstanding loan; exceptions.

8 1. Except as otherwise provided in subsection 2, if a customer
9 agrees in writing to establish or extend the period for the
10 repayment, renewal, refinancing or consolidation of an outstanding
11 loan by using the proceeds of a new deferred deposit loan or high-
12 interest loan to pay the balance of the outstanding loan, the
13 licensee shall not establish or extend the period beyond 60 days
14 after the expiration of the initial loan period. The licensee shall not
15 add any unpaid interest or other charges accrued during the
16 original term of the outstanding loan or any extension of the
17 outstanding loan to the principal amount of the new deferred
18 deposit loan or high-interest loan.

19 2. This section does not apply to a new deferred deposit loan
20 or high-interest loan if the licensee:

21 (a) Makes the new deferred deposit loan or high-interest loan
22 to a customer pursuant to a loan agreement which, under its
23 original terms:

24 (1) Charges an annual percentage rate of less than 200
25 percent;

26 (2) Requires the customer to make a payment on the loan
27 at least once every 30 days;

28 (3) Requires the loan to be paid in full in not less than 150
days; and

 (4) Provides that interest does not accrue on the loan at
the annual percentage rate set forth in the loan agreement after
the date of maturity of the loan;

 (b) Performs a credit check of the customer with a major
consumer reporting agency before making the loan;

 (c) Reports information relating to the loan experience of the
customer to a major consumer reporting agency;

 (d) Gives the customer the right to rescind the new deferred
deposit loan or high-interest loan within 5 days after the loan is
made without charging the customer any fee for rescinding the
loan;

 (e) Participates in good faith with a counseling agency that is:

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

(2) A member of the National Foundation for Credit Counseling, or its successor organization; and

(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

11. Further, NRS 604A.410 establishes the required disclosures for loan contracts as follows:

NRS 604A.410 Written loan agreement required; contents.

1. Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:

(a) English, if the transaction is conducted in English; or

(b) Spanish, if the transaction is conducted in Spanish.

2. The loan agreement must include, without limitation, the following information:

(a) The name and address of the licensee and the customer;

(b) The nature of the security for the loan, if any;

(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the licensee must offer a repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

12. The question presented requests that the Division resolve the disparity between the two statutes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

QUESTION PRESENTED

13. The Petitioner presents the following question for an advisory opinion: Is a loan made pursuant to NRS 604A.480 required to disclose that the "licensee must offer a repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle" as required by NRS 604A.410.

14. The Petitioner points out that NRS 604A.410 requires "any loan" to make the disclosure that a repayment plan must be offered prior to civil action or alternative dispute resolution.

15. However, civil action and alternative dispute resolution are specifically prohibited in loans made pursuant to NRS 604A.480.

16. NRS 604A.410.(2)(f) states that the licensee can "not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof."

LEGAL ANALYSIS

17. While this issue has been the source of ongoing confusion and dispute, this is the first time the Division has had an opportunity to address it as an Advisory Opinion or Declaratory Order.

18. The answer to this question requires a review of the rules of statutory construction.

19. The Nevada Supreme Court stated in *V and S Ry. LLC v. White Pine County*, 211 P.3d 879, 882 (Nev.,2009), "In Nevada, "words in a statute should be given their plain meaning unless this violates the spirit of the act." (*Id citing McKay v. Bd. of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986)).

20. In *Sheriff, Clark County v. Burcham*, 198 P.3d 326, 329 (2008), "statutory construction should always avoid an absurd result." (Footnotes omitted).

1 21. While this issue was not directly addressed in the legislative hearings, it is clear
2 the spirit of the legislation was to provide protection from abuses by lenders in the collection
3 of loans. Assemblywoman Barbara Buckley, the sponsor of the bill, stated that existing law
4 did not provide adequate protections for consumers in the collection of deferred deposit
5 loans.

6 Deferred-deposit loans are governed by chapter 604 of the NRS
7 and the protections were added to our statutes in A.B. No. 431 of
8 the 70th Session. It has a prohibitive-practice section which says
9 you cannot threaten criminal prosecution and you cannot charge
10 any fees that a lender cannot generally collect. Also, upon default
11 you get prime plus 10 percent. What is not in this bill is the fair
12 debt-collection practice, military protections, more specific
13 protections like making up imaginary fees or adding garnishment
14 fees of \$1,200, and there is no remedy section. There is no
15 enforcement when a bad actor does these things. These are all in
16 chapter 604 of the NRS. Chapter 675 of the NRS is the general
17 installment-loan chapter so any lender falls under that and there
18 are no specific protections for high-cost, short-turnaround loans at
19 all. The title-pawn industry provisions on the last slide of Exhibit E
20 are all new.

21 (Hearing on A.B. 384 Before the Senate Committee on Commerce and Labor, 2005 Legis.,
22 73rd Sess. 11 (May 6, 2005)).

23 22. The intent to regulate collection practices are somewhat related to the
24 question presented because the consumer should not feel that he is subject to civil action
25 when, in fact such actions are prohibited by law.

26 23. It is important to note that the Fair Debt Collection Practices Act (FDCPA)
27 prohibits "the threat to take any action that cannot legally be taken or that is not intended to
28 be taken." 15 U.S.C. § 1692e(5). This provision is made applicable to licensees pursuant to
NRS 604A.415(1).

 24. With this legislative intent in mind, it would be an absurd result to require that a
licensee making a loan under NRS 604A480 be required to have a contractual provision

1 stating that a repayment plan be offered prior to initiating a civil proceeding or alternative
2 dispute resolution when those actions are prohibited by law.

3 25. Consequently, the Division believes that the potential for abuse and
4 misunderstanding are substantial and that no contract under 604A.480 should state or
5 insinuate that a civil action could be taken against a borrower or that a borrower could be
6 subject to alternative dispute resolution should a default occur.

7 **CONCLUSION**

8 26. Therefore, the Division's opinion is that a contract made pursuant to NRS
9 604A.480 should not mention civil action or process of alternative dispute resolution in its
10 disclosure requirements under NRS 604A.410.

11 27. Nothing in this opinion shall preclude or effect any other disclosures required
12 under NRS 604A.410.

13 28. Nothing in this opinion shall effect the requirement that a borrower be offered a
14 repayment plan upon a default of a loan made pursuant to NRS 604A.480.

15 29. Finally, this opinion does not preclude a licensee from disclosing that civil
16 actions or processes of alternative dispute resolution are prohibited in loans made pursuant
17 to NRS 604A.480.

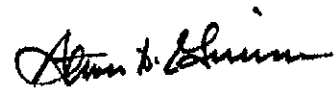
18 30. Because this issue has been a source of controversy, the Division issued its
19 decision in the form of a declaratory order and will provide this opinion on its website, located
20 at www.fid.state.nv.us, so it may be used as a source of reference in future examinations.

21 DATED this 10th day of December, 2009.

22 STATE OF NEVADA
23 DEPARTMENT OF BUSINESS AND INDUSTRY,
24 FINANCIAL INSTITUTIONS DIVISION

25 By: _____

26 GEORGE E. BURNS,
27 Commissioner
28



CLERK OF THE COURT

1 **SAO**
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

8
9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 **DOLLAR LOAN CENTER, LLC, a domestic**
limited-liability company,

12 **Plaintiff,**

13 **vs.**

14 **STATE OF NEVADA, DEPARTMENT OF**
15 **BUSINESS AND INDUSTRY FINANCIAL**
16 **INSTITUTIONS DIVISION,**

17 **Defendant.**

Case No.: A-15-720959-C

Dept. No.: XIII

**STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE
AND HEARING THEREON**

18 **///**

19 **///**

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

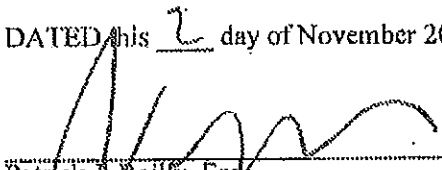
Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

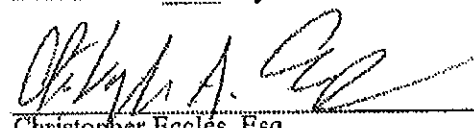
1. To extend the deadline for the parties to file Answering Briefs from November 2, 2015 until **November 23, 2015**; and,

2. To continue the hearing that is currently set for November 9, 2015 at 9 am to **December 3, 2015 at 9 am**, or the earliest available date and time convenient for the Court thereafter.

DATED this 2 day of November 2015.

DATED this 2nd day of November 2015.


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff


Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

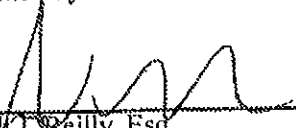
IT IS HEREBY FURTHER ORDERED that the Parties shall file Answering Briefs on or before November 23, 2015, with Court to have oral argument after briefing is concluded on the 3rd day of December 2015, at 9:00 (a.m.) p.m.

IT IS SO ORDERED.

DATED this 4th day of November 2015.


DISTRICT COURT JUDGE 

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs


CLERK OF THE COURT

1 **NTSO**
Patrick J. Reilly, Esq.
2 Nevada Bar No. 6103
Joseph G. Went, Esq.
3 Nevada Bar No. 9220
HOLLAND & HART LLP
4 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134
5 Tel: (702) 669-4600
Fax: (702) 669-4650
6 Email: preilly@hollandhart.com
jgwent@hollandhart.com

7 *Attorneys for Plaintiff*

8
9 **DISTRICT COURT**
10 **CLARK COUNTY, NEVADA**

11 DOLLAR LOAN CENTER, LLC, a domestic
limited-liability company,

12 Plaintiff,

13 vs.

14 STATE OF NEVADA, DEPARTMENT OF
15 BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION,

16 Defendant.

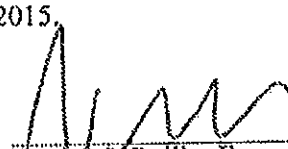
Case No.: A-15-720959-C

Dept. No.: XIII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

17
18 PLEASE TAKE NOTICE that a Stipulation and Order To Continue Briefing Schedule
19 And Hearing Thereon was entered in the above-captioned matter on November 5, 2015. A copy
20 of said Stipulation and Order is attached hereto.

21 DATED this 5th day of November, 2015.

22
23 
24 Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
25 9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

26 *Attorneys for Plaintiff*

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of November, 2015, a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
Tel: 702-486-3105
Fax: 702-486-3416
Email: ceccles@ag.nv.gov

*Attorneys for Defendant
State of Nevada, Department of Business And
Industry Financial Institutions Division*

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

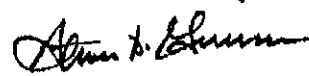
Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

☐ Email: by electronically delivering a copy via email to the following e-mail address:

Christopher A. Eccles, Esq.
Email: ceccles@ag.nv.gov

☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP
Page 2 of 2


CLERK OF THE COURT

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

1 SAO
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE
AND HEARING THEREON

24 ///

25 ///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

1. To extend the deadline for the parties to file Answering Briefs from November 2, 2015 until **November 23, 2015**; and,

2. To continue the hearing that is currently set for November 9, 2015 at 9 am to **December 3, 2015 at 9 am**, or the earliest available date and time convenient for the Court thereafter.

DATED this 2 day of November 2015.

DATED this 2nd day of November 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

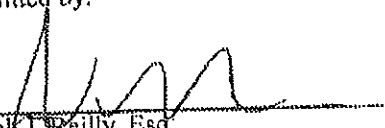
IT IS HEREBY FURTHER ORDERED that the Parties shall file Answering Briefs on or before November 23, 2015, with Court to have oral argument after briefing is concluded on the 3rd day of December 2015, at 9:00 (a.m.) p.m.

IT IS SO ORDERED.

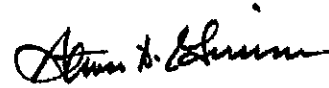
DATED this 4th day of November 2015.


DISTRICT COURT JUDGE 

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs



CLERK OF THE COURT

1 SAO
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE
AND HEARING THEREON

24 ///

25 ///

RECEIVED

NOV 25 2015

DISTRICT COURT DEPT# 13

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

FID0178

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

1. To extend the deadline for the parties to file Answering Briefs from November 23, 2015 until **December 4, 2015**; and,

2. To continue the hearing that is currently set for December 3, 2015 at 9 am to **December 17, 2015 at 9 am**, or the earliest available date and time convenient for the Court thereafter.

DATED this 25th day of November 2015.

DATED this 24th day of November 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

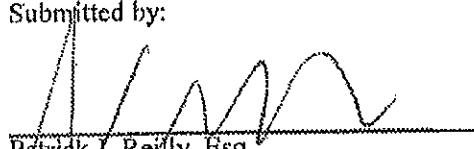
IT IS HEREBY FURTHER ORDERED that the Parties shall file Answering Briefs on or before December 4, 2015, with Court to have oral argument after briefing is concluded on the 17th day of December 2015, at 9:00 a.m./p.m.

IT IS SO ORDERED.

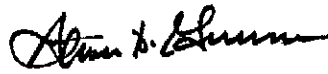
DATED this 25th day of November 2015.


DISTRICT COURT JUDGE *LA*

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs


CLERK OF THE COURT

1 NTSO
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 Defendant.

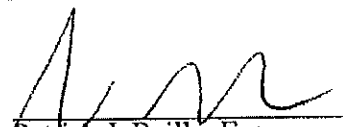
Case No.: A-15-720959-C

Dept. No.: XIII

**NOTICE OF ENTRY OF STIPULATION
AND ORDER**

24 PLEASE TAKE NOTICE that a Stipulation and Order To Continue Briefing Schedule
25 And Hearing Thereon was entered in the above-captioned matter on November 30, 2015. A
26 copy of said Stipulation and Order is attached hereto.

27 DATED this 1st day of December, 2015.

28 
Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiff

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2015, a true and correct copy of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101
Tel: 702-486-3105
Fax: 702-486-3416
Email: ceccles@ag.nv.gov

*Attorneys for Defendant,
State of Nevada, Department of Business And
Industry Financial Institutions Division*

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

Adam Paul Laxalt
Attorney General
Christopher A. Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 E. Washington Ave., Suite 3900
Las Vegas, NV 89101

☐ Email: by electronically delivering a copy via email to the following e-mail address:
Christopher A. Eccles, Esq.
Email: ceccles@ag.nv.gov

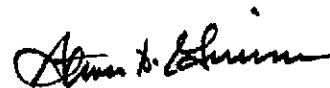
☐ Facsimile: by faxing a copy to the following numbers referenced below:


An Employee of Holland & Hart LLP

Page 2 of 2

8267723_1

FID0182



CLERK OF THE COURT

1 SAO
2 Patrick J. Reilly, Esq.
3 Nevada Bar No. 6103
4 Joseph G. Went, Esq.
5 Nevada Bar No. 9220
6 HOLLAND & HART LLP
7 9555 Hillwood Drive, Second Floor
8 Las Vegas, Nevada 89134
9 Tel: (702) 669-4600
10 Fax: (702) 669-4650
11 Email: preilly@hollandhart.com
12 jgwent@hollandhart.com

13 *Attorneys for Plaintiff*

14 DISTRICT COURT
15 CLARK COUNTY, NEVADA

16 DOLLAR LOAN CENTER, LLC, a domestic
17 limited-liability company,

18 Plaintiff,

19 vs.

20 STATE OF NEVADA, DEPARTMENT OF
21 BUSINESS AND INDUSTRY FINANCIAL
22 INSTITUTIONS DIVISION,

23 Defendant.

Case No.: A-15-720959-C

Dept. No.: XIII

STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE
AND HEARING THEREON

24 ///

25 ///

RECEIVED

NOV 25 2015

DISTRICT COURT DEPT# 13

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

FID0183

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

STIPULATION

Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, and the State of Nevada, Department of Business and Industry Financial Institutions Division ("FID"), by and through its attorneys of record, stipulate and agree as follows:

1. To extend the deadline for the parties to file Answering Briefs from November 23, 2015 until **December 4, 2015**; and,

2. To continue the hearing that is currently set for December 3, 2015 at 9 am to **December 17, 2015 at 9 am**, or the earliest available date and time convenient for the Court thereafter.

DATED this 25 day of November 2015.

DATED this 24th day of November 2015.

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Plaintiff

Christopher Eccles, Esq.
Deputy Attorney General
STATE OF NEVADA
555 East Washington Avenue, #3900
Las Vegas, Nevada 89101
Attorneys for Defendant

///

///

Holland & Hart LLP
9555 Hillwood Drive, Second Floor
Las Vegas, Nevada 89134

ORDER

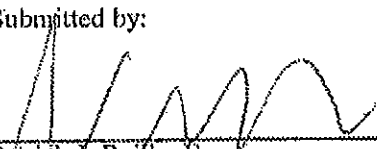
IT IS HEREBY FURTHER ORDERED that the Parties shall file Answering Briefs on or before December 4, 2015, with Court to have oral argument after briefing is concluded on the 17th day of December 2015, at 9:00 a.m.

IT IS SO ORDERED.

DATED this 25th day of November 2015.


DISTRICT COURT JUDGE

Submitted by:


Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

Defendant.

STIPULATION AND ORDER TO CONTINUE
BRIEFING SCHEDULE AND HEARING
THEREON

Attorney General's Office
Washington, D.C. 20530
Lab. 0215, N.Y. 00101

REFUSED

28.1.13.2003

DISTRICT COURT DEPT 18

STIPULATION

Defendant State of Nevada, Department of Business and Industry, Financial Institutions Division ("FID"), by and through its attorneys of record, and Plaintiff Dollar Loan Center, LLC ("DLC"), by and through its attorneys of record, stipulate and agree that the hearing on December 17th, 2015 at 9:00 a.m., be continued until the 21st day of January, 2016, at the hour of 9:00 a.m., or at the earliest available date and time convenient for the Court thereafter.

DATED this 14th day of December, 2015

DATED this 15th day of December, 2015

ADAM PAUL LAXALT
Attorney General

By:

DAVID POPE, Esq.
Sx. Deputy Attorney General
VIVIENNE RAKOWSKY, Esq.
Deputy Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorneys for the Defendant

By:

PATRICK J. REILLY, ESQ.
JOSEPH G. WENT, ESQ.
Holland & Hart, LLP
9555 Hillwood Dr., 2nd Floor
Las Vegas, NV 89134
Attorneys for Plaintiff

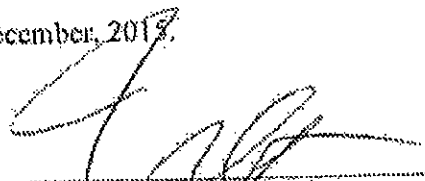

ORDER

1 BASED UPON the foregoing stipulation and good cause appearing therefor,

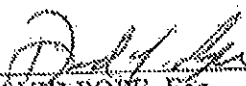
2 IT IS HEREBY ORDERED that this matter be continued until the 21st day of January, 2016,

3 at the hour of 9 o'clock, (a.m.) p.m.

4 DATED THIS 15th day of December, 2015.

5
6
7
8 
DISTRICT COURT JUDGE 

9 Submitted by:

10
11 
12 DAVID POPE, Esq.

13 Sr. Deputy Attorney General

14 VIVIENNE RAKOWSKY, Esq.

15 Deputy Attorney General

16 555 East Washington Avenue, Suite 3900

17 Las Vegas, Nevada 89101

18 Attorneys for the Defendant

19
20
21
22
23
24
25
26
27
28
Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Aug 24 2016 09:02 a.m.
Tracie K. Hindeman
Clerk of Supreme Court

STATE OF NEVADA,
DEPARTMENT OF BUSINESS
AND INDUSTRY, FINANCIAL
INSTITUTIONS DIVISION,

Supreme Court Case No.: 70002

District Court Case No.: A-15-720959-C

Appellants,

vs.

DOLLAR LOAN CENTER, LLC, a
domestic liability company,

Respondent.

APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT

APPELLANT'S APPENDIX – VOLUME I
BATES NUMBERS FID0001 – FID0188

ADAM PAUL LAXALT
Attorney General
WILLIAM J. MCKEAN
Chief Deputy Attorney General
Nevada Bar No. 6740
DAVID J. POPE
Senior Deputy Attorney General
Nevada Bar No. 8617
VIVIENNE RAKOWSKY
Deputy Attorney General
Nevada Bar No. 9160
RICKISHA HIGHTOWER-
SINGLETERY
Deputy Attorney General
Nevada Bar Number 14019C

555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101
(702) 486-3420
(702) 486-3416 – Facsimile
wmckean@ag.nv.gov
dpope@ag.nv.gov
vrakowsky@ag.nv.gov
rsingletary@ag.nv.gov
Attorneys for Appellant
STATE OF NEVADA,
DEPARTMENT OF BUSINESS
AND INDUSTRY, FINANCIAL
INSTITUTIONS DIVISION

Case No. 70002

INDEX TO APPELLANT'S APPENDIX

Appellant, STATE OF NEVADA, DEPARTMENT OF BUSINESS & INDUSTRY, FINANCIAL INSTITUTIONS DIVISION, by and through its undersigned attorneys, Attorney General ADAM PAUL LAXALT; Chief Deputy Attorney General WILLIAM J. MCKEAN; Senior Deputy Attorney General DAVID J. POPE; Deputy Attorney General VIVIENNE RAKOWSKY; and RICKISHA HIGHTOWER-SINGLETARY, Deputy Attorney General, hereby submits its Appellant's Appendix as follows:

DESCRIPTION	VOL.	BATES NUMBERS
Case Appeal Statement filed by Financial Institutions Division on March 16, 2016	III	FID0499 – FID0503
Certificate that No Transcript is Being Requested filed by Financial Institutions Division on March 16, 2016	III	FID0504 – FID0506
Court Minutes, dated January 25, 2016	III	FID0459
Court Minutes, dated January 28, 2016	III	FID0460
Court Minutes, dated May 5, 2016	III	FID0059
Cover Sheet and Complaint filed by Dollar Loan Center, LLC on July 6, 2015	I	FID0001 – FID0044
Errata to Reply to Opposition to Motion to Stay Pending Appeal filed by Financial Institutions Division on May 11, 2016	III	FID0560 – FID0564
Final Brief in Support of the Financial Institutions Division filed on January 13, 2016	II and III	FID0201– FID0458
Initial Appearance Fee Disclosure, filed by Dollar Loan Center, LLC on July 6, 2015	I	FID0045

Motion to Stay Pending Appeal filed by Financial Institutions Division on March 22, 2013	III	FID0507 – FID0519
Notice of Appeal filed by Financial Institutions Division on March 16, 2016	III	FID0489– FID0498
Notice of Department Reassignment, filed July 10, 2015	I	FID0050
Notice of Entry of Order and Judgment filed by Dollar Loan Center, LLC on February 25, 2016	III	FID0461-FID0467
Notice of Entry of Order Denying Motion to Stay Pending Appeal filed by Dollar Loan Center, LLC on July 1, 2016	III	FID0576 – FID0579
Notice of Entry of Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on November 5, 2015	I	FID0173 – FID0177
Notice of Entry of Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on December 1, 2015	I	FID0181– FID0185
Notice of Entry of Stipulation and Order to (i) Convert the Civil Action to a Proceeding as Set Forth in NRS 29.010; and (ii) to Set Briefing Schedule filed by Dollar Loan Center on September 16, 2015	I	FID0066 – FID0068
Notice of Entry of Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on October 5, 2015	I	FID0072 – FID0076

Notice of Entry of Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Financial Institutions Division on December 18, 2015	II	FID0189– FID0193
Notice of Entry of Stipulation to Continue Hearing on the Motion to Stay and Order Thereon filed by Dollar Loan Center, LLC on April 20, 2016	III	FID0524 – FID0529
Notice of Peremptory Challenge of Judge filed by Dollar Loan Center, LLC on July 10, 2015	I	FID0046– FID0049
Opening Brief filed by Dollar Loan Center, LLC on October 13, 2015	I	FID0079 – FID0147
Opening Brief filed by Financial Institutions Division on October 13, 2015	I	FID0148 – FID0169
Opposition to Motion to Stay Pending Appeal filed by Dollar Loan Center on April 21, 2016	III	FID0530 – FID0537
Order and Judgment filed by Dollar Loan Center, LLC on February 24, 2016	III	FID0463 – FID0467
Order Denying Motion to Stay Pending Appeal filed by Dollar Loan Center, LLC on June 30, 2106	III	FID0574 – FID0575
Pages intentionally left blank due to document numbering error	I	FID0077– FID0078
Recorder’s Transcript of Proceedings Re: Defendant’s Motion to Stay Pending Appeal on May 5, 2016, filed May 13, 2016	III	FID0565 – FID0573
Reply to Opposition to Motion to Stay Pending Appeal filed by Financial Institutions Division on April 27, 2016	III	FID0538 – FID0545

Response Brief filed by Dollar Loan Center, LLC on January 13, 2016	II	FID0194– FID0200
Stipulation and Order to (i) Convert the Civil Action to a Proceeding as Set Forth in NRS 29.010; and (ii) to Set Briefing Schedule filed by Dollar Loan Center, LLC on September 15, 2015	I	FID0057 – FID0065
Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on October 2, 2015	I	FID0069 – FID0071
Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on November 5, 2015	I	FID0170 – FID0172
Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Dollar Loan Center, LLC on November 30, 2015	I	FID0178 – FID0180
Stipulation and Order to Continue Briefing Schedule and Hearing Thereon filed by Financial Institutions Division on December 17, 2015	I	FID0186 – FID0188
Stipulation to Continue Hearing on the Motion to Stay and Order Thereon filed by Dollar Loan Center, LLC on April 20, 2016	III	FID0520 – FID0523
Summons and Affidavit of Service filed by Dollar Loan Center, LLC on July 27, 2015	I	FID0051– FID0056
Supplemental Opposition to Motion Stay Pending Appeal filed by Dollar Loan Center, LLC's on May 2, 2016	III	FID0545 – FID0558

Transcript of Proceedings on January 28, 2016, filed March 10, 2016	III	FID0468 – FID0488
--	-----	-------------------

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Appellant's Appendix, Volume I, with the Clerk of the Court for the Nevada Supreme Court by using the appellate CM/ECF system on August 23, 2016.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system:

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
Nicole Lovelock, Esq.
Holland & Hart
9555 Hillwood Dr.
Las Vegas, NV 89134

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, for delivery within three calendar days to the following non-CM/ECF participants:

/s/ Michele Caro
An employee of the
Office of the Attorney General