

IN THE SUPREME COURT OF THE STATE OF NEVADA

TITLEMAX OF NEVADA, INC. and
TITLEBUCKS d/b/a
TITLEMAX, a Nevada corporation,

Respondent(s),
v.

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

Appellant(s).

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Case No. 74335

District Court No. A-16-743134-J

APPELLANT'S APPENDIX

VOLUME 51 of 75

ADAM PAUL LAXALT

Attorney General

WILLIAM J. MCKEAN (Bar No.
06740)

Chief Deputy Attorney General

DAVID J. POPE (Bar No.08617)

Senior Deputy Attorney General

VIVIENNE RAKOWSKY (Bar No.
09160)

Deputy Attorney General

State of Nevada

Office of the Attorney General

555 East Washington Avenue

Suite 3900

Las Vegas, Nevada 89101

(702) 486-3426 (phone)

(702) 486-3416 (fax)

Email address(es)

wmckean@ag.nv.gov

dpope@ag.nv.gov

vrakowsky@ag.nv.gov

Attorneys for Respondent

DOCUMENT	VOL.	BATES NO.
Petition for Judicial Review, September 8, 2016	1	000001 - 000023
Notice of Intent to Participate, September 19, 2016	1	000024 - 000026
Summons, September 20, 2016	1	000027 - 000030
Appendix to Exhibits to Motion for Partial Stay, September 29, 2016	1	000031 - 000183
Declaration of Patrick Reilly In Support of Motion, September 29, 2016	1	000184 - 000187
Motion for Partial Stay of Administrative Order, September 29, 2016	1	000188 - 000218
Declaration of Rickisha Hightower-Singletary, October 3, 2016	1	000219 - 000222
Motion to Vacate Order Shortening Time, October 3, 2016	2	000223 - 000295
Opposition to Motion for Partial Stay, October 5, 2016	2 - 4	000296 - 000704
Reply Memorandum in Support of Motion for Partial Stay, October 10, 2016	4	000705 - 000790
Errata to TitleMax's Memorandum in Support of Motion for Partial Stay, October 18, 2016	4	000791 - 000793
Petitioner's Notice of Transmittal of Record of Proceedings, October 18, 2016	4 - 8	000794 - 001588

DOCUMENT	VOL.	BATES NO.
Transmittal of Record on Appeal, October 26, 2016	8 - 72	001589 - 017090
Notice of Filing Administrative Record, October 31, 2016	73	017090 - 017098
Errata to Opposition to Motion for Partial Stay, November 3, 2016	73	017099 - 017104
Order Granting Motion for Partial Stay of Administrative Order, November 22, 2016	73	017105 - 017108
Notice of Entry of Order Granting Motion for Partial Stay of Administrative Order, November 23, 2016	73	017109 - 017115
Memorandum of Points and Authorities in Support of Petition for Judicial Review, December 15, 2016	73	017116 - 017175
Notice of Entry of Stipulation and Order to Extend Time for Filing Answering Brief, December 20, 2016	73	017176 - 017183
Errata to Transmittal of Record on Appeal, January 27, 2017	73	017184 - 017187
Respondent's Answering Brief, February 6, 2017	73	017188 - 017214
Reply in Support of Memorandum of Points and Authorities in Support of Petition for Judicial Review, March 6, 2017	73	017215 - 017243
Request for Hearing, March 17, 2017	73	017244 - 017246
Supplemental Authorities, March 24, 2017	73	017247 - 017260
Errata to Opposition to Motion to Extend Partial Stay, April 4, 2017	73	017261 - 017264

DOCUMENT	VOL.	BATES NO.
Reply in Support of Motion to Extend Partial Stay, April 5, 2017	73	017265 - 017276
Opposition to Supplemental Authorities, April 5, 2017	73	017277 - 017287
Renewed Motion to Extend Partial Stay, April 21, 2017	73	017288 - 017300
Opposition to Renewed Motion to Extend Partial Stay, May 5, 2017	73	017301 - 017321
Reply in Support of Renewed Motion to Extend Partial Stay, May 11, 2017	73	017322 - 017332
Reply to Opposition to Supplemental Authorities, May 11, 2017	73, 74	017333 - 017354
Order Regarding Hearing and Briefing Schedule, May 30, 2017	74	017355 - 017357
Order Granting Motion to Extend Partial Stay and Allowing Supplemental Authorities, May 31, 2017	74	017358 - 017361
Declaration of Stephen Michael Paris Regarding Information Fields, May 31, 2017	74	017362 - 017365
Declaration of Stephen Michael Paris Regarding Procedures to Safeguard Accounting and Loan Docs, May 31, 2017	74	017366 - 017369
Notice of Entry of Order Regarding Hearing and Briefing Schedule, June 1, 2017	74	017370 - 017375

DOCUMENT	VOL.	BATES NO.
Notice of Entry of Order Granting Motion to Extend Partial Stay, June 1, 2017	74	017373 - 017382
Supplement to Supplemental Authorities, June 16, 2017	74	017383 - 017398
Response to Petitioner's Supplement to its Supplemental Authorities, July 20, 2017	74	017399 - 017403
Notice of Entry of Order Reversing ALJ, September 22, 2017	74	017404 - 017428
Motion for Supplemental Relief, October 2, 2017	74	017429 - 017436
Opposition to Motion for Supplemental Relief, October 2, 2017	74	017437 - 017457
Notice of Appeal, October 19, 2017	74	017458 - 017486
Case Appeal Statement, October 19, 2017	74	017487 - 017491
Stipulation and Order to Change Hearing Date for Motion for Supplemental Relief, October 31, 2017	74	017492 - 017494
Notice of Entry of Stipulation and Order to Change Hearing Date for Motion for Supplemental Relief, October 31, 2017	74	017495 - 017501
Reply in Support of Motion for Supplemental Relief, November 7, 2017	74	017507 - 017522
Recorder's Transcript of August 3, 2017 Proceedings, December 11, 2017	74, 75	017523 – 017587

DOCUMENT	VOL.	BATES NO.
Order Granting in Part and Denying in Part Motion for Supplemental Relief, January 10, 2018	75	017588 - 017591
Notice of Entry of Order Granting in Part and Denying in Part Motion for Supplemental Relief, January 11, 2018	75	017582 - 07599

1 any investigation or examination made at the office or place of business
2 located outside this State.

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

5 5. As used in this section, "amount of cash advance" means the
6 amount of cash or its equivalent actually received by a customer or paid
7 out at his direction or in his behalf.

8 Sec. 61. 1. Except as otherwise provided in subsection 3, an
9 officer or employee of the Division of Financial Institutions of the
10 Department of Business and Industry shall not:

11 (a) Be directly or indirectly interested in or act on behalf of any
12 licensee;

13 (b) Receive, directly or indirectly, any payment from any licensee;

14 (c) Be indebted to any licensee;

15 (d) Engage in the negotiation of loans for others with any licensee;
16 or

17 (e) Obtain credit or services from a licensee conditioned upon a
18 fraudulent practice or undue or unfair preference over other customers.

19 2. An employee of the Division of Financial Institutions in the
20 unclassified service of the State shall not obtain new extensions of credit
21 from a licensee while in office.

22 3. Any officer or employee of the Division of Financial Institutions
23 may be indebted to a licensee on the same terms as are available to the
24 public generally.

25 4. If an officer or employee of the Division of Financial Institutions
26 has a service, a preferred consideration, an interest or a relationship
27 prohibited by this section at the time of his appointment or employment,
28 or obtains it during his employment, he shall terminate it within 120 days
29 after the date of his appointment or employment or the discovery of the
30 prohibited act.

31 Sec. 62. 1. For the purpose of discovering violations of this
32 chapter or of securing information lawfully required under this chapter,
33 the Commissioner or his duly authorized representatives may at any time
34 investigate the business and examine the books, accounts, papers and
35 records used therein of:

36 (a) Any licensee;

37 (b) Any other person engaged in the business of making loans or
38 participating in such business as principal, agent, broker or otherwise;
39 and

40 (c) Any person who the Commissioner has reasonable cause to
41 believe is violating or is about to violate any provision of this chapter,
42 whether or not the person claims to be within the authority or beyond the
43 scope of this chapter.

44 2. For the purpose of examination, the Commissioner or his
45 authorized representatives shall have and be given free access to the
46 offices and places of business, and the files, safes and vaults of such
47 persons.

48 3. For the purposes of this section, any person who advertises for,
49 solicits or holds himself out as willing to make any deferred deposit loan,
50 short-term loan or title loan is presumed to be engaged in the business of
51 making loans.

52 Sec. 63. 1. The Commissioner may require the attendance of any
53 person and examine him under oath regarding:

54 (a) Any check-cashing service or loan service regulated pursuant to
55 the provisions of this chapter; or

56 (b) The subject matter of any audit, examination, investigation or
57 hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 64. 1. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.

Sec. 65. 1. The Commissioner shall charge and collect from each licensee a fee of \$40 per hour for any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.

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

3. The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.

Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant to this chapter.

Sec. 66. If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.

Sec. 67. 1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

The provisions of Sec. 65.5 are based on language from Sec. 37 of S.B. 431-R1 (Division of Financial Institutions).

1 Sec. 68. 1. If the Commissioner has reason to believe that
2 grounds for revocation or suspension of a license exist, he shall give 20
3 days' written notice to the licensee stating the contemplated action and,
4 in general, the grounds therefor and set a date for a hearing.

5 2. At the conclusion of a hearing, the Commissioner shall:

6 (a) Enter a written order either dismissing the charges, revoking the
7 license or suspending the license for a period of not more than 60 days,
8 which period must include any prior temporary suspension. The
9 Commissioner shall send a copy of the order to the licensee by registered
10 or certified mail.

11 (b) Impose upon the licensee a fine of \$500 for each violation by the
12 licensee of any provision of this chapter or any regulation adopted
13 pursuant thereto.

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

17 3. The grounds for revocation or suspension of a license are that:

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

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

22 (c) The licensee has failed to pay a tax as required pursuant to the
23 provisions of chapter 363A of NRS;

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

27 (e) The licensee:

28 (1) Failed to open an office for the conduct of the business
29 authorized by his license within 180 days after the date his license was
30 issued; or

31 (2) Has failed to remain open for the conduct of the business for a
32 period of 180 days without good cause therefor.

33 4. Any revocation or suspension applies only to the license granted
34 to a person for the particular office for which grounds for revocation or
35 suspension exist.

36 5. An order suspending or revoking a license becomes effective 5
37 days after being entered unless the order specifies otherwise or a stay is
38 granted.

39 Sec. 69. A licensee may surrender any license issued pursuant to
40 the provisions of this chapter by delivering it to the Commissioner with
41 written notice of its surrender, but a surrender does not affect his civil or
42 criminal liability for acts committed prior thereto.

43 Sec. 70. A revocation, suspension, expiration or surrender of any
44 license does not impair or affect the obligation of any preexisting lawful
45 loan agreement between the licensee and any customer. Such a loan
46 agreement and all lawful charges thereon may be collected by the
47 licensee, its successors or assigns.

48 Sec. 71. 1. Annually, on or before April 15, each licensee shall
49 file with the Commissioner a report of operations of the licensed
50 business for the preceding calendar year.

51 2. The licensee shall make the report under oath and on a form
52 prescribed by the Commissioner.

53 3. If any person or affiliated group holds more than one license in
54 this State, it may file a composite annual report.

55 Sec. 72. 1. A court of this State may exercise jurisdiction over a
56 party to a civil action arising under the provisions of this chapter on any
57 basis not inconsistent with the Constitution of the State of Nevada or the
58 Constitution of the United States.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 73. 1. Except as otherwise provided in this section, if a licensee willfully:

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

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

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,
the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

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

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

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

Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.

Sec. 74. ~~1.~~ Except as otherwise provided in subsection 2, 3, in addition to any other remedy or penalty, if a licensee person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee person for any or all of the following relief:

~~1.~~ (a) Actual and consequential damages;

~~2.~~ (b) An additional amount, as statutory damages, which is equal to \$1,000 for each violation;

~~3.~~ (c) Punitive damages, which are subject to the provisions of NRS 42.005;

~~4.~~ (d) Reasonable attorney's fees and costs; and

~~5.~~ (e) Any other legal or equitable relief that the court deems appropriate.

2. Except as otherwise provided in subsection 3, in addition to any other remedy or penalty, if a customer brings a civil action pursuant to subsection 1 against a person who has committed a material violation of any provision of section 29 or 44 of this act, the customer is entitled to recover an additional amount, as statutory damages, which is equal to \$1,000 for each such violation.

3. A licensee person may not be held liable in any civil action brought pursuant to subsection 1 this section if the licensee person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

The provisions of Sec. 73.5 are based on language from Sec. 40 of S.B. 431-R1 (Division of Financial Institutions).

Subsections 3 and 4 create an affirmative defense that is modeled after provisions in the federal Truth in Lending Act. See 15 U.S.C. § 1640(c).

1 (b) Was technical in nature; and
2 (c) Resulted from a bona fide error, notwithstanding the
3 maintenance of procedures reasonably adapted to avoid any such error.
4 4. For the purposes of subsection 3, a bona fide error includes,
5 without limitation, clerical errors, calculation errors, computer
6 malfunction and programming errors and printing errors, except that an
7 error of legal judgment with respect to the licensee's obligations under
8 this chapter is not a bona fide error.

9 Sec. 75. NRS 598D.130 is hereby amended to read as follows:

10 598D.130 A mortgage, deed of trust or other instrument that
11 encumbers home property as security for repayment of a home loan must
12 expressly indicate in writing in a size equal to at least 14-point bold type
13 on the front page of the mortgage, deed of trust or other instrument that
14 the home loan is a home loan as defined in NRS 598D.040 [-] and is
15 subject to the provisions of § 152 of the Home Ownership and Equity
16 Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations
17 adopted by the Board of Governors of the Federal Reserve System
18 pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

19 Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

20 41.620 1. ~~Any~~ Except as otherwise provided in section 45 of this
21 act, any person who:

22 (a) Makes, utters, draws or delivers a check or draft for the payment of
23 money drawn upon any financial institution or other person, when he has
24 no account with the drawee of the instrument or has insufficient money,
25 property or credit with the drawee to pay; or

26 (b) Uses a credit card or debit card to obtain money, goods, property,
27 services or anything of value, when he knows or should have known the
28 credit card or debit card is no longer valid,

29 and who fails to pay the amount in cash to the payee, issuer or other
30 creditor within 30 days after a demand therefor in writing is mailed to him
31 by certified mail, is liable to the payee, issuer or other creditor for the
32 amount of the check, draft or extension of credit, and damages equal to
33 three times the amount of the check, draft or extension of credit, but not
34 less than \$100 nor more than \$500.

35 2. As used in this section, unless the context otherwise requires:

36 (a) "Credit card" has the meaning ascribed to it in NRS 205.630;

37 (b) "Debit card" has the meaning ascribed to it in NRS 205.635; and

38 (c) "Issuer" has the meaning ascribed to it in NRS 205.650.

39 Sec. 76. NRS 232.545 is hereby amended to read as follows:

40 232.545 1. An Investigative Account for Financial Institutions is
41 hereby created in the State General Fund. The Account consists of money
42 which is:

43 (a) Received by the Department of Business and Industry in connection
44 with the licensing of financial institutions and the investigation of persons
45 associated with those institutions; and

46 (b) Required by law to be placed therein.

47 2. The Director of the Department of Business and Industry or his
48 designee may authorize expenditures from the Investigative Account to
49 pay the expenses incurred:

50 (a) In investigating applications for licensing of financial institutions
51 and in investigating persons associated with those institutions;

52 (b) In conducting special investigations relating to financial institutions
53 and persons associated with those institutions; and

54 (c) In connection with mergers, consolidations, conversions,
55 receiverships and liquidations of financial institutions.

56 3. As used in this section, "financial institution" means an institution
57 for which licensing or registration is required by the provisions of titles 55
58 and 56 [and chapters 604 and 649] of NRS [-], **chapter 649 of NRS and**
59 **sections 2 to 74, inclusive, of this act.**

Section 75.5 is added to further clarify that NRS 41.620 does not apply to loan transactions governed by this bill.

Sec. 76.3. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Except as otherwise provided in this section, in a county whose population is less than 100,000, each governing body shall adopt zoning regulations which restrict to specific districts within the geographical jurisdiction of the governing body the construction, reconstruction, alteration, repair or use of buildings, structures or land of a business that operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service pursuant to sections 2 to 74, inclusive, of this act.~~

~~2. The provisions of this section do not apply to any place of business devoted to accounting, recordkeeping or administrative purposes only.~~

~~3. If, on July 1, 2005, a governing body has in effect zoning regulations which include the type of restrictions described in subsection 1, the governing body shall be deemed to be in compliance with this section so long as those zoning regulations remain in effect and are not amended in manner that conflicts with this section.~~

Sec. 76.6. NRS 278.250 is hereby amended to read as follows:

~~278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, and section 76.3 of this act, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive [], and section 76.3 of this act. Within the zoning district it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.~~

~~2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:~~

- ~~(a) To preserve the quality of air and water resources;~~
- ~~(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment;~~
- ~~(c) To provide for recreational needs;~~
- ~~(d) To protect life and property in areas subject to floods, landslides and other natural disasters;~~
- ~~(e) To conform to the adopted population plan, if required by NRS 278.170;~~
- ~~(f) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including facilities and services for bicycles;~~
- ~~(g) To ensure that the development on land is commensurate with the character and the physical limitations of the land;~~
- ~~(h) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development;~~
- ~~(i) To promote health and the general welfare;~~
- ~~(j) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing;~~
- ~~(k) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods;~~

~~3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.~~

~~4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.~~

Sec. 76.3 and Sec. 76.6 are based on Sec. 2 and Sec. 4 of A.B. 340-R1 (Ms. Giunchigliani).

1 ~~5. As used in this section:~~

2 ~~(a) "Density bonus" means an incentive granted by a governing body~~
3 ~~to a developer of real property that authorizes the developer to build at a~~
4 ~~greater density than would otherwise be allowed under the master plan, in~~
5 ~~exchange for an agreement by the developer to perform certain functions~~
6 ~~that the governing body determines to be socially desirable, including,~~
7 ~~without limitation, developing an area to include a certain proportion of~~
8 ~~affordable housing.~~

9 ~~(b) "Inclusionary zoning" means a type of zoning pursuant to which a~~
10 ~~governing body requires or provides incentives to a developer who builds~~
11 ~~residential dwellings to build a certain percentage of those dwellings as~~
12 ~~affordable housing.~~

13 ~~(c) "Minimum density zoning" means a type of zoning pursuant to~~
14 ~~which development must be carried out at or above a certain density to~~
15 ~~maintain conformance with the master plan.~~

16 Sec. 77. NRS 363A.050 is hereby amended to read as follows:

17 363A.050 1. Except as otherwise provided in subsection 2,
18 "financial institution" means:

19 (a) An institution licensed, registered or otherwise authorized to do
20 business in this State pursuant to the provisions of *title 55 or 56 of NRS or*
21 *chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,]*
22 *sections 2 to 74, inclusive, of this act,* or a similar institution chartered or
23 licensed pursuant to federal law and doing business in this State;

24 (b) Any person primarily engaged in:

25 (1) The purchase, sale and brokerage of securities;

26 (2) Originating, underwriting and distributing issues of securities;

27 (3) Buying and selling commodity contracts on either a spot or
28 future basis for the person's own account or for the account of others, if
29 the person is a member or is associated with a member of a recognized
30 commodity exchange;

31 (4) Furnishing space and other facilities to members for the purpose
32 of buying, selling or otherwise trading in stocks, stock options, bonds or
33 commodity contracts;

34 (5) Furnishing investment information and advice to others
35 concerning securities on a contract or fee basis;

36 (6) Furnishing services to holders of or brokers or dealers in
37 securities or commodities;

38 (7) Holding or owning the securities of banks for the sole purpose
39 of exercising some degree of control over the activities of the banks whose
40 securities the person holds;

41 (8) Holding or owning securities of companies other than banks, for
42 the sole purpose of exercising some degree of control over the activities of
43 the companies whose securities the person holds;

44 (9) Issuing shares, other than unit investment trusts and face-
45 amount certificate companies, whose shares contain a provision requiring
46 redemption by the company upon request of the holder of the security;

47 (10) Issuing shares, other than unit investment trusts and face-
48 amount certificate companies, whose shares contain no provision requiring
49 redemption by the company upon request by the holder of the security;

50 (11) Issuing unit investment trusts or face-amount certificates;

51 (12) The management of the money of trusts and foundations
52 organized for religious, educational, charitable or nonprofit research
53 purposes;

54 (13) The management of the money of trusts and foundations
55 organized for purposes other than religious, educational, charitable or
56 nonprofit research;

57 (14) Investing in oil and gas royalties or leases, or fractional
58 interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(16) Closed-end investments in real estate or related mortgage assets operating in such a manner as to meet the requirements of the Real Estate Investment Trust Act of 1960, as amended;

(17) Investing; or

(18) Any combination of the activities described in this paragraph, who is doing business in this State;

(c) Any other person conducting loan or credit card processing activities in this State; and

(d) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this State.

2. The term does not include a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.

Sec. 78. NRS 645B.0119 is hereby amended to read as follows:

645B.0119 "Financial services license or registration" means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, *title 55 or 56 of NRS or chapter [604,] 645, 645A, 645C, 645E or 649 of NRS or [title 55 or 56 of NRS.] sections 2 to 74, inclusive, of this act.*

Sec. 79. NRS 658.098 is hereby amended to read as follows:

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

(a) Check-cashing service or deferred deposit *loan* service that is supervised pursuant to ~~chapter 604 of NRS;~~ *sections 2 to 74, inclusive, of this act;*

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

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

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

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

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

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

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

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

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

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all

1 assessments collected must be reduced by any amounts collected by the
2 Commissioner from an entity for the recovery of the costs of legal services
3 provided by the Attorney General in a specific case.

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

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

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

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

15 5. Money collected by the Commissioner pursuant to this section
16 must be deposited in the State Treasury pursuant to the provisions of NRS
17 658.091.

18 **Sec. 80.** NRS 675.040 is hereby amended to read as follows:

19 675.040 This chapter does not apply to:

20 1. A person doing business under the authority of any law of this
21 State or of the United States relating to banks, savings banks, trust
22 companies, savings and loan associations, credit unions, development
23 corporations, mortgage brokers, mortgage bankers, thrift companies,
24 pawnbrokers or insurance companies.

25 2. A real estate investment trust, as defined in 26 U.S.C. § 856.

26 3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the
27 loan is made directly from money in the plan by the plan's trustee.

28 4. An attorney at law rendering services in the performance of his
29 duties as an attorney at law if the loan is secured by real property.

30 5. A real estate broker rendering services in the performance of his
31 duties as a real estate broker if the loan is secured by real property.

32 6. Except as otherwise provided in this subsection, any firm or
33 corporation:

34 (a) Whose principal purpose or activity is lending money on real
35 property which is secured by a mortgage;

36 (b) Approved by the Federal National Mortgage Association as a seller
37 or servicer; and

38 (c) Approved by the Department of Housing and Urban Development
39 and the Department of Veterans Affairs.

40 7. A person who provides money for investment in loans secured by a
41 lien on real property, on his own account.

42 8. A seller of real property who offers credit secured by a mortgage of
43 the property sold.

44 9. A person holding a nonrestricted state gaming license issued
45 pursuant to the provisions of chapter 463 of NRS.

46 **10. A person licensed to do business pursuant to sections 2 to 74,**
47 ***inclusive, of this act with regard to those services regulated pursuant to***
48 ***sections 2 to 74, inclusive, of this act.***

49 **Sec. 81.** NRS 675.060 is hereby amended to read as follows:

50 675.060 1. No person may engage in the business of lending in this
51 State without first having obtained a license from the Commissioner
52 ***pursuant to this chapter*** for each office or other place of business at which
53 the person engages in such business ~~[-]~~, ***except that if a person intends to***
54 ***engage in the business of lending in this State as a deferred deposit loan***
55 ***service, short-term loan service or title loan service, as those terms are***
56 ***defined in sections 2 to 74, inclusive, of this act, the person must obtain a***
57 ***license from the Commissioner pursuant to sections 2 to 74, inclusive, of***
58 ***this act before the person may engage in any such business.***

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

Sec. 82. NRS 604.010, 604.020, 604.030, 604.040, 604.050, 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180 and 604.190 are hereby repealed.

Sec. 83. 1. If a person:

(a) On July 1, 2005, holds a valid certificate of registration or license that was issued by the Commissioner of Financial Institutions pursuant to chapter 604 or 675 of NRS before July 1, 2005; and

(b) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in the provisions of sections 2 to 74, inclusive, of this act,

the person's certificate of registration or license shall be deemed to be a license issued by the Commissioner of Financial Institutions pursuant to the provisions of sections 2 to 74, inclusive, of this act until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

2. **Except as otherwise provided in subsections 3 and 4, a person described in subsection 1 shall:**

(a) On and after July 1, 2005, comply with all provisions of sections 2 to 74, inclusive, of this act relating to transactions with customers, including, without limitation, all provisions relating to loans, extensions, repayment plans, interest, fees, charges and collections; and

(b) On and after October 1, 2005, comply with all other provisions of sections 2 to 74, inclusive, of this act, except that the person does not have to renew his certificate of registration or license until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

3. **A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:**

(a) **Any provision requiring the use of the Spanish language; and**

(b) **Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.**

4. **If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:**

(a) **Is not economically feasible;**

(b) **Is prevented by factors beyond the control of the person; or**

(c) **Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension.**

Sec. 84. This act becomes effective on July 1, 2005.

LEADLINES OF REPEALED SECTIONS

604.010 Definitions.

- 604.020 "Cashing" defined.
- 604.030 "Check" defined.
- 604.040 "Check-cashing service" defined.
- 604.050 "Commissioner" defined.
- 604.060 "Deferred deposit" defined.
- 604.070 "Deferred deposit service" defined.
- 604.080 "Licensee" defined.
- 604.090 Registration required; applicability of chapter.
- 604.100 Application for registration: Contents; fee.
- 604.110 Surety bond.
- 604.120 Deposit of securities in lieu of surety bond.
- 604.130 Certificate of registration: Issuance; form and size; contents; display.
- 604.140 Expiration and renewal of certificate of registration.
- 604.150 Change of control of licensee: Notification and application to Commissioner.
- 604.160 Licensee to post and give written notice of fees charged; signature of customer required on notice.
- 604.162 Limitations on fees for check not paid upon presentment because of insufficient funds.
- 604.164 Licensee deferring deposits to provide each customer with written agreement; contents.
- 604.166 Licensee may pursue collection proceedings upon default on loan made in form of deferred deposit; charges and interest.
- 604.170 Regulations.
- 604.180 Prohibited acts by licensee relating to deferred deposit.
- 604.190 Commissioner to charge licensee fee for supervision, examination, audit, investigation or hearing; billing and payment; penalty for late payment; failure to pay grounds for revocation of certificate of registration.

H

PROPOSED REVISIONS TO THE MOCK-UP
FOR ASSEMBLY BILL NO. 384
FIRST REPRINT

PREPARED FOR ASSEMBLYWOMAN BUCKLEY
MAY 16, 2005

PREPARED BY THE LEGAL DIVISION

IMPORTANT NOTE:
THE REVISIONS ARE SHOWN IN PURPLE

Sec. 23 of the Mock-Up would be further revised as follows:

Sec. 23. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:

1. Any fees for granting such a grace period; or
2. Any additional fees or additional interest on the outstanding loan during such a grace period.

Sec. 31 of the Mock-Up would be further revised as follows:

Sec. 31. 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 date of the loan;~~
- ~~(c) (b) The nature of the security for the loan, if any;~~
- ~~(d) (c) The date and amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer, amount financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not 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;~~

- ~~(e) The description or schedule of payments on the loan;~~
- ~~(f) (d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;~~
- ~~(g) (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;~~

~~(h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and~~

- ~~(i) Disclosures~~
- ~~(j) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the~~

1 licensee must offer the repayment plan to the customer before the
 2 licensee commences any civil action or process of alternative dispute
 3 resolution or, if appropriate for the loan, before the licensee repossesses
 4 a vehicle; and

5 (g) Any other disclosures required under the Truth in Lending Act
 6 and Regulation Z or under any other applicable federal or state statute
 7 or regulation.

8
 9
 10 Sec. 34 of the Mock-Up would be further revised as follows:

11
 12 Sec. 34. A licensee shall not:

13 1. Make a deferred deposit loan or short-term loan that exceeds 25
 14 percent of the expected gross monthly income of the customer during the
 15 term of the loan unless justified by particular circumstances, when the
 16 loan is made. A licensee is not in violation of the provisions of this
 17 subsection if the customer presents evidence of his gross monthly income
 18 to the licensee and represents to the licensee in writing that the loan does
 19 not exceed 25 percent of the expected gross monthly income of the
 20 customer, during the term of the loan.

21 2. Make more than one deferred deposit loan or short-term loan to
 22 the same customer at one time or before any outstanding balance is paid
 23 in full on an existing loan made by that licensee to the customer unless:

24 (a) The customer is seeking multiple loans that do not exceed the
 25 limit set forth in subsection 1;

26 (b) The licensee charges the same rate of interest or a lower annual
 27 percentage rate for any additional loans as he charged for the initial
 28 loan;

29 (c) Except for the interest charged pursuant to paragraph (b), that
 30 part of the finance charge which consists of interest only, the licensee
 31 does not impose any other charge or fee to initiate any additional loans,
 32 except that a licensee who makes deferred deposit loans or short-term
 33 loans in accordance with the provisions of subsection 2 of section 43 of
 34 this act may charge a reasonable fee for preparing documents in an
 35 amount that does not exceed \$50, in the aggregate, for all the additional
 36 loans combined; and

37 (d) If the additional loans are deferred deposit loans and the
 38 customer provides one or more additional checks that are not paid upon
 39 presentment, the licensee does not charge any fees to the customer
 40 pursuant to section 45 of this act, except for the fees allowed pursuant to
 41 that section for the first check that is not paid upon presentment.
 42
 43

Sec. 35 of the Mock-Up would be further revised as follows:

Sec. 35. A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a motor vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a short-term loan or title loan.

(d) More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the ~~amount of~~ total of payments set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq, and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, ~~a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer, amount~~ financed, annual percentage rate, finance charge, total of payments, payment schedule ~~late fees and any other fees that are not~~ 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. ~~Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq, and Regulation Z constitutes compliance with this subsection.~~

3. Take any instrument, including a check or written authorization for the electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 43 of the Mock-Up would be further revised as follows:

Sec. 43. If 1. Except as otherwise provided in subsection 2, if a customer agrees 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 short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond ~~8 weeks~~ 60 days after the expiration of the initial loan period.

2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:

(a) Makes the deferred deposit loan or short-term 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 ~~within~~ 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 deferred deposit loan or short-term 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 accredited:

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

~~(f) Is a~~ (2) A member of the National Foundation for Credit Counseling, or its successor organization; and

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

APP 011838

ROA 010544

TMX 90-00134

Sec. 44 of the Mock-Up would be further revised as follows:

Sec. 44. 1. ~~If Except as otherwise provided in this chapter section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:~~

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate of interest set forth in the disclosure statement required by the ~~federal~~ Truth in Lending Act, ~~15 U.S.C. §§ 1601 et seq., and Regulation Z~~ that is provided to the customer. If there is an extension or repayment plan relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~8 weeks~~ 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to ~~paragraph (b) this chapter,~~ whichever is later, at ~~a rate of interest an~~ annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~12 weeks~~ 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to section 45 of this act for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to ~~this chapter sections 34, 36.5 and 42 of this act,~~ the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

ADDITIONAL PROPOSED REVISIONS
TO THE MOCK-UP FOR
ASSEMBLY BILL NO. 384
FIRST REPRINT

PREPARED FOR ASSEMBLYWOMAN BUCKLEY
MAY 18, 2005

PREPARED BY THE LEGAL DIVISION

IMPORTANT NOTE:
THE ADDITIONAL REVISIONS ARE SHOWN IN PINK

The Mock-Up would be further revised by adding
a new section, designated Sec. 33.5, to read as follows:

Sec. 33.5. 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the
expected gross monthly income of the customer when the loan is made;
or

(b) Make a short-term loan which, under the terms of the loan
agreement, requires any monthly payment that exceeds 25 percent of the
expected gross monthly income of the customer.

2. A licensee is not in violation of the provisions of this section if the
customer presents evidence of his gross monthly income to the licensee
and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent
of his expected gross monthly income when the loan is made; or

(b) For a short-term loan, the monthly payment required under the
terms of the loan agreement does not exceed 25 percent of his expected
gross monthly income.

Sec. 33.5 was taken, in
substantial part, from
subsection 1 of sec. 34
and further revised here.

Sec. 34 of the Mock-Up would be further revised as follows:

Sec. 34. A licensee shall not:

~~1. Make a deferred deposit loan or short-term loan that exceeds 25
percent of the expected gross monthly income of the customer during the
term of the loan unless justified by particular circumstances when the
loan is made. A licensee is not in violation of the provisions of this
subsection if the customer presents evidence of his gross monthly income
to the licensee and represents to the licensee in writing that the loan does
not exceed 25 percent of the expected gross monthly income of the
customer during the term of the loan.~~

~~2. Make more than one deferred deposit loan or short-term
loan to the same customer at one time or before any outstanding balance
is paid in full on an existing loan made by that licensee to the customer
unless:~~

~~(a) 1. The customer is seeking multiple loans that do not exceed
the limits set forth in subsection 1 section 33.5 of this act;~~

~~(b) 2. The licensee charges the same rate of interest or a lower
annual percentage rate for any additional loans as he charged for the
initial loan;~~

~~(c) 3. Except for the interest charged pursuant to paragraph (b),
that part of the finance charge which consists of interest only, the
licensee does not impose any other charge or fee to initiate any~~

additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50, in the aggregate, for all the additional loans combined; and

(d) 4. If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment, the licensee does not charge any fees to the customer pursuant to section 45 of this act, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.

ADDITIONAL PROPOSED REVISIONS
TO THE MOCK-UP FOR
ASSEMBLY BILL NO. 384
FIRST REPRINT

PREPARED FOR KEITH LEE
MAY 18, 2005

PREPARED BY THE LEGAL DIVISION

IMPORTANT NOTE:

THE ADDITIONAL REVISIONS ARE SHOWN IN ORANGE

Sec. 38 of the Mock-Up would be further revised as follows:

1
2 Sec. 38. 1. Except where in conflict with the provisions of this
3 ~~chapter section~~, the provisions of chapter 104 of NRS apply to any title
4 loan between a licensee and a customer.

5 2. Except as otherwise provided in this section, if a customer
6 defaults on a title loan, or on any extension or repayment plan relating to
7 the title loan, the sole remedy of the licensee who made the title loan is to
8 ~~commence a legal action to~~ seek repossession and sale of the motor
9 vehicle which the customer used to secure the title loan. The licensee
10 may not pursue the customer personally for:

11 (a) Payment of the loan, unless the licensee proves the customer
12 prevented the repossession and sale of the motor vehicle by any means,
13 including, without limitation, hiding the motor vehicle; or

14 (b) Any deficiency after repossession and sale of the motor vehicle
15 which the customer used to secure the title loan, unless the licensee
16 proves the customer damaged or otherwise committed or permitted waste
17 on the motor vehicle. For the purposes of this paragraph, it shall not be
18 deemed waste for the customer to continue to use the motor vehicle in
19 the same manner it was used before he entered into the title loan, ~~or to~~
20 ~~make necessary repairs to the motor vehicle.~~

21 ~~3. After repossession and sale of the motor vehicle securing the title~~
22 ~~loan, the licensee shall return to the customer any proceeds from the sale~~
23 ~~of the motor vehicle which exceed the amount owed on the title loan.~~

24 3. If a vehicle is repossessed pursuant to this section:

25 (a) By the licensee or his employees, the licensee shall make
26 reasonably available to the customer any personal property in or upon
27 the vehicle; or

28 (b) By a third party acting on behalf of the licensee, the licensee shall
29 instruct the third party to make reasonably available to the customer any
30 personal property in or upon the vehicle.

31 4. If a customer uses fraud to secure a title loan or if the customer
32 wrongfully transfers any interest in the vehicle to a third party before the
33 title loan is repaid, the licensee may bring a civil action against the
34 customer for any or all of the following relief:

35 (a) The amount of the loan obligation, including, without limitation,
36 the aggregate amount of the interest, charges and fees negotiated and
37 agreed to by the licensee and customer as permitted under this chapter,
38 less any prior payments made by the customer;

39 (b) Reasonable attorney's fees and costs; and

40 (c) Any other legal or equitable relief that the court deems
41 appropriate.

5. As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a motor vehicle which does not belong to the customer.

Sec. 42 of the Mock-Up would be further revised as follows:

Sec. 42. 1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing a civil action or any process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan.

The licensee:

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days from the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days from the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days from the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for the electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that

1 payment, return to the customer the check or written authorization
 2 stamped "void" or destroy the check or written authorization; and

3 (3) The licensee shall not charge any fee to the customer pursuant
 4 to section 45 for a check which is provided as security during the
 5 repayment plan and which is not paid upon presentment if, in connection
 6 with that loan, the licensee has previously charged at least one such fee.

7 4. If the licensee and customer enter into a repayment plan
 8 pursuant to this section, the licensee shall honor the terms of the
 9 repayment plan, and the licensee shall not:

10 (a) Except as otherwise provided by this chapter, charge any other
 11 amount to a customer, including, without limitation, any amount or
 12 charge payable directly or indirectly by the customer and imposed
 13 directly or indirectly by the licensee as an incident to or as a condition of
 14 entering into a repayment plan. Such an amount includes, without
 15 limitation:

16 (1) Any interest, regardless of the name given to the interest, other
 17 than the interest charged pursuant to the original loan agreement at a
 18 rate which does not exceed the annual percentage rate charged during
 19 the term of the original loan agreement, regardless of the name given to
 20 the interest; or

21 (2) Any origination fees, set-up fees, collection fees, transaction
 22 fees, negotiation fees, handling fees, processing fees, late fees, default
 23 fees or any other fees, regardless of the name given to the fee;

24 (b) Except as otherwise provided in this section, accept any
 25 additional security or collateral from the customer to enter into the
 26 repayment plan;

27 (c) Sell to the customer any insurance or require the customer to
 28 purchase insurance or any other goods or services to enter into the
 29 repayment plan;

30 (d) Make any other loan to the customer, unless the customer is
 31 seeking multiple loans that do not exceed the limit set forth in subsection
 32 1 of section 34 of this act;

33 (e) During the term of the repayment plan, attempt to collect the
 34 outstanding balance by commencing a civil action or any process of
 35 alternative dispute resolution or by repossessing a vehicle, unless the
 36 customer defaults on the repayment plan; or

37 (f) Attempt to collect an amount that is greater than the amount owed
 38 under the terms of the repayment plan.

39 5. If the licensee and customer enter into a repayment plan
 40 pursuant to this section, the licensee shall:

41 (a) Prepare a written agreement establishing the repayment plan;
 42 and

43 (b) Give the customer a copy of the written agreement. The written
 44 agreement must:

45 (1) Be signed by the licensee and customer; and

46 (2) Contain all of the terms of the repayment plan, including,
 47 without limitation, the total amount due under the terms of the
 48 repayment plan.

49 6. Each time a customer makes a payment pursuant to a repayment
 50 plan, the licensee shall give to the customer a receipt with the following
 51 information:

52 (a) The name and address of the licensee;

53 (b) The identification number assigned to the loan agreement or
 54 other information that identifies the loan;

55 (c) The date of the payment;

56 (d) The amount paid;

57 (e) The balance due on the loan or, when the customer makes the
 58 final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence a civil action or any process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.

KEYSTONE FINANCIAL GROUP LLC

4821 Spring Mountain Road
Las Vegas, Nevada 89102

Ph (702) 248-9200 Fx (702) 248-9404

May 17, 2005

Fax 775-684-1341

36 Pages

Senator Randolph J. Townsend
Chair, Commerce and Labor
Nevada Legislature
Carson City, Nevada

RE: New Red Line Mock-Up for AB 384

Dear Senator,

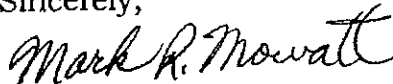
As per your request, this fax includes a new red line Mock-Up to remove NRS 675 from this Bill, and correspondingly, add NRS 675 to the list of entities which AB 384 does not apply to (Section 27, new Item #16). It also includes a copy of my AB 384 Testimony dated yesterday, May 16.

As per my Testimony, if the references to NRS 675 are not removed, AB 384 could have far reaching, unanticipated, and potentially devastating consequences to many long time NRS 675 Licensees, their employees and customers. My Testimony highlights how serious this impact could be.

Also, it is very important to note that our Commissioner of Financial Institutions, Carol J. Tidd, has no problem with NRS 675 being removed from AB 384. I have discussed this at length with Commissioner Tidd, as I know you have. The Commissioner is concerned, that from an enforcement standpoint, this proposed Bill would create serious confusion. As it's currently written, AB 384 would include some NRS 675 Licensees and not others, while some 675's would have to have both Licenses, depending on what types of loan products they offer. That situation could be an enforcement boondoggle. With the removal of NRS 675 from AB 384, the 675 Licensees would continue to be regulated by the existing NRS 675 statute, which is clearly enforceable.

Once again, thank you for your consideration. I will be there for the Work Session at 8:00 tomorrow morning. In the meantime, you can reach me anytime at 702-496-8400.

Sincerely,



Mark R. Mowatt
President & CEO

PS: Tomorrow morning I will deliver you and the Committee copies of the red line Mock-Up

cc: Carol J. Tidd, Commissioner, FILE Date: 5-18-05 Page 1 of 33 APP 011846
EXHIBIT T Senate Committee on Commerce/Labor
ROA 010552
TMX 90 - 00142

REVISED MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 384
FIRST REPRINT

PREPARED FOR THE SENATE COMMITTEE ON COMMERCE AND LABOR
MAY 16, 2005

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN
CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE
OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

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

Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 74, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2.5 to 21.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. *1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:*

(a) Is automated;

(b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or short-term loan through the machine or other device; and

(c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person.

Sec. 3. "Cashing" means providing currency or a negotiable instrument in exchange for a check.

Sec. 4. 1. "Check" means:

(a) A draft, other than a documentary draft, payable on demand and drawn on a bank; or

(b) A cashier's check or teller's check.

2. An instrument may be a check even though it is described on its face by another term, such as "money order."

Revised Mock-Up
as of 5/17/05

2:15 pm

M. Mowatt

Note

Changes are only
on pages 5, 6,
30, 31 & 32

Important Notes

The revisions in this Revised Mock-Up are shown in Purple.

The following sections have been revised: 15.5, 17, 27, 44.5, 74, 76.3, 76.6 and 83.

Sec. 2.5 is based on the intent of Sec. 2 of A.B. 340-R1 (Ms. Giunchigliani).

1 Sec. 5. "Check-cashing service" means any person engaged in the
2 business of cashing checks for a fee, service charge or other
3 consideration.

4 Sec. 6. "Commissioner" means the Commissioner of Financial
5 Institutions.

6 Sec. 7. "Customer" means any person who receives or attempts to
7 receive check-cashing services, deferred deposit loan services, short-term
8 loan services or title loan services from another person.

9 Sec. 8. 1. "Default" means the failure of a customer to:

10 (a) Make a scheduled payment on a loan on or before the due date
11 for the payment under the terms of a lawful loan agreement and any
12 grace period that complies with the provisions of section 23 of this act or
13 under the terms of any lawful extension or repayment plan relating to
14 the loan and any grace period that complies with the provisions of
15 section 23 of this act; or

16 (b) Pay a loan in full on or before:

17 (1) The expiration of the initial loan period as set forth in a lawful
18 loan agreement and any grace period that complies with the provisions
19 of section 23 of this act; or

20 (2) The due date of any lawful extension or repayment plan
21 relating to the loan and any grace period that complies with the
22 provisions of section 23 of this act, provided that the due date of the
23 extension or repayment plan ~~is not later than 8 weeks after the expiration~~
24 ~~of the initial loan period.~~ does not violate the provisions of this chapter.

25 2. A default occurs on the day immediately following the date of the
26 customer's failure to perform as described in subsection 1.

27 Sec. 9. "Deferred deposit loan" means a transaction in which,
28 pursuant to a ~~written~~ loan agreement:

29 1. A customer tenders to another person:

30 (a) A personal check drawn upon the account of the customer; or

31 (b) Written authorization for an electronic transfer of money for a
32 specified amount from the account of the customer; and

33 2. The other person:

34 (a) Provides to the customer an amount of money that is equal to the
35 face value of the check or the amount specified in the written
36 authorization for an electronic transfer of money, less any fee charged
37 for the transaction; and

38 (b) Agrees, for a specified period, not to cash the check or execute
39 the electronic transfer of money for the amount specified in the written
40 authorization.

41 Sec. 10. "Deferred deposit loan service" means any person engaged
42 in the business of making deferred deposit loans for a fee, service charge
43 or other consideration.

44 Sec. 11. "Electronic transfer of money" means any transfer of
45 money, other than a transaction initiated by a check or other similar
46 instrument, that is initiated through an electronic terminal, telephone,
47 computer or magnetic tape for the purpose of ordering, instructing or
48 authorizing a financial institution to debit or credit an account.

49 Sec. 12. 1. "Extension" means any extension or rollover of a loan
50 beyond the date on which the loan is required to be paid in full under the
51 original terms of the loan agreement, regardless of the name given to the
52 extension or rollover.

53 2. The term does not include a grace period.

54 Sec. 13. "Grace period" means any period of deferment offered
55 gratuitously by a licensee to a customer if the licensee complies with the
56 provisions of section 23 of this act.

57 Sec. 14. "Licensee" means any person who has been issued one or
58 more licenses to operate a check-cashing service, deferred deposit loan

1 service, short-term loan service or title loan service pursuant to the
2 provisions of this chapter.

3 Sec. 15. "Loan" means any deferred deposit loan, short-term loan
4 or title loan, or any extension or repayment plan relating to such a loan,
5 made at any location or through any method, including, without
6 limitation, at a kiosk, through the Internet, through any telephone,
7 facsimile machine or other telecommunication device or through any
8 other machine, network, system, device or means.

9 Sec. 15.5. ~~"Loan which is secured by a tax refund" means a~~
10 ~~transaction in which, pursuant to a written agreement:~~

11 ~~1. The customer agrees to give to another person any amount due to~~
12 ~~the customer from a tax refund from the Internal Revenue Service of the~~
13 ~~United States Department of the Treasury or from any state or local~~
14 ~~governmental entity and~~

15 ~~2. The person makes a loan to the customer in that amount, less any~~
16 ~~fees charged for the transaction.~~

17 "Refund anticipation loan" means a loan offered or made to a
18 taxpayer by a lender or through a facilitator based on the taxpayer's
19 anticipated federal income tax refund.

20 Sec. 16. ~~"Motor vehicle" has the meaning ascribed to it by the~~
21 ~~Commissioner pursuant to section 28 of this act.~~

22 "Regulation Z" means the federal regulations, as amended, 12 C.F.R.
23 Part 226, adopted pursuant to the Truth in Lending Act and commonly
24 known as Regulation Z.

25 Sec. 17. 1. "Short-term loan" means a loan made to a customer
26 pursuant to a loan agreement which, under its original terms:

27 (a) ~~Charges fees or a rate of interest, or any combination thereof,~~
28 ~~that when calculated as an annualized percentage rate is an annual~~
29 ~~percentage rate of more than 40 percent; and~~

30 (b) Requires the loan to be paid in full in less than ~~1 year,~~ 18 months.

31 2. The term does not include:

32 (a) A deferred deposit loan; or

33 (b) A title loan; or

34 (c) ~~A loan which is secured by a tax refund anticipation loan.~~

35 Sec. 18. "Short-term loan service" means any person engaged in
36 the business of providing short-term loans for a fee, service charge or
37 other consideration.

38 Sec. 19. 1. "Title loan" means a loan made to a customer ~~who~~
39 ~~secures the loan with the title to a motor vehicle and who gives pursuant~~
40 ~~to a loan agreement which, under its original terms:~~

41 (a) ~~Charges an annual percentage rate of more than 35 percent; and~~

42 (b) ~~Requires the customer to secure the loan by giving possession of~~
43 ~~the title to a vehicle legally owned by the customer to the person making~~
44 ~~the loan, or to any agent, affiliate or subsidiary of the person, whether or~~
45 ~~not the person making the loan or taking possession of the title perfects a~~
46 ~~security interest in the vehicle by having the person's name noted on the~~
47 ~~title as a lienholder.~~

48 2. The term does not include: ~~a loan which is secured by a lien or~~
49 ~~other security interest that attaches to a motor vehicle or appears on its~~
50 ~~title, including, without limitation, a loan to finance the purchase of the~~
51 ~~motor vehicle;~~

52 (a) ~~A loan which creates a purchase money security interest in a~~
53 ~~vehicle or the refinancing of any such loan; or~~

54 (b) ~~Any other loan for which a vehicle is used as security or~~
55 ~~collateral if the person making the loan, or any agent, affiliate or~~
~~subsidiary of the person, does not take possession of the title.~~

Based on the testimony before the Committee, this bill is not intended to apply to refund anticipation loans. Thus, those loans are defined in Sec. 15.5 (a similar definition is used in Sec. 6 of the Revised Mock-Up for AB340-R1), and persons making such loans are exempted from the chapter in Sec. 17 and Sec. 27.

1 Sec. 20. "Title loan service" means any person engaged in the
2 business of providing title loans for a fee, service charge or other
3 consideration.

4 Sec. 21. "Title to a motor vehicle" or "title" means a certificate of
5 title or ownership issued by the Department of Motor Vehicles pursuant
6 to the laws of this State that identifies the legal owner of a motor vehicle
7 or any similar document issued pursuant to the laws of another
8 jurisdiction.

9 Sec. 21.2. "Truth in Lending Act" means the federal Truth in
10 Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

11 Sec. 21.5. 1. "Vehicle" means any vehicle, whether or not self-
12 propelled, that is designed or intended for land transportation if the legal
13 owner of the vehicle is required to have a title.

14 2. The term includes, without limitation:

15 (a) Passenger vehicles;

16 (b) Recreational vehicles; and

17 (c) House trailers and travel trailers.

18 3. The term does not include:

19 (a) Farm vehicles;

20 (b) Vehicles of a common or contract carrier;

21 (c) Commercial vehicles;

22 (d) Construction vehicles;

23 (e) Military vehicles;

24 (f) Vehicles used exclusively upon stationary rails or tracks; or

25 (g) Any other vehicles which are similar in nature to the vehicles
26 listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by
27 regulation, excludes from the definition of "vehicle."

28 Sec. 21.8. 1. As used in this chapter, unless the context otherwise
29 requires, the following terms have the meanings ascribed to them in the
30 Truth in Lending Act and Regulation Z:

31 (a) "Amount financed."

32 (b) "Annual percentage rate."

33 (c) "Finance charge."

34 (d) "Payment schedule."

35 (e) "Total of payments."

36 2. For the purposes of this chapter, proper calculation of the
37 amount financed, annual percentage rate and finance charge for a loan
38 must be made in accordance with the Truth in Lending Act and
39 Regulation Z.

40 Sec. 22. The provisions of this chapter apply to any person who
41 seeks to evade its application by any device, subterfuge or pretense,
42 including, without limitation, calling a loan by any other name or using
43 any agents, affiliates or subsidiaries in an attempt to avoid the
44 application of the provisions of this chapter.

45 Sec. 23. The provisions of this chapter do not prohibit a licensee
46 from offering a customer a grace period on the repayment of a loan,
47 except that the licensee shall not charge the customer:

48 1. Any fees for granting such a grace period; or

49 2. Any additional fees or additional interest on the outstanding loan
50 during such a grace period.

51 Sec. 24. 1. The provisions of this chapter must be interpreted so
52 as to effectuate their general purpose to provide for, to the extent
53 practicable, uniform regulation of the loans and transactions that are
54 subject to the provisions of this chapter.

55 2. If there is a conflict between the provisions of this chapter and
56 the provisions of any other general law regulating loans and similar
57 transactions, the provisions of this chapter control.

58 Sec. 25. This chapter or any part thereof may be modified,
59 amended or repealed by the Legislature so as to effect a cancellation or
60 alteration of any license or right of a licensee under this chapter,

1 provided that such cancellation or alteration shall not impair or affect
2 the obligation of any preexisting lawful loan agreement between any
3 licensee and any customer.

4 Sec. 26. Any loan lawfully made outside this State as permitted by
5 the laws of the state in which the loan was made may be collected or
6 otherwise enforced in this State in accordance with its terms.

7 Sec. 27. The provisions of this chapter do not apply to:

8 1. A person doing business pursuant to the authority of any law of
9 this State or of the United States relating to banks, savings banks, trust
10 companies, savings and loan associations, credit unions, development
11 corporations, mortgage brokers, mortgage bankers, thrift companies or
12 insurance companies.

13 2. A person who is primarily engaged in the retail sale of goods or
14 services who:

15 (a) As an incident to or independently of a retail sale or service, from
16 time to time cashes checks for a fee or other consideration of not more
17 than \$2; and

18 (b) Does not hold himself out as a check-cashing service.

19 3. A person while performing any act authorized by a license issued
20 pursuant to chapter 671 of NRS.

21 4. A person who holds a nonrestricted gaming license issued
22 pursuant to chapter 463 of NRS while performing any act in the course
23 of that licensed operation.

24 5. A person who is exclusively engaged in a check-cashing service
25 relating to out-of-state checks.

26 6. A corporation organized pursuant to the laws of this State that
has been continuously and exclusively engaged in a check-cashing
service in this State since July 1, 1973.

29 7. A pawnbroker, unless the pawnbroker operates a check-cashing
30 service, deferred deposit loan service, short-term loan service or title loan
31 service.

32 8. A real estate investment trust, as defined in 26 U.S.C. § 856.

33 9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if
34 the loan is made directly from money in the plan by the plan's trustee.

35 10. An attorney at law rendering services in the performance of his
36 duties as an attorney at law if the loan is secured by real property.

37 11. A real estate broker rendering services in the performance of his
38 duties as a real estate broker if the loan is secured by real property.

39 12. Any firm or corporation:

40 (a) Whose principal purpose or activity is lending money on real
41 property which is secured by a mortgage;

42 (b) Approved by the Federal National Mortgage Association as a
43 seller or servicer; and

44 (c) Approved by the Department of Housing and Urban Development
45 and the Department of Veterans Affairs.

46 13. A person who provides money for investment in loans secured
47 by a lien on real property, on his own account.

48 14. A seller of real property who offers credit secured by a mortgage
49 of the property sold.

50 15. ~~A person who makes a loan which is secured by a tax refund~~
51 ~~anticipation loan, unless the person operates a check-cashing service,~~
52 ~~deferred deposit loan service, short-term loan service or title loan service.~~

53 Sec. 28. ~~The Commissioner shall adopt by regulation a~~
54 ~~definition of the term "motor vehicle" as that term is used in the~~
55 ~~definition of "title loan" for the purposes of this chapter.~~

56 21. The Commissioner may establish by regulation the fees that a
57 licensee who provides check-cashing services may impose for cashing
58 checks.

authorized by a license
issued pursuant to
Chapter 675 of NRS.

32. The Commissioner shall adopt any other regulations as are necessary to carry out the provisions of this chapter.

Sec. 29. 1. A person, ~~including, without limitation, a person licensed pursuant to chapter 675 of DHS~~, shall not operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to do business through any automated loan machine.

Sec. 30. 1. A licensee shall post in a conspicuous place in every location at which he conducts business under his license, ~~as follows~~:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.

(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.

2. If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except for an automated loan machine prohibited by section 29 of this act, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:

(a) The types of loans the licensee offers and the fees he charges for making each type of loan; and

(b) A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.

3. A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.

Sec. 31. 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 date of the loan;~~

~~(c) The date of the security for the loan, if any;~~

~~(d) The date and amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer; amount~~

Subsection 3 is based on the intent of Sec. 2 of A.B. 340-R1 (Ms. Giunchigliani).

Paragraph (b) is based on Sec. 1 and Sec. 6 of A.B. 340-R1 (Ms. Giunchigliani).

1 financed, annual percentage rate, finance charge, total of payments,
2 payment schedule, late fees and any other fees that are not required to be
3 included in the finance charge under the Truth in Lending Act and
4 Regulation Z;

5 ~~(c) The description or schedule of payments on the loan;~~

6 ~~(d) A disclosure of the right of the customer to rescind a loan~~
7 ~~pursuant to the provisions of this chapter;~~

8 ~~(e) A disclosure of the right of the customer to pay his loan in~~
9 ~~full or in part with no additional charge pursuant to the provisions of~~
0 ~~this chapter;~~

1 ~~(f) Disclosures required for a similar transaction by the federal~~
2 ~~Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and~~

3 ~~(g) Disclosures~~

4 (f) Any other disclosures required under the Truth in Lending Act
5 and Regulation Z or under any other applicable federal or state statute
6 or regulation.

7 Sec. 32. 1. If a customer defaults on a loan, the licensee may
8 collect the debt owed to the licensee only in a professional, fair and
9 lawful manner. When collecting such a debt, the licensee must act in
0 accordance with and must not violate sections 803 to 812, inclusive, of
1 the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§
2 1692a to 1692j, inclusive, even if the licensee is not otherwise subject to
3 the provisions of that Act.

4 2. If a licensee initiates commences a civil action against a customer
5 to collect a debt, the court may award:

6 (a) Court costs;

7 (b) Costs of service of process, except that the costs must not exceed
8 the amount of the fees charged by the sheriff or constable for service of
9 process in the county where the action was brought or, if the customer is
0 was not served in that county, in the county where the customer was
1 served; and

2 (c) Reasonable attorney's fees. In determining the amount of the
3 attorney's fees and whether they are reasonable, the court shall consider
4 the complexity of the case, the amount of the debt and whether the
5 licensee could have used less costly means to collect the debt.

6 3. Notwithstanding any provision of NRS 66.010 to the contrary, if:

7 (a) A licensee intends to commence a civil action in a justice's court
8 against a customer to collect a debt; and

9 (b) The customer resides in the county where the loan was made,
0 the licensee is required to commence the civil action in the justice's
1 court for the township where the loan was made unless, after the date of
2 default and before the licensee commences the civil action, the customer
3 signs an affidavit agreeing to try the action in another justice's court
4 having jurisdiction over the subject matter and the parties. A licensee
5 shall not, directly or indirectly, require, intimidate, threaten or coerce a
6 customer to sign such an affidavit.

7 Sec. 33. 1. If a customer is called to active duty in the military, a
8 licensee shall:

9 (a) Defer for the duration of the active duty all collection activity
0 against the customer and his property, including, without limitation, any
1 community property in which the customer has an interest; and

2 (b) Honor the terms of any repayment plan between the licensee and
3 customer, including, without limitation, any repayment plan negotiated
4 through military counselors or third-party credit counselors.

5 2. When collecting any defaulted loan, a licensee shall not:

6 (a) Garnish or threaten to garnish any wages or salary paid to a
7 customer for active service in the military; or

8 (b) Contact or threaten to contact the military chain of command of a
9 customer in an effort to collect the defaulted loan.

3. AS used in this section, military means the armed forces of the United States, a reserve component thereof or the National Guard.

Sec. 34. A licensee shall not:

1. Make a deferred deposit loan or short-term loan that exceeds 25 percent of the expected gross monthly income of the customer during the term of the loan unless justified by particular circumstances when the loan is made. A licensee is not in violation of the provisions of this subsection if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that the loan does not exceed 25 percent of the expected gross monthly income of the customer during the term of the loan.

2. Make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

(a) The customer is seeking multiple loans that do not exceed the limit set forth in subsection 1;

(b) The licensee charges the same rate of interest or a lower annual percentage rate for any additional loans as he charged for the initial loan;

(c) Except for the interest charged pursuant to paragraph (b), that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50, in the aggregate, for all the additional loans combined; and

(d) If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment, the licensee does not charge any fees to the customer pursuant to section 45 of this act, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.

Sec. 35. A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a motor vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a short-term loan or title loan.

(d) More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the amount of total of payments set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer, amount financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not required to be included in the finance charge under the Truth in Lending Act and Regulation Z. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z constitutes compliance with this subsection.

PROPOSED AMENDMENT TO AB384_R1

3. Take any instrument, including a check or written authorization for the electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 36. A licensee shall not:

1. Use or threaten to use the criminal process in this State or any other state, or any civil process not available to creditors generally, to collect on a loan made to a customer.

2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults ~~expiration~~ of under the original term of a loan agreement or before the ~~expiration~~ of customer defaults under any repayment plan, extension or grace period negotiated and agreed to by the licensee and customer, unless otherwise authorized pursuant to this chapter.

3. Take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the customer in a judicial proceeding.

4. Include in any written agreement:

(a) A promise by the customer to hold the licensee harmless;

(b) A confession of judgment by the customer;

(c) An assignment or order for payment of wages or other compensation due the customer; or

(d) A waiver of any claim or defense arising out of the loan agreement or a waiver of any provision of this chapter. The provisions of this paragraph do not apply to the extent preempted by federal law.

5. Engage in any deceptive trade practice, as defined in chapter 598 of NRS, including, without limitation, making a false representation.

6. Advertise or permit to be advertised in any manner any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans.

7. Use or attempt to use any agent, affiliate or subsidiary to avoid the requirements or prohibitions of this chapter.

Sec. 36.5. Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:

(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

(b) The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and

(c) No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan.

Sec. 37. A licensee who makes title loans shall not:

1. Make a title loan that exceeds the fair market value of the motor vehicle securing the title loan.

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

3. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, ~~and employment and ownership of the vehicle;~~ and

(b) The customer has the ability to repay the title loan.

Sec. 38. 1. Except where in conflict with the provisions of this chapter, the provisions of chapter 104 of NRS apply to any title loan between a licensee and a customer.

2. Except as otherwise provided in this section, if a customer defaults on a title loan, or on any extension or repayment plan relating to the title loan, the sole remedy of the licensee who made the title loan is to ~~commence a legal action to seek repossession and sale of the motor~~ vehicle which the customer used to secure the title loan. The licensee may not pursue the customer personally for:

(a) Payment of the loan, unless the licensee proves the customer prevented the repossession and sale of the ~~motor~~ vehicle by any means, including, without limitation, hiding the ~~motor~~ vehicle; or

(b) Any deficiency after repossession and sale of the ~~motor~~ vehicle which the customer used to secure the title loan, unless the licensee proves the customer damaged or otherwise committed or permitted waste on the ~~motor~~ vehicle. For the purposes of this paragraph, it shall not be deemed waste for the customer to continue to use the ~~motor~~ vehicle in the same manner it was used before he entered into the title loan, ~~or to make necessary repairs to the motor vehicle.~~

~~3. After repossession and sale of the motor vehicle securing the title loan, the licensee shall return to the customer any proceeds from the sale of the motor vehicle which exceed the amount owed on the title loan.~~

3. If a vehicle is repossessed pursuant to this section:

(a) By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or

(b) By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.

4. If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:

(a) The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;

(b) Reasonable attorney's fees and costs; and

(c) Any other legal or equitable relief that the court deems appropriate.

5. As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a ~~motor~~ vehicle which does not belong to the customer.

Sec. 39. 1. A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:

1 (a) A sum of money equal to the face value of the loan, less any fee
2 charged to the customer to initiate the loan; or

3 (b) The original check, if any, which the licensee gave to the
4 customer pursuant to the loan. Upon receipt of the original check, the
5 licensee shall refund any fee charged to the customer to initiate the loan.

6 2. If a customer rescinds a loan pursuant to this section, the
7 licensee:

8 (a) Shall not charge the customer any fee for rescinding the loan;
9 and

0 (b) Upon receipt of the sum of money or check pursuant to
1 subsection 1, shall give to the customer a receipt showing the account
2 paid in full and:

3 (1) If the customer gave to the licensee a check or a written
4 authorization for an electronic transfer of money to initiate a deferred
5 deposit loan, the check or written authorization stamped "void";

6 (2) If the customer gave to the licensee a promissory note to
7 initiate a short-term loan, a copy of the promissory note stamped "void"
8 or the receipt stamped "paid in full"; or

9 (3) If the customer gave to the licensee a title to a ~~motor~~ vehicle to
0 initiate the title loan, the title.

1 Sec. 40. 1. A customer may pay a loan, or any extension thereof,
2 in full at any time, without an additional charge or fee, before the date
3 his final payment on the loan, or any extension thereof, is due.

4 2. If a customer pays the loan in full, including all interest, charges
5 and fees negotiated and agreed to by the licensee and customer as
6 permitted under this chapter, the licensee shall:

7 (a) Give to the customer:

8 (1) If the customer gave to the licensee a check or a written
9 authorization for an electronic transfer of money to initiate a deferred
0 deposit loan, the check or the written authorization stamped "void";

1 (2) If the customer gave to the licensee a promissory note to
2 initiate a short-term loan, the promissory note stamped "void" or a
3 receipt stamped "paid in full"; or

4 (3) If the customer gave to the licensee a title to a ~~motor~~ vehicle to
5 initiate a title loan, the title; and

6 (b) Give to the customer a receipt with the following information:

7 (1) The name and address of the licensee;

8 (2) The identification number assigned to the loan agreement or
9 other information that identifies the loan;

0 (3) The date of the payment;

1 (4) The amount paid;

2 (5) An itemization of interest, charges and fees;

3 (6) A statement that the loan is paid in full; and

4 (7) If more than one loan made by the licensee to the customer
5 was outstanding at the time the payment was made, a statement
6 indicating to which loan the payment was applied.

7 Sec. 41. 1. A customer may make a partial payment on a loan, or
8 any extension thereof, at any time without an additional charge or fee.

9 2. If a customer makes such a partial payment, the licensee shall
0 give to the customer a receipt with the following information:

1 (a) The name and address of the licensee;

2 (b) The identification number assigned to the loan agreement or
3 other information that identifies the loan;

4 (c) The date of the payment;

5 (d) The amount paid;

6 (e) An itemization of interest, charges and fees;

7 (f) The balance due on the loan; and

(g) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 42. ~~1. The licensee and customer may enter into a repayment plan if:~~

~~(a) The customer defaults on the original loan, or any extension thereof; or~~

~~(b) Before such a default, the customer indicates that he is unable to pay the original loan in full pursuant to the terms set forth in the original loan agreement, or any extension thereof.~~

~~2. If the customer defaults on the original loan or any extension thereof, or indicates that he is unable to pay in full the original loan or any extension thereof, the licensee:~~

~~(a) Shall provide written notice in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish, to the customer of his right to enter into a repayment plan; and~~

~~(b) Shall not commence any civil action to collect on the outstanding loan unless:~~

~~(1) Such a notice has been sent to the customer; and~~

~~(2) The customer fails to exercise his right to enter into a repayment plan within 15 days after receipt of the notice.~~

~~3. If the licensee and customer enter into a repayment plan pursuant to this section, the customer may pay the remaining balance on the outstanding loan:~~

~~(a) In four equal monthly installments; or~~

~~(b) Under any other terms negotiated and agreed to by the licensee and customer that comply with the provisions of this section.~~

~~4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:~~

~~(a) Provide to the customer a document which confirms that the customer has entered into a repayment plan and which states the date and terms of the repayment plan; and~~

~~(b) If the repayment plan is for a deferred deposit loan, return to the customer the check or written authorization for an electronic transfer of money that the customer used to initiate the deferred deposit loan, with the check or written authorization stamped "void."~~

~~5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:~~

~~(a) Charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:~~

~~(1) Any interest, other than the interest charged pursuant to the original loan agreement, regardless of the name given to the interest; or~~

~~(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees.~~

~~(b) Accept any security or collateral from the customer to enter into the repayment plan;~~

~~(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;~~

~~(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in subsection 1 of section 34 of this act; or~~

~~(e) Commence a civil action against the customer during the term of the repayment plan;~~

~~6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:~~

~~(a) The name and address of the licensee;~~

~~(b) The identification number assigned to the loan agreement or other information that identifies the loan;~~

~~(c) The date of the payment;~~

~~(d) The amount paid;~~

~~(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and~~

~~(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.~~

1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing a civil action or any process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days from the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days from the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days from the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

1 (1) The licensee may require a customer to provide, as security,
2 one or more checks or written authorizations for the electronic transfer
3 of money which equal the total amount due under the terms of the
4 repayment plan;

5 (2) The licensee shall, if the customer makes a payment in the
6 amount of a check or written authorization taken as security for that
7 payment, return to the customer the check or written authorization
8 stamped "void" or destroy the check or written authorization; and

9 (3) The licensee shall not charge any fee to the customer pursuant
0 to section 45 for a check which is provided as security during the
1 repayment plan and which is not paid upon presentment if, in connection
2 with that loan, the licensee has previously charged at least one such fee.

3 4. If the licensee and customer enter into a repayment plan
4 pursuant to this section, the licensee shall honor the terms of the
5 repayment plan, and the licensee shall not:

6 (a) Except as otherwise provided by this chapter, charge any other
7 amount to a customer, including, without limitation, any amount or
8 charge payable directly or indirectly by the customer and imposed
9 directly or indirectly by the licensee as an incident to or as a condition of
0 entering into a repayment plan. Such an amount includes, without
1 limitation:

2 (1) Any interest, other than the interest charged pursuant to the
3 original loan agreement, regardless of the name given to the interest; or

4 (2) Any origination fees, set-up fees, collection fees, transaction
5 fees, negotiation fees, handling fees, processing fees, late fees, default
6 fees or any other fees, regardless of the name given to the fee;

7 (b) Except as otherwise provided in this section, accept any security
8 or collateral from the customer to enter into the repayment plan;

9 (c) Sell to the customer any insurance or require the customer to
0 purchase insurance or any other goods or services to enter into the
1 repayment plan;

2 (d) Make any other loan to the customer, unless the customer is
3 seeking multiple loans that do not exceed the limit set forth in subsection
4 1 of section 34 of this act;

5 (e) During the term of the repayment plan, attempt to collect the
6 outstanding balance by commencing a civil action or any process of
7 alternative dispute resolution or by repossessing a vehicle, unless the
8 customer defaults on the repayment plan; or

9 (f) Attempt to collect an amount that is greater than the amount owed
0 under the terms of the repayment plan.

1 5. If the licensee and customer enter into a repayment plan
2 pursuant to this section, the licensee shall:

3 (a) Prepare a written agreement establishing the repayment plan;
4 and

5 (b) Give the customer a copy of the written agreement. The written
6 agreement must:

7 (1) Be signed by the licensee and customer; and

8 (2) Contain all of the terms of the repayment plan, including,
9 without limitation, the total amount due under the terms of the
0 repayment plan.

1 6. Each time a customer makes a payment pursuant to a repayment
2 plan, the licensee shall give to the customer a receipt with the following
3 information:

4 (a) The name and address of the licensee;

5 (b) The identification number assigned to the loan agreement or
6 other information that identifies the loan;

7 (c) The date of the payment;

8 (d) The amount paid;

1 (e) The balance due on the loan or, when the customer makes the
2 final payment, a statement that the loan is paid in full; and

3 (f) If more than one loan made by the licensee to the customer was
4 outstanding at the time the payment was made, a statement indicating to
5 which loan the payment was applied.

6 7. If the customer defaults on the repayment plan, the licensee may,
7 to collect the outstanding balance, commence a civil action or any
8 process of alternative dispute resolution or repossess a vehicle as
9 otherwise authorized pursuant to this chapter.

0 Sec. 43. ~~§~~ 1. Except as otherwise provided in subsection 2, if a
1 customer agrees to establish or extend the period for the repayment,
2 renewal, refinancing or consolidation of an outstanding loan by using
3 the proceeds of a new deferred deposit loan or short-term loan to pay the
4 balance of the outstanding loan, the licensee shall not establish or extend
5 such a period beyond ~~8 weeks~~ 60 days after the expiration of the initial
6 loan period.

7 2. This section does not apply to a deferred deposit loan or short-
8 term loan if the licensee:

9 (a) Makes the deferred deposit loan or short-term loan to a customer
10 pursuant to a loan agreement which, under its original terms:

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

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

14 (3) Requires the loan to be paid in full within 150 days; and

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

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

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

2 (d) Gives the customer the right to rescind the deferred deposit loan
3 or short-term loan within 5 days after the loan is made without charging
4 the customer any fee for rescinding the loan;

5 (e) Participates in good faith with a counseling agency that is
6 accredited by the Council on Accreditation for Services for Families and
7 Children, Inc., or its successor organization;

8 (f) Is a member of the National Foundation for Credit Counseling or
9 its successor organization; and

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

3 Sec. 44. 1. ~~§~~ Except as otherwise provided in this chapter, if a
4 customer defaults on a loan or on any extension or repayment plan
5 relating to the loan, whichever is later, the licensee may collect only the
6 following amounts from the customer:

7 (a) The principal amount of the loan.

8 (b) The interest accrued before the expiration of the initial loan
9 period at the ~~annual percentage rate of interest~~ set forth in the disclosure
0 statement required by the ~~federal~~ Truth in Lending Act, ~~15 U.S.C. §§~~
1 ~~1601 et seq.~~ and Regulation Z that is provided to the customer. If there
2 is an extension or repayment plan relating to the loan, the licensee may
3 charge and collect interest pursuant to this paragraph for a period not to
4 exceed ~~8 weeks~~ 60 days after the expiration of the initial loan period.

5 (c) The interest accrued after the expiration of the initial loan period
6 or after any extension or repayment plan that is allowed pursuant to
7 paragraph (b), whichever is later, at ~~a rate of interest~~ an annual
8 percentage rate not to exceed the prime rate at the largest bank in
9 Nevada, as ascertained by the Commissioner, on January 1 or July 1, as

1 the case may be, immediately preceding the expiration of the initial loan
2 period, plus 10 percent. The licensee may charge and collect interest
3 pursuant to this paragraph for a period not to exceed ~~12 weeks~~ 90 days.
4 After that period, the licensee shall not charge or collect any interest on
5 the loan.

6 (d) Any fees allowed pursuant to section 45 of this act for a check
7 that is not paid upon presentment because the account of the customer
8 contains insufficient funds or has been closed.

9 2. Except for the interest and fees permitted pursuant to subsection
0 1 and any other charges expressly permitted pursuant to this chapter, the
1 licensee shall not charge any other amount to a customer, including,
2 without limitation, any amount or charge payable directly or indirectly
3 by the customer and imposed directly or indirectly by the licensee as an
4 incident to or as a condition of the extension of the period for the
5 payment of the loan or the extension of credit. Such an amount includes,
6 without limitation:

7 (a) Any interest, other than the interest charged pursuant to
8 subsection 1, regardless of the name given to the interest; or

9 (b) Any origination fees, set-up fees, collection fees, transaction fees,
0 negotiation fees, handling fees, processing fees, late fees, default fees or
1 any other fees, regardless of the name given to the fee.

2 Sec. 44.5. If a customer defaults on a short-term loan, the licensee
3 may charge a one-time late fee of not more than \$25.

4 Sec. 45. 1. A licensee may collect a fee of not more than \$25 if a
5 check is not paid upon presentment because the account of the customer
6 contains insufficient funds or has been closed.

7 2. If the account of the customer contains insufficient funds, the
8 licensee may collect only two fees of \$25 each regardless of the number
9 of times the check is presented for payment.

0 3. If the account of the customer has been closed, the licensee may
1 collect only one fee of \$25 regardless of the number of times the check is
2 presented for payment.

3 4. A customer is not liable for damages pursuant to NRS 41.620 or
4 to criminal prosecution for a violation of chapter 205 of NRS unless the
5 customer acted with criminal intent.

6 Sec. 46. In addition to any other provision in this chapter, each
7 time a customer makes a payment to a licensee, the licensee shall give to
8 the customer a receipt with the following information:

9 1. The name and address of the licensee;

0 2. The identification number assigned to the loan agreement or
1 other information that identifies the loan;

2 3. The date of the payment;

3 4. The amount paid;

4 5. The balance due on the loan or, when the customer makes a final
5 payment, a statement that the loan is paid in full; and

6 6. If more than one loan made by the licensee to the customer was
7 outstanding at the time the payment was made, a statement indicating to
8 which loan the payment was applied.

9 Sec. 47. 1. A person shall not act as an agent for or assist a
0 licensee in the making of a loan unless the licensee complies with all
1 applicable federal and state laws, regulations and guidelines.

2 2. The provisions of this section do not apply to the agent or
3 assistant to a state or federally chartered bank, thrift company, savings
4 and loan association or industrial loan company if the state or federally
5 chartered bank, thrift company, savings and loan association or
6 industrial loan company:

7 (a) Initially advances the loan proceeds to the customer; and

8 (b) Does not sell, assign or transfer a preponderant economic interest
9 in the loan to the agent or assistant or an affiliate or subsidiary of the

1 state or federally chartered bank, thrift company, savings and loan
2 association or industrial loan company, unless selling, assigning or
3 transferring a preponderant economic interest is expressly permitted by
4 the primary regulator of the state or federally chartered bank, thrift
5 company, savings and loan association or industrial loan company.

6 3. If a licensee acts as an agent for or assists a state or federally
7 chartered bank, thrift company, savings and loan association or
8 industrial loan company in the making of a loan and the licensee can
9 show that the standards set forth in subsection 2 are satisfied, the
0 licensee must comply with all other provisions in this chapter to the
1 extent they are not preempted by other state or federal law.

2 Sec. 48. 1. An application for a license pursuant to the provisions
3 of this chapter must be made in writing, under oath and on a form
4 prescribed by the Commissioner. The application must include:

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

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

9 (1) Partner;

0 (2) Officer;

1 (3) Director;

2 (4) Manager or member who acts in a managerial capacity; and

3 (5) Registered agent,

4 of the business entity.

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

(1) Partners;

(2) Officers;

0 (3) Directors; and

1 (4) Managers or members who act in a managerial capacity.

2 (d) The address of each location at which the applicant proposes to
3 do business under the license, including, without limitation, each
4 location where the applicant will operate at a kiosk, through the Internet,
5 through any telephone, facsimile machine or other telecommunication
6 device or through any other machine, network, system, device or means,
7 except that the applicant shall not propose to do business through any
8 automated loan machine prohibited by section 29 of this act.

9 (e) If the applicant is or intends to be licensed to provide more than
0 one type of service pursuant to the provisions of this chapter, a statement
1 of that intent and which services he provides or intends to provide.

2 2. Each application for a license must be accompanied by:

3 (a) A nonrefundable application fee;

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

6 (c) A fee of not less than \$100 or more than \$500, prorated on the
7 basis of the licensing year.

8 All money received by the Commissioner pursuant to this subsection
9 must be placed in the Investigative Account for Financial Institutions
0 created by NRS 232.545.

1 3. The Commissioner shall adopt regulations establishing the
2 amount of the fees required pursuant to this section.

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

The provisions of
subsection 4 are based
on language from Sec.
43 of S.B. 431-R1
(Division of Financial
Institutions).

1 application, the Commissioner may not issue a license to the applicant
2 unless the applicant submits a new application and pays any required
3 fees.

4 **Sec. 49. 1.** Except as otherwise provided in section 50 of this act,
5 each application for a license pursuant to the provisions of this chapter
6 must be accompanied by a surety bond payable to the State of Nevada in
7 the amount of \$50,000 plus an additional \$5,000 for each branch
8 location at which the applicant proposes to do business under the license.
9 Thereafter, each licensee shall maintain the surety bond so that the
10 amount of the surety bond is \$50,000 plus an additional \$5,000 for each
11 branch location at which the licensee does business under the license.
12 The surety bond required by this section is for the use and benefit of any
13 customer receiving the services of the licensee at any location at which
14 the licensee does business under the license.

15 **2.** The bond must be in a form satisfactory to the Commissioner,
16 issued by a bonding company authorized to do business in this State and
17 must secure the faithful performance of the obligations of the licensee
18 respecting the provision of the services.

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

27 **4.** Whenever the principal sum of the bond is reduced by recoveries
28 or payments thereon, the licensee shall furnish:

29 (a) A new or additional bond so that the total or aggregate principal
30 sum of the bonds equals the sum required pursuant to subsection 1; or

31 (b) An endorsement, duly executed by the surety, reinstating the bond
32 to the required principal sum.

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

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

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

42 (b) The termination of the bond,
43 whichever event occurs first.

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

50 **Sec. 50. 1.** In lieu of any surety bond, or any portion of the
51 principal sum thereof as required pursuant to the provisions of this
52 chapter, a licensee may deposit with the State Treasurer or with any
53 bank, credit union or trust company authorized to do business in this
54 State as the licensee may select, with the approval of the Commissioner:

55 (a) Interest-bearing stocks;

56 (b) Bills, bonds, notes, debentures or other obligations of the United
57 States or any agency or instrumentality thereof, or guaranteed by the
58 United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State or guaranteed by this State,

in an aggregate amount of, based upon principal amount or market value, whichever is lower, of not less than the amount of the required surety bond or portion thereof.

2. The securities must be held to secure the same obligation as would the surety bond, but the depositor may receive any interest or dividends and, with the approval of the Commissioner, substitute other suitable securities for those deposited.

Sec. 51. 1. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

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

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

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

2. This section applies, without limitation, to any office or other place of business located outside this State from which the applicant will conduct business in this State at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act.

Sec. 52. 1. Upon the filing of the application and the payment of the fees required pursuant to section 48 of this act, the Commissioner shall investigate the facts concerning the application and the requirements provided for in ~~section~~ sections 53.5 and 54 of this act.

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

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

Sec. 53. If the Commissioner finds that any applicant does not possess the requirements specified in this chapter, he shall:

1. Enter an order denying the application and notify the applicant of the denial.

2. Within 10 days after the entry of such an order, file his findings and a summary of the evidence supporting those findings and deliver a copy thereof to the applicant.

The provisions of Sec. 53.5 are based on language from Sec. 36 of S.B. 431-R1 (Division of Financial Institutions).

1 Sec. 53.5. 1. In addition to any other requirements set forth in
2 this chapter, each applicant must submit proof satisfactory to the
3 Commissioner that the applicant:

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

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

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

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

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

7 (f) If the applicant is a natural person:

8 (1) Is at least 21 years of age; and

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

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

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

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

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

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

2 Sec. 54. 1. The Commissioner shall enter an order granting an
3 application if he finds that the :

4 (a) The financial responsibility, experience, character and general
5 fitness of the applicant are such as to command the confidence of the
6 public and to warrant belief that the business will be operated lawfully,
7 honestly, fairly and efficiently;

8 (b) The applicant has satisfied the requirements set forth in section
9 53.5 of this act.

0 2. If the Commissioner grants an application, the Commissioner
1 shall:

2 (a) File his findings of fact together with the transcript of any
3 hearing held pursuant to the provisions of this chapter; and

4 (b) Issue to the licensee a license in such form and size as is
5 prescribed by the Commissioner for each location at which the licensee
6 proposes to do business.

7 3. Each licensee shall prominently display his license at the location
8 where he does business. The Commissioner may issue additional licenses
9 to the same licensee for each branch location at which the licensee is
0 authorized to operate under the license, including, without limitation,
1 each branch location where the licensee is authorized to operate at a
2 kiosk, through the Internet, through any telephone, facsimile machine or
3 other telecommunication device or through any other machine, network,
4 system, device or means, except that the Commissioner shall not issue
5 any license that would authorize the licensee to operate through any
6 automated loan machine prohibited by section 29 of this act. Nothing in
7 this subsection requires a license for any place of business devoted to
8 accounting, recordkeeping or administrative purposes only.

9 4. Each license shall must:

(a) State the address at which the business is to be conducted; and

(b) State fully:

(1) The name and address of the licensee;

(2) If the licensee is a copartnership or association, the names of its members; and

(3) If the licensee is a corporation, the date and place of its incorporation.

5. A license is not transferable or assignable.

Sec. 55. 1. A license issued pursuant to the provisions of this chapter expires annually on the anniversary of the issuance of the license. A licensee must renew his license on or before the date on which the license expires by paying:

(a) A renewal fee; and

(b) An additional fee for each branch location at which the licensee is authorized to operate under the license.

2. A licensee who fails to renew his license within the time required by this section is not licensed pursuant to the provisions of this chapter.

3. The Commissioner may reinstate an expired license upon receipt of the renewal fee and a fee for reinstatement.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 56. 1. A licensee shall immediately notify the Commissioner of any change of control of the licensee.

2. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be satisfied, he may deny the application and forbid the applicant from participating in the business of the licensee.

3. As used in this section, "change of control" means:

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

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

Sec. 57. 1. A licensee shall not conduct the business of making loans under any name, at any place or by any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except as permitted in the license or branch license issued to the licensee.

2. A licensee must obtain the approval of the Commissioner before using or changing a business name.

3. A licensee shall not:

(a) Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.

(b) Use any printed forms which may mislead or confuse the public.

Sec. 58. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

The provisions of subsections 2 and 3 are based on language from Sec. 38 of S.B. 431-R1 (Division of Financial Institutions).

(1) *The licensee and the mortgage broker:*

- (I) *Maintain separate accounts, books and records;*
- (II) *Are subsidiaries of the same parent corporation; and*
- (III) *Maintain separate licenses; and*

(2) *The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

(b) *A mortgage banker if:*

(1) *The licensee and the mortgage banker:*

- (I) *Maintain separate accounts, books and records;*
- (II) *Are subsidiaries of the same parent corporation; and*
- (III) *Maintain separate licenses; and*

(2) *The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

3. *If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.*

Sec. 59. 1. *A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

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

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$500.*

4. *This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act.*

Sec. 60. 1. *Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.*

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

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

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

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

or
(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during*

1 any investigation or examination made at the office or place of business
2 located outside this State.

3 ↪ The licensee must be allowed to choose between the provisions of
4 paragraph (a) or (b) in complying with this subsection.

5 5. As used in this section, "amount of cash advance" means the
6 amount of cash or its equivalent actually received by a customer or paid
7 out at his direction or in his behalf.

8 Sec. 61. 1. Except as otherwise provided in subsection 3, an
9 officer or employee of the Division of Financial Institutions of the
10 Department of Business and Industry shall not:

11 (a) Be directly or indirectly interested in or act on behalf of any
12 licensee;

13 (b) Receive, directly or indirectly, any payment from any licensee;

14 (c) Be indebted to any licensee;

15 (d) Engage in the negotiation of loans for others with any licensee;

16 or

17 (e) Obtain credit or services from a licensee conditioned upon a
18 fraudulent practice or undue or unfair preference over other customers.

19 2. An employee of the Division of Financial Institutions in the
20 unclassified service of the State shall not obtain new extensions of credit
21 from a licensee while in office.

22 3. Any officer or employee of the Division of Financial Institutions
23 may be indebted to a licensee on the same terms as are available to the
24 public generally.

25 4. If an officer or employee of the Division of Financial Institutions
26 has a service, a preferred consideration, an interest or a relationship
27 prohibited by this section at the time of his appointment or employment,
or obtains it during his employment, he shall terminate it within 120 days
after the date of his appointment or employment or the discovery of the
prohibited act.

31 Sec. 62. 1. For the purpose of discovering violations of this
32 chapter or of securing information lawfully required under this chapter,
33 the Commissioner or his duly authorized representatives may at any time
34 investigate the business and examine the books, accounts, papers and
35 records used therein of:

36 (a) Any licensee;

37 (b) Any other person engaged in the business of making loans or
38 participating in such business as principal, agent, broker or otherwise;
39 and

40 (c) Any person who the Commissioner has reasonable cause to
41 believe is violating or is about to violate any provision of this chapter,
42 whether or not the person claims to be within the authority or beyond the
43 scope of this chapter.

44 2. For the purpose of examination, the Commissioner or his
45 authorized representatives shall have and be given free access to the
46 offices and places of business, and the files, safes and vaults of such
47 persons.

48 3. For the purposes of this section, any person who advertises for,
49 solicits or holds himself out as willing to make any deferred deposit loan,
50 short-term loan or title loan is presumed to be engaged in the business of
51 making loans.

52 Sec. 63. 1. The Commissioner may require the attendance of any
53 person and examine him under oath regarding:

54 (a) Any check-cashing service or loan service regulated pursuant to
55 the provisions of this chapter; or

56 (b) The subject matter of any audit, examination, investigation or
hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 64. 1. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.

Sec. 65. 1. The Commissioner shall charge and collect from each licensee a fee of \$40 per hour for any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.

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

3. The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.

Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant to this chapter.

Sec. 66. If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.

Sec. 67. 1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

The provisions of Sec. 65.5 are based on language from Sec. 37 of S.B. 431-R1 (Division of Financial Institutions).

1 Sec. 68. 1. If the Commissioner has reason to believe that
2 grounds for revocation or suspension of a license exist, he shall give 20
3 days' written notice to the licensee stating the contemplated action and,
4 in general, the grounds therefor and set a date for a hearing.

5 2. At the conclusion of a hearing, the Commissioner shall:

6 (a) Enter a written order either dismissing the charges, revoking the
7 license or suspending the license for a period of not more than 60 days,
8 which period must include any prior temporary suspension. The
9 Commissioner shall send a copy of the order to the licensee by registered
10 or certified mail.

11 (b) Impose upon the licensee a fine of \$500 for each violation by the
12 licensee of any provision of this chapter or any regulation adopted
13 pursuant thereto.

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

17 3. The grounds for revocation or suspension of a license are that:

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

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

22 (c) The licensee has failed to pay a tax as required pursuant to the
23 provisions of chapter 363A of NRS;

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

27 (e) The licensee:

(1) Failed to open an office for the conduct of the business
authorized by his license within 180 days after the date his license was
issued; or

(2) Has failed to remain open for the conduct of the business for a
period of 180 days without good cause therefor.

33 4. Any revocation or suspension applies only to the license granted
34 to a person for the particular office for which grounds for revocation or
35 suspension exist.

36 5. An order suspending or revoking a license becomes effective 5
37 days after being entered unless the order specifies otherwise or a stay is
38 granted.

39 Sec. 69. A licensee may surrender any license issued pursuant to
40 the provisions of this chapter by delivering it to the Commissioner with
41 written notice of its surrender, but a surrender does not affect his civil or
42 criminal liability for acts committed prior thereto.

43 Sec. 70. A revocation, suspension, expiration or surrender of any
44 license does not impair or affect the obligation of any preexisting lawful
45 loan agreement between the licensee and any customer. Such a loan
46 agreement and all lawful charges thereon may be collected by the
47 licensee, its successors or assigns.

48 Sec. 71. 1. Annually, on or before April 15, each licensee shall
49 file with the Commissioner a report of operations of the licensed
50 business for the preceding calendar year.

51 2. The licensee shall make the report under oath and on a form
52 prescribed by the Commissioner.

53 3. If any person or affiliated group holds more than one license in
54 this State, it may file a composite annual report.

55 Sec. 72. 1. A court of this State may exercise jurisdiction over a
56 party to a civil action arising under the provisions of this chapter on any
basis not inconsistent with the Constitution of the State of Nevada or the
Constitution of the United States.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 73. 1. Except as otherwise provided in this section, if a licensee willfully:

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

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

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

the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

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

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

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

Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.

Sec. 74. ~~1.~~ 1. Except as otherwise provided in subsection 3, in addition to any other remedy or penalty, if a licensee person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee person for any or all of the following relief:

~~1.~~ (a) Actual and consequential damages;

~~2.~~ (b) An additional amount, as statutory damages, which is equal to \$1,000 for each violation;

~~3.~~ (b) Punitive damages, which are subject to the provisions of NRS 42.005;

~~4.~~ (c) Reasonable attorney's fees and costs; and

~~5.~~ (d) Any other legal or equitable relief that the court deems appropriate.

2. Except as otherwise provided in subsection 3, in addition to any other remedy or penalty, if a customer brings a civil action pursuant to subsection 1 against a person who has committed a material violation of any provision of section 29 or 44 of this act, the customer is entitled to recover an additional amount, as statutory damages, which is equal to \$1,000 for each such violation.

3. A licensee person may not be held liable in any civil action brought pursuant to subsection 1 this section if the licensee person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

The provisions of Sec. 73.5 are based on language from Sec. 40 of S.B. 431-R1 (Division of Financial Institutions).

Subsections 3 and 4 create an affirmative defense that is modeled after provisions in the federal Truth in Lending Act. See 15 U.S.C. § 1601(c).

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

~~3. 4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the licensee's obligations under this chapter is not a bona fide error.~~

Sec. 75. NRS 598D.130 is hereby amended to read as follows:

598D.130 A mortgage, deed of trust or other instrument that encumbers home property as security for repayment of a home loan must expressly indicate in writing in a size equal to at least 14-point bold type on the front page of the mortgage, deed of trust or other instrument that the home loan is a home loan as defined in NRS 598D.040 ~~and is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.~~

Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~Any~~ Except as otherwise provided in section 45 of this act, any person who:

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. As used in this section, unless the context otherwise requires:

(a) "Credit card" has the meaning ascribed to it in NRS 205.630;

(b) "Debit card" has the meaning ascribed to it in NRS 205.635; and

(c) "Issuer" has the meaning ascribed to it in NRS 205.650.

Sec. 76. NRS 232.545 is hereby amended to read as follows:

232.545 1. An Investigative Account for Financial Institutions is hereby created in the State General Fund. The Account consists of money which is:

(a) Received by the Department of Business and Industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The Director of the Department of Business and Industry or his designee may authorize expenditures from the Investigative Account to pay the expenses incurred:

(a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;

(b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and

(c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, "financial institution" means an institution for which licensing or registration is required by the provisions of titles 55 and 56 ~~and chapters 604 and 649~~ of NRS ~~and~~ chapter 649 of NRS and sections 2 to 74, inclusive, of this act.

Section 75.5 is added to further clarify that NRS 41.620 does not apply to loan transactions governed by this bill.

11 Sec. 76.3. Chapter 278 of NRS is hereby amended by adding thereto
12 a new section to read as follows:

13 ~~1. Except as otherwise provided in this section, in a county whose~~
14 ~~population is less than 100,000, each governing body shall adopt zoning~~
15 ~~regulations which restrict to specific districts within the geographical~~
16 ~~jurisdiction of the governing body the construction, reconstruction,~~
17 ~~alteration, repair or use of buildings, structures or land of a business~~
18 ~~that operates a check-cashing service, deferred deposit loan service,~~
19 ~~short-term loan service or title loan service pursuant to sections 2 to 74,~~
20 ~~inclusive, of this act.~~

21 ~~2. The provisions of this section do not apply to any place of~~
22 ~~business devoted to accounting, recordkeeping or administrative~~
23 ~~purposes only.~~

24 ~~3. If, on July 1, 2005, a governing body has in effect zoning~~
25 ~~regulations which include the type of restrictions described in subsection~~
26 ~~1, the governing body shall be deemed to be in compliance with this~~
27 ~~section so long as those zoning regulations remain in effect and are not~~
28 ~~amended in manner that conflicts with this section.~~

29 Sec. 76.6. NRS 278.250 is hereby amended to read as follows:

30 ~~278.250 1. For the purposes of NRS 278.010 to 278.620, inclusive,~~
31 ~~and section 76.3 of this act, the governing body may divide the city,~~
32 ~~county or region into zoning districts of such number, shape and area as~~
33 ~~are best suited to carry out the purposes of NRS 278.010 to 278.620,~~
34 ~~inclusive [], and section 76.3 of this act. Within the zoning district it may~~
35 ~~regulate and restrict the erection, construction, reconstruction, alteration,~~
36 ~~repair or use of buildings, structures or land.~~

37 ~~2. The zoning regulations must be adopted in accordance with the~~
38 ~~master plan for land use and be designed:~~

- 39 ~~(a) To preserve the quality of air and water resources;~~
40 ~~(b) To promote the conservation of open space and the protection of~~
41 ~~other natural and scenic resources from unreasonable impairment;~~
42 ~~(c) To provide for recreational needs;~~
43 ~~(d) To protect life and property in areas subject to floods, landslides~~
44 ~~and other natural disasters;~~
45 ~~(e) To conform to the adopted population plan, if required by NRS~~
46 ~~278.170;~~
47 ~~(f) To develop a timely, orderly and efficient arrangement of~~
48 ~~transportation and public facilities and services, including facilities and~~
49 ~~services for bicycles;~~
50 ~~(g) To ensure that the development on land is commensurate with the~~
51 ~~character and the physical limitations of the land;~~
52 ~~(h) To take into account the immediate and long-range financial impact~~
53 ~~of the application of particular land to particular kinds of development, and~~
54 ~~the relative suitability of the land for development;~~
55 ~~(i) To promote health and the general welfare;~~
56 ~~(j) To ensure the development of an adequate supply of housing for the~~
57 ~~community, including the development of affordable housing;~~
58 ~~(k) To ensure the protection of existing neighborhoods and~~
59 ~~communities, including the protection of rural preservation neighborhoods.~~

60 ~~3. The zoning regulations must be adopted with reasonable~~
61 ~~consideration, among other things, to the character of the area and its~~
62 ~~peculiar suitability for particular uses, and with a view to conserving the~~
63 ~~value of buildings and encouraging the most appropriate use of land~~
64 ~~throughout the city, county or region.~~

65 ~~4. In exercising the powers granted in this section, the governing~~
66 ~~body may use any controls relating to land use or principles of zoning that~~
67 ~~the governing body determines to be appropriate, including, without~~
68 ~~limitation, density bonuses, inclusionary zoning and minimum density~~
69 ~~zoning.~~

Sec. 76.3 and Sec. 76.6
are based on Sec. 2 and
Sec. 4 of A.B. 340-R1
(Ms. Giunchigliani).

1 ~~5. As used in this section:~~

2 ~~(a) "Density bonus" means an incentive granted by a governing body~~
3 ~~to a developer of real property that authorizes the developer to build at a~~
4 ~~greater density than would otherwise be allowed under the master plan, in~~
5 ~~exchange for an agreement by the developer to perform certain functions~~
6 ~~that the governing body determines to be socially desirable, including,~~
7 ~~without limitation, developing an area to include a certain proportion of~~
8 ~~affordable housing.~~

9 ~~(b) "Inclusionary zoning" means a type of zoning pursuant to which a~~
10 ~~governing body requires or provides incentives to a developer who builds~~
11 ~~residential dwellings to build a certain percentage of those dwellings as~~
12 ~~affordable housing.~~

13 ~~(c) "Minimum density zoning" means a type of zoning pursuant to~~
14 ~~which development must be carried out at or above a certain density to~~
15 ~~maintain conformance with the master plan.~~

16 Sec. 77. NRS 363A.050 is hereby amended to read as follows:

17 363A.050 1. Except as otherwise provided in subsection 2,
18 "financial institution" means:

19 (a) An institution licensed, registered or otherwise authorized to do
20 business in this State pursuant to the provisions of *title 55 or 56 of NRS or*
21 *chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,]*
22 *sections 2 to 74, inclusive, of this act, or a similar institution chartered or*
23 *licensed pursuant to federal law and doing business in this State;*

24 (b) Any person primarily engaged in:

25 (1) The purchase, sale and brokerage of securities;
26 (2) Originating, underwriting and distributing issues of securities;
27 (3) Buying and selling commodity contracts on either a spot or
future basis for the person's own account or for the account of others, if
the person is a member or is associated with a member of a recognized
commodity exchange;

30 (4) Furnishing space and other facilities to members for the purpose
31 of buying, selling or otherwise trading in stocks, stock options, bonds or
32 commodity contracts;

33 (5) Furnishing investment information and advice to others
34 concerning securities on a contract or fee basis;

35 (6) Furnishing services to holders of or brokers or dealers in
36 securities or commodities;

37 (7) Holding or owning the securities of banks for the sole purpose
38 of exercising some degree of control over the activities of the banks whose
39 securities the person holds;

40 (8) Holding or owning securities of companies other than banks, for
41 the sole purpose of exercising some degree of control over the activities of
42 the companies whose securities the person holds;

43 (9) Issuing shares, other than unit investment trusts and face-
44 amount certificate companies, whose shares contain a provision requiring
45 redemption by the company upon request of the holder of the security;

46 (10) Issuing shares, other than unit investment trusts and face-
47 amount certificate companies, whose shares contain no provision requiring
48 redemption by the company upon request by the holder of the security;

49 (11) Issuing unit investment trusts or face-amount certificates;

50 (12) The management of the money of trusts and foundations
51 organized for religious, educational, charitable or nonprofit research
52 purposes;

53 (13) The management of the money of trusts and foundations
54 organized for purposes other than religious, educational, charitable or
55 nonprofit research;

56 (14) Investing in oil and gas royalties or leases, or fractional
interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(16) Closed-end investments in real estate or related mortgage assets operating in such a manner as to meet the requirements of the Real Estate Investment Trust Act of 1960, as amended;

(17) Investing; or

(18) Any combination of the activities described in this paragraph, who is doing business in this State;

(c) Any other person conducting loan or credit card processing activities in this State; and

(d) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this State.

2. The term does not include a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.

Sec. 78. NRS 645B.0119 is hereby amended to read as follows:

645B.0119 "Financial services license or registration" means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, *title 55 or 56 of NRS or chapter 604,* 645, 645A, 645C, 645E or 649 of NRS or ~~title 55 or 56 of NRS,~~ sections 2 to 74, inclusive, of this act.

Sec. 79. NRS 658.098 is hereby amended to read as follows:

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

(a) Check-cashing service or deferred deposit *loan* service that is supervised pursuant to ~~chapter 604 of NRS,~~ sections 2 to 74, inclusive, of this act;

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

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

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

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

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

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

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

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

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

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all

1 assessments collected must be reduced by any amounts collected by the
2 Commissioner from an entity for the recovery of the costs of legal services
3 provided by the Attorney General in a specific case.

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

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

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

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

15 5. Money collected by the Commissioner pursuant to this section
16 must be deposited in the State Treasury pursuant to the provisions of NRS
17 658.091.

18 ~~Sec. 80. NRS 675.040 is hereby amended to read as follows:~~

19 ~~675.040 This chapter does not apply to:~~

20 ~~1. A person doing business under the authority of any law of this~~
21 ~~State or of the United States relating to banks, savings banks, trust~~
22 ~~companies, savings and loan associations, credit unions, development~~
23 ~~corporations, mortgage brokers, mortgage bankers, thrift companies,~~
24 ~~pawnbrokers or insurance companies.~~

25 ~~2. A real estate investment trust, as defined in 26 U.S.C. § 856.~~

26 ~~3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the~~
~~loan is made directly from money in the plan by the plan's trustee.~~

29 ~~4. An attorney at law rendering services in the performance of his~~
30 ~~duties as an attorney at law if the loan is secured by real property.~~

31 ~~5. A real estate broker rendering services in the performance of his~~
32 ~~duties as a real estate broker if the loan is secured by real property.~~

33 ~~6. Except as otherwise provided in this subsection, any firm or~~
34 ~~corporation:~~

35 ~~(a) Whose principal purpose or activity is lending money on real~~
36 ~~property which is secured by a mortgage;~~

37 ~~(b) Approved by the Federal National Mortgage Association as a seller~~
38 ~~or servicer; and~~

39 ~~(c) Approved by the Department of Housing and Urban Development~~
40 ~~and the Department of Veterans Affairs.~~

41 ~~7. A person who provides money for investment in loans secured by a~~
42 ~~lien on real property, on his own account.~~

43 ~~8. A seller of real property who offers credit secured by a mortgage of~~
44 ~~the property sold.~~

45 ~~9. A person holding a nonrestricted state gaming license issued~~
46 ~~pursuant to the provisions of chapter 463 of NRS.~~

47 ~~10. A person licensed to do business pursuant to sections 2 to 74,~~
48 ~~inclusive, of this act with regard to those services regulated pursuant to~~
~~sections 2 to 74, inclusive, of this act.~~

49 ~~Sec. 81. NRS 675.060 is hereby amended to read as follows:~~

50 ~~675.060 1. No person may engage in the business of lending in this~~
51 ~~State without first having obtained a license from the Commissioner~~
52 ~~pursuant to this chapter for each office or other place of business at which~~
53 ~~the person engages in such business [1], except that if a person intends to~~
54 ~~engage in the business of lending in this State as a deferred deposit loan~~
55 ~~service, short-term loan service or title loan service, as those terms are~~
56 ~~defined in sections 2 to 74, inclusive, of this act, the person must obtain a~~
57 ~~license from the Commissioner pursuant to sections 2 to 74, inclusive, of~~
58 ~~this act before the person may engage in any such business.~~

1 ~~2. For the purpose of this section, a person engages in the business of~~
2 ~~lending in this State if he:~~

3 ~~(a) Solicits loans in this State or makes loans to persons in this State,~~
4 ~~unless these are isolated, incidental or occasional transactions; or~~

5 ~~(b) Is located in this State and solicits loans outside of this State or~~
6 ~~makes loans to persons located outside of this State, unless these are~~
7 ~~isolated, incidental or occasional transactions.~~

8 Sec. 82. NRS 604.010, 604.020, 604.030, 604.040, 604.050,
9 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130,
10 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180
11 and 604.190 are hereby repealed.

12 Sec. 83. 1. If a person:

13 (a) On July 1, 2005, holds a valid certificate of registration or license
14 that was issued by the Commissioner of Financial Institutions pursuant to
15 chapter 604 or 675 of NRS before July 1, 2005; and

16 (b) Operates a check-cashing service, deferred deposit loan service,
17 short-term loan service or title loan service, as those terms are defined in
18 the provisions of sections 2 to 74, inclusive, of this act,

19 the person's certificate of registration or license shall be deemed to be a
20 license issued by the Commissioner of Financial Institutions pursuant to
21 the provisions of sections 2 to 74, inclusive, of this act until the date on
22 which the person would have been required to renew his certificate of
23 registration or license pursuant to chapter 604 or 675 of NRS.

24 2. Except as otherwise provided in subsections 3 and 4, a person
25 described in subsection 1 shall:

26 (a) On and after July 1, 2005, comply with all provisions of sections 2
27 to 74, inclusive, of this act relating to transactions with customers,
28 including, without limitation, all provisions relating to loans, extensions,
29 repayment plans, interest, fees, charges and collections; and

30 (b) On and after October 1, 2005, comply with all other provisions of
31 sections 2 to 74, inclusive, of this act, except that the person does not have
32 to renew his certificate of registration or license until the date on which the
33 person would have been required to renew his certificate of registration or
34 license pursuant to chapter 604 or 675 of NRS.

35 3. A person described in subsection 1 is not required to comply
36 with the following provisions of sections 2 to 74, inclusive, of this act
37 sooner than October 1, 2005, or the date of any extension granted by
38 the Commissioner of Financial Institutions pursuant to subsection 4:

39 (a) Any provision requiring the use of the Spanish language; and

40 (b) Any provision requiring changes to or replacement of existing
41 computer software or major modifications to existing business
42 processes, as determined by the Commissioner.

43 4. If the person is unable to comply with any provision described
44 in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person
45 may request an extension from the Commissioner. The Commissioner
46 may grant such an extension, to a date not later than January 1, 2006,
47 if the person establishes that compliance by October 1, 2005:

48 (a) Is not economically feasible;

49 (b) Is prevented by factors beyond the control of the person; or

50 (c) Is prevented by any other factors that the Commissioner deems
51 to be an appropriate justification for an extension.

52 Sec. 84. This act becomes effective on July 1, 2005.

LEADLINES OF REPEALED SECTIONS

604.010 Definitions.

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

**Seventy-third Session
May 20, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:16 a.m. on Friday, May 20, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 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 at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Donna Winter, Committee Secretary
Scott Young, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Ernie Adler, American Massage Therapy Association
Carol Tidd, Commissioner, Division of Financial Institutions, Department of
Business and Industry
Kenneth T. Scruggs, The HSBC Group

APP 011879
ROA 010585
TMX 90 - 00175

Senate Committee on Commerce and Labor
May 20, 2005
Page 2

Robert A. Ostrovsky, Cox Communications
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company
Scott M. Craigie, Sprint

CHAIR TOWNSEND:

I have an amendment to distribute regarding Assembly Bill (A.B.) 384, which we passed earlier this week.

ASSEMBLY BILL 384 (1st Reprint): Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

CHAIR TOWNSEND:

The amendment (Exhibit C) adds a section 74 to the bill. If it is acceptable to all parties, it will be introduced next week on the Senate floor.

I will open the work session on A.B. 63.

ASSEMBLY BILL 63 (1st Reprint): Prohibits certain practices by health insurers with regard to injuries sustained while under influence of alcohol or controlled substance. (BDR 57-207)

SENATOR HECK:

I have an amendment to offer (Exhibit D). It adds specific laboratory values of the blood levels of alcohol or certain prohibited substances before a claim can be denied.

SENATOR CARLTON:

The intent of the bill is to encourage doctors to do the tests without fear that a positive result will keep them from getting paid for their work. My concern is that setting a level above which insurance claims can be denied will perpetuate the problem we are attempting to solve.

SENATOR HECK:

These are the same levels specified in chapter 484.379 of the *Nevada Revised Statutes* (NRS) regarding driving under the influence. The idea that doctors are not testing out of fear of not getting paid is based on anecdotal evidence. There are only a handful of insurers in this state who have such a provision. Tests need to be ordered to take care of the patient in any case. Most hospitals do what is known as a qualitative test that indicates only whether the drug is

APP 011880
ROA 010586
JMA 90-00176

Senate Committee on Commerce and Labor
May 20, 2005
Page 13

earning a living, and all of a sudden something happens. ... It's important that we communicate with those people, because this does affect them.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 250.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR TOWNSEND:

I will open the work session on A.B. 340.

ASSEMBLY BILL 340 (1st Reprint): Revises provisions relating to certain short-term, high interest loans. (BDR 52-126)

CHAIR TOWNSEND:

We have a mock-up of the bill (Exhibit H).

KEVIN POWERS (Committee Counsel):

I have some background material. As the bill came over from the Assembly, Assemblywoman Giunchigliani's bill had several components in it. Some of them dealt with deferred-deposit loans and short-term loans that were also covered by Assemblywoman Buckley's bill, A.B. 384.

ASSEMBLY BILL 384 (1st Reprint): Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

MR. POWERS:

Assembly Bill 384 included a component that was not addressed in A.B. 340 dealing with a completely different type of loan, the tax-refund-anticipation loan. As the Committee processed A.B. 384, components dealing with deferred-deposit and short-term loans were removed from A.B. 340 and fused into A.B. 384. The mock-up ... contains only provisions dealing with refund-anticipation loans. Those provisions are based on a

APP 011881
ROA 010587
TMX 90 - 00177

Senate Committee on Commerce and Labor
May 20, 2005
Page 14

Washington bill, Substitute Senate Bill No. 5692 from the Washington State Legislature, that was recently enacted by the Washington Legislature in April 2005, I believe. What ... the mock-up for A.B. 340 does is create disclosure requirements with regard to tax-refund-anticipation loans and prohibit certain deceptive trade practices.

CAROL TIDD (Commissioner, Division of Financial Institutions, Department of Business and Industry):

My concern is that it is not clear in the amendment who will have the responsibility for regulating this.

KENNETH T. SCRUGGS (The HSBC Group):

The Internal Revenue Service (IRS) does not allow tax preparers to make loans to the people whose tax returns they prepare. The tax preparer, who is the person who meets with the consumer and works out the details of the loan, is referred to in this bill as the facilitator. As far as I know, there are no state-regulated agencies that make these loans; they are all made by national banks. Assemblywoman Giunchigliani felt a disclosure should be given to anyone taking out such a loan, and this is covered in section 15 of the bill.

I have a technical amendment to offer (Exhibit I). It specifies that if the refund-anticipation loan is done electronically, the disclosure can be made electronically as well.

MS. TIDD:

I have no objection to the amendment. We do not know how big this matter is going to be at this point. If we have to address it after the Legislative Session, we will go before the Interim Finance Committee.

MR. POWERS:

This is creating a new chapter in title 52, the trade practices act. It creates a misdemeanor with a fine as the penalty and also incorporates the civil and administrative remedies and penalties in the Deceptive Trade Practices Act, all of which can be enforced by the local district attorneys. On a State level, the Deceptive Trade Practices Act is enforced ... by the Bureau of Consumer Protection and the Attorney General.

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

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Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

**PROPOSED SEC. 74 OF
ASSEMBLY BILL NO. 384
FIRST REPRINT**

*PREPARED FOR ASSEMBLYWOMAN BUCKLEY
MAY 19, 2005*

PREPARED BY THE LEGAL DIVISION

IMPORTANT NOTE:

PROPOSED SEC. 74 IS SHOWN AS IT WOULD APPEAR IN
THE SECOND REPRINT AFTER AMENDMENT

1 **Sec. 74. 1. Subject to the affirmative defense set forth in**
2 **subsection 3, in addition to any other remedy or penalty, if a person**
3 **violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of**
4 **this act or any regulation adopted pursuant thereto, the customer may**
5 **bring a civil action against the person for any or all of the following**
6 **relief:**

- 7 **(a) Actual and consequential damages;**
8 **(b) Punitive damages, which are subject to the provisions of NRS**
9 **42.005;**
10 **(c) Reasonable attorney's fees and costs; and**
11 **(d) Any other legal or equitable relief that the court deems**
12 **appropriate.**

13 **2. Subject to the affirmative defense set forth in subsection 3, in**
14 **addition to any other remedy or penalty, the customer may bring a civil**
15 **action against a person pursuant to subsection 1 to recover an additional**
16 **amount, as statutory damages, which is equal to \$1,000 for each violation**
17 **if the person knowingly:**

- 18 **(a) Operates a check-cashing service, deferred deposit loan service,**
19 **short-term loan service or title loan service without a license, in violation**
20 **of section 29 of this act;**
21 **(b) Fails to include in a loan agreement a disclosure of the right of**
22 **the customer to rescind the loan, in violation of section 31 of this act;**
23 **(c) Violates any provision of section 33 of this act;**
24 **(d) Accepts collateral or security for a deferred deposit loan, in**
25 **violation of section 35 of this act, except that a check or written**
26 **authorization for an electronic transfer of money shall not be deemed to**
27 **be collateral or security for a deferred deposit loan;**
28 **(e) Uses or threatens to use the criminal process in this State or any**
29 **other state to collect on a loan made to the customer, in violation of**
30 **section 36 of this act;**
31 **(f) Includes in any written agreement a promise by the customer to**
32 **hold the person harmless, a confession of judgment by the customer or an**
33 **assignment or order for the payment of wages or other compensation due**
34 **the customer, in violation of section 36 of this act;**
35 **(g) Violates any provision of section 44 of this act; or**
36 **(h) Violates any provision of section 45 of this act.**

37 **3. A person may not be held liable in any civil action brought**
38 **pursuant to this section if the person proves, by a preponderance of**
39 **evidence, that the violation:**

- 40 **(a) Was not intentional;**

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error.

FLOOR ACTIONS

AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

NOTE: THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS*
([HTTP://WWW.LEG.STATE.NV.US/SESSION/73RD2005/JOURNAL/](http://www.leg.state.nv.us/Session/73rd2005/JOURNAL/)), WHICH ARE NOT THE OFFICIAL
FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL
RECORD.

APP 011886
ROA 010592
TMX 90 - 00182

NEVADA LEGISLATURE

Seventy-Third Session, 2005

ASSEMBLY DAILY JOURNAL

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 25, 2005

Assembly called to order at 11:28 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Stan Pesis.

Almighty God, by Your life-giving and life-renewing spirit bring life to this new day at the beginning of this new week. Freshen our spirits that we may live and act in life-giving ways for all Your people.

AMEN.

Pledge of Allegiance to the Flag.

Assemblywoman Buckley moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 66, 69, 183, 236, 249, 250, 260, 278, 338, 360, 364, 384, 501, 540, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA BUCKLEY, *Chairman*

Mr. Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 202, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chairman*

TMX 90 - 00183

APP 011887
ROA 010593

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 324.

Amend the bill as a whole by deleting sections 1 through 94 and adding new sections designated sections 1 through 84, following the enacting clause, to read as follows:

“Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 74, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 21, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Cashing” means providing currency or a negotiable instrument in exchange for a check.*

Sec. 4. 1. *“Check” means:*

(a) A draft, other than a documentary draft, payable on demand and drawn on a bank; or

(b) A cashier’s check or teller’s check.

2. An instrument may be a check even though it is described on its face by another term, such as “money order.”

Sec. 5. *“Check-cashing service” means any person engaged in the business of cashing checks for a fee, service charge or other consideration.*

Sec. 6. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 7. *“Customer” means any person who receives or attempts to receive check-cashing services, deferred deposit loan services, short-term loan services or title loan services from another person.*

Sec. 8. 1. *“Default” means the failure of a customer to:*

(a) Make a scheduled payment on a loan on or before the due date for the payment under the terms of a lawful loan agreement and any grace period that complies with the provisions of section 23 of this act or under the terms of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of section 23 of this act; or

(b) Pay a loan in full on or before:

(1) The expiration of the initial loan period as set forth in a lawful loan agreement and any grace period that complies with the provisions of section 23 of this act; or

(2) The due date of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of section 23 of this act, provided that the due date of the extension or repayment plan is not later than 8 weeks after the expiration of the initial loan period.

2. A default occurs on the day immediately following the date of the customer’s failure to perform as described in subsection 1.

TMX 90 - 00184

APP 011888
ROA 010594

Sec. 9. "Deferred deposit loan" means a transaction in which, pursuant to a written agreement:

1. A customer tenders to another person:

- (a) A personal check drawn upon the account of the customer; or
- (b) Written authorization for an electronic transfer of money for a specified amount from the account of the customer; and

2. The other person:

(a) Provides to the customer an amount of money that is equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction; and

(b) Agrees, for a specified period, not to cash the check or execute the electronic transfer of money for the amount specified in the written authorization.

Sec. 10. "Deferred deposit loan service" means any person engaged in the business of making deferred deposit loans for a fee, service charge or other consideration.

Sec. 11. "Electronic transfer of money" means any transfer of money, other than a transaction initiated by a check or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

Sec. 12. 1. "Extension" means any extension or rollover of a loan beyond the date on which the loan is required to be paid in full under the original terms of the loan agreement, regardless of the name given to the extension or rollover.

2. The term does not include a grace period.

Sec. 13. "Grace period" means any period of deferment offered gratuitously by a licensee to a customer if the licensee complies with the provisions of section 23 of this act.

Sec. 14. "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service pursuant to the provisions of this chapter.

Sec. 15. "Loan" means any deferred deposit loan, short-term loan or title loan, or any extension or repayment plan relating to such a loan, made at any location or through any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 16. "Motor vehicle" has the meaning ascribed to it by the Commissioner pursuant to section 28 of this act.

Sec. 17. 1. "Short-term loan" means a loan made to a customer pursuant to a loan agreement which, under its original terms:

TMX 90 - 00185

APP 011889
ROA 010595

(a) Charges fees or a rate of interest, or any combination thereof, that when calculated as an annualized percentage rate is more than 40 percent; and

(b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

(a) A deferred deposit loan; or

(b) A title loan.

Sec. 18. "Short-term loan service" means any person engaged in the business of providing short-term loans for a fee, service charge or other consideration.

Sec. 19. 1. "Title loan" means a loan made to a customer who secures the loan with the title to a motor vehicle and who gives possession of the title to the person making the loan or to any agent, affiliate or subsidiary of the person.

2. The term does not include a loan which is secured by a lien or other security interest that attaches to a motor vehicle or appears on its title, including, without limitation, a loan to finance the purchase of the motor vehicle, if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.

Sec. 20. "Title loan service" means any person engaged in the business of providing title loans for a fee, service charge or other consideration.

Sec. 21. "Title to a motor vehicle" or "title" means a certificate of title issued by the Department of Motor Vehicles that identifies the legal owner of a motor vehicle or any similar document issued pursuant to the laws of another jurisdiction.

Sec. 22. The provisions of this chapter apply to any person who seeks to evade its application by any device, subterfuge or pretense, including, without limitation, calling a loan by any other name or using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter.

Sec. 23. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan, except that the licensee shall not charge the customer:

1. Any fees for granting such a grace period; or

2. Any fees or interest on the outstanding loan during such a grace period.

Sec. 24. 1. The provisions of this chapter must be interpreted so as to effectuate their general purpose to provide for, to the extent practicable, uniform regulation of the loans and transactions that are subject to the provisions of this chapter.

2. If there is a conflict between the provisions of this chapter and the provisions of any other general law regulating loans and similar transactions, the provisions of this chapter control.

Sec. 25. This chapter or any part thereof may be modified, amended or repealed by the Legislature so as to effect a cancellation or alteration of any

TMX 90 - 00186

APP 011890
ROA 010596

license or right of a licensee under this chapter, provided that such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful loan agreement between any licensee and any customer.

Sec. 26. Any loan lawfully made outside this State as permitted by the laws of the state in which the loan was made may be collected or otherwise enforced in this State in accordance with its terms.

Sec. 27. The provisions of this chapter do not apply to:

1. A person doing business pursuant to the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

TMX 90 - 00187

APP 011891
ROA 010597

13. *A person who provides money for investment in loans secured by a lien on real property, on his own account.*

14. *A seller of real property who offers credit secured by a mortgage of the property sold.*

Sec. 28. 1. *The Commissioner shall adopt by regulation a definition of the term "motor vehicle" as that term is used in the definition of "title loan" for the purposes of this chapter.*

2. *The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.*

3. *The Commissioner shall adopt any other regulations as are necessary to carry out the provisions of this chapter.*

Sec. 29. 1. *A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.*

2. *A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.*

Sec. 30. 1. *A licensee shall post in a conspicuous place in every location at which he conducts business under his license, a notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.*

2. *If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:*

(a) The types of loans the licensee offers and the fees he charges for making each type of loan; and

(b) A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.

3. *A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.*

Sec. 31. 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.

TMX 90 - 00188

APP 011892
ROA 010598

2. The loan agreement must include, without limitation, the following information:

- (a) The name and address of the licensee and the customer;
- (b) The date of the loan;
- (c) The nature of the security for the loan, if any;
- (d) The amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer;
- (e) The description or schedule of payments on the loan;
- (f) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;
- (g) 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;
- (h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and
- (i) Disclosures required under any other applicable state statute or regulation.

Sec. 32. 1. If a customer defaults on a loan, the licensee may collect the debt owed to the licensee only in a professional, fair and lawful manner. When collecting such a debt, the licensee must act in accordance with and must not violate sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the licensee is not otherwise subject to the provisions of that Act.

2. If a licensee initiates a civil action against a customer to collect a debt, the court may award:

- (a) Court costs;
- (b) Costs of service of process, except that the costs must not exceed the amount of the fees charged by the sheriff or constable for service of process in the county where the action was brought or, if the customer is not served in that county, in the county where the customer was served; and
- (c) Reasonable attorney's fees. In determining the amount of the attorney's fees and whether they are reasonable, the court shall consider the complexity of the case, the amount of the debt and whether the licensee could have used less costly means to collect the debt.

Sec. 33. 1. If a customer is called to active duty in the military, a licensee shall:

- (a) Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and
- (b) Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.

2. When collecting any defaulted loan, a licensee shall not:

- (a) Garnish any wages or salary paid to a customer for active service in the military; or

TMX 90 - 00189

APP 011893
ROA 010599

(b) Contact the military chain of command of a customer in an effort to collect the defaulted loan.

3. As used in this section, "military" means the Armed Forces of the United States, a reserve component thereof or the National Guard.

Sec. 34. A licensee shall not:

1. Make a loan that exceeds 25 percent of the expected gross monthly income of the customer during the term of the loan unless justified by particular circumstances. A licensee is not in violation of the provisions of this subsection if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that the loan does not exceed 25 percent of the expected gross monthly income of the customer during the term of the loan.

2. Make more than one loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

(a) The customer is seeking multiple loans that do not exceed the limit set forth in subsection 1;

(b) The licensee charges the same rate of interest for any additional loans as he charged for the initial loan;

(c) Except for the interest charged pursuant to paragraph (b), the licensee does not impose any other charge or fee to initiate any additional loans; and

(d) If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment, the licensee does not charge any fees to the customer pursuant to section 45 of this act, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.

Sec. 35. A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a motor vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a short-term loan or title loan.

(d) More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the amount of total payments set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., constitutes compliance with this subsection.

TMX 90 - 00190

APP 011894
ROA 010600

3. Take any instrument, including a check or written authorization for the electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 36. A licensee shall not:

1. Use or threaten to use the criminal process in this State or any other state, or any civil process not available to creditors generally, to collect on a loan made to a customer.

2. Commence a civil action before the expiration of the original term of a loan agreement or before the expiration of any repayment plan, extension or grace period negotiated and agreed to by the licensee and customer, unless otherwise authorized pursuant to this chapter.

3. Take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the customer in a judicial proceeding.

4. Include in any written agreement:

(a) A promise by the customer to hold the licensee harmless;

(b) A confession of judgment by the customer;

(c) An assignment or order for payment of wages or other compensation due the customer; or

(d) A waiver of any claim or defense arising out of the loan agreement or a waiver of any provision of this chapter. The provisions of this paragraph do not apply to the extent preempted by federal law.

5. Engage in any deceptive trade practice, as defined in chapter 598 of NRS, including, without limitation, making a false representation.

6. Advertise or permit to be advertised in any manner any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans.

7. Use or attempt to use any agent, affiliate or subsidiary to avoid the requirements or prohibitions of this chapter.

Sec. 37. A licensee who makes title loans shall not:

1. Make a title loan that exceeds the fair market value of the motor vehicle securing the title loan.

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

3. Make a title loan without requiring the customer to sign an affidavit which states that:

TMX 90 - 00191

APP 011895
ROA 010601

(a) *The customer has provided the licensee with true and correct information concerning the customer's income, obligations and employment; and*

(b) *The customer has the ability to repay the title loan.*

Sec. 38. 1. *Except where in conflict with the provisions of this chapter, the provisions of chapter 104 of NRS apply to any title loan between a licensee and a customer.*

2. *Except as otherwise provided in this section, if a customer defaults on a title loan, or on any extension or repayment plan relating to the title loan, the sole remedy of the licensee who made the title loan is to commence a legal action to seek repossession and sale of the motor vehicle which the customer used to secure the title loan. The licensee may not pursue the customer personally for:*

(a) *Payment of the loan, unless the licensee proves the customer prevented the repossession and sale of the motor vehicle by any means, including, without limitation, hiding the motor vehicle; or*

(b) *Any deficiency after repossession and sale of the motor vehicle which the customer used to secure the title loan, unless the licensee proves the customer damaged or otherwise committed or permitted waste on the motor vehicle. For the purposes of this paragraph, it shall not be deemed waste for the customer to continue to use the motor vehicle in the same manner it was used before he entered into the title loan or to make necessary repairs to the motor vehicle.*

3. *After repossession and sale of the motor vehicle securing the title loan, the licensee shall return to the customer any proceeds from the sale of the motor vehicle which exceed the amount owed on the title loan.*

4. *If a customer uses fraud to secure a title loan, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) *The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer;*

(b) *Reasonable attorney's fees and costs; and*

(c) *Any other legal or equitable relief that the court deems appropriate.*

5. *As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a motor vehicle which does not belong to the customer.*

Sec. 39. 1. *A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:*

(a) *A sum of money equal to the face value of the loan, less any fee charged to the customer to initiate the loan; or*

TMX 90 - 00192

APP 011896
ROA 010602

(b) The original check, if any, which the licensee gave to the customer pursuant to the loan. Upon receipt of the original check, the licensee shall refund any fee charged to the customer to initiate the loan.

2. If a customer rescinds a loan pursuant to this section, the licensee:

(a) Shall not charge the customer any fee for rescinding the loan; and

(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the account paid in full and:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a short-term loan, a copy of the promissory note stamped "void" or the receipt stamped "paid in full"; or

(3) If the customer gave to the licensee a title to a motor vehicle to initiate the title loan, the title.

Sec. 40. 1. A customer may pay a loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date his final payment on the loan, or any extension thereof, is due.

2. If a customer pays the loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer, the licensee shall:

(a) Give to the customer:

(1) If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or the written authorization stamped "void";

(2) If the customer gave to the licensee a promissory note to initiate a short-term loan, the promissory note stamped "void" or a receipt stamped "paid in full"; or

(3) If the customer gave to the licensee a title to a motor vehicle to initiate a title loan, the title; and

(b) Give to the customer a receipt with the following information:

(1) The name and address of the licensee;

(2) The identification number assigned to the loan agreement or other information that identifies the loan;

(3) The date of the payment;

(4) The amount paid;

(5) An itemization of interest, charges and fees;

(6) A statement that the loan is paid in full; and

(7) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 41. 1. A customer may make a partial payment on a loan, or any extension thereof, at any time without an additional charge or fee.

2. If a customer makes such a partial payment, the licensee shall give to the customer a receipt with the following information:

TMX 90 - 00193

APP 011897
ROA 010603

- (a) *The name and address of the licensee;*
- (b) *The identification number assigned to the loan agreement or other information that identifies the loan;*
- (c) *The date of the payment;*
- (d) *The amount paid;*
- (e) *An itemization of interest, charges and fees;*
- (f) *The balance due on the loan; and*
- (g) *If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

Sec. 42. 1. *The licensee and customer may enter into a repayment plan if:*

- (a) *The customer defaults on the original loan, or any extension thereof;*
or
- (b) *Before such a default, the customer indicates that he is unable to pay the original loan in full pursuant to the terms set forth in the original loan agreement, or any extension thereof.*

2. *If the customer defaults on the original loan or any extension thereof, or indicates that he is unable to pay in full the original loan or any extension thereof, the licensee:*

- (a) *Shall provide written notice in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish, to the customer of his right to enter into a repayment plan; and*
- (b) *Shall not commence any civil action to collect on the outstanding loan unless:*

- (1) *Such a notice has been sent to the customer; and*
- (2) *The customer fails to exercise his right to enter into a repayment plan within 15 days after receipt of the notice.*

3. *If the licensee and customer enter into a repayment plan pursuant to this section, the customer may pay the remaining balance on the outstanding loan:*

- (a) *In four equal monthly installments; or*
- (b) *Under any other terms negotiated and agreed to by the licensee and customer that comply with the provisions of this section.*

4. *If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:*

- (a) *Provide to the customer a document which confirms that the customer has entered into a repayment plan and which states the date and terms of the repayment plan; and*
- (b) *If the repayment plan is for a deferred deposit loan, return to the customer the check or written authorization for an electronic transfer of money that the customer used to initiate the deferred deposit loan, with the check or written authorization stamped "void."*

TMX 90 - 00194

APP 011898
ROA 010604

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, other than the interest charged pursuant to the original loan agreement, regardless of the name given to the interest; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Accept any security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in subsection 1 of section 34 of this act; or

(e) Commence a civil action against the customer during the term of the repayment plan.

6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:

(a) The name and address of the licensee;

(b) The identification number assigned to the loan agreement or other information that identifies the loan;

(c) The date of the payment;

(d) The amount paid;

(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 43. If a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 8 weeks after the expiration of the initial loan period.

Sec. 44. 1. If a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer:

(a) The principal amount of the loan.

TMX 90 - 00195

APP 011899
ROA 010605

(b) The interest accrued before the expiration of the initial loan period at the rate of interest set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is provided to the customer. If there is an extension or repayment plan relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 8 weeks after the expiration of the initial loan period.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to paragraph (b), whichever is later, at a rate of interest not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 12 weeks. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to section 45 of this act for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. Except for the interest and fees permitted pursuant to subsection 1, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

Sec. 45. 1. A licensee may collect a fee of not more than \$25 if a check is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. If the account of the customer contains insufficient funds, the licensee may collect only two fees of \$25 each regardless of the number of times the check is presented for payment.

3. If the account of the customer has been closed, the licensee may collect only one fee of \$25 regardless of the number of times the check is presented for payment.

4. A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

Sec. 46. In addition to any other provision in this chapter, each time a customer makes a payment to a licensee, the licensee shall give to the customer a receipt with the following information:

1. The name and address of the licensee;

TMX 90 - 00196

APP 011900
ROA 010606

2. The identification number assigned to the loan agreement or other information that identifies the loan;
3. The date of the payment;
4. The amount paid;
5. The balance due on the loan or, when the customer makes a final payment, a statement that the loan is paid in full; and
6. If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 47. 1. A person shall not act as an agent for or assist a licensee in the making of a loan unless the licensee complies with all applicable federal and state laws, regulations and guidelines.

2. The provisions of this section do not apply to the agent or assistant to a state or federally chartered bank, thrift company, savings and loan association or industrial loan company if the state or federally chartered bank, thrift company, savings and loan association or industrial loan company:

- (a) Initially advances the loan proceeds to the customer; and
- (b) Does not sell, assign or transfer a preponderant economic interest in the loan to the agent or assistant or an affiliate or subsidiary of the state or federally chartered bank, thrift company, savings and loan association or industrial loan company, unless selling, assigning or transferring a preponderant economic interest is expressly permitted by the primary regulator of the state or federally chartered bank, thrift company, savings and loan association or industrial loan company.

3. If a licensee acts as an agent for or assists a state or federally chartered bank, thrift company, savings and loan association or industrial loan company in the making of a loan and the licensee can show that the standards set forth in subsection 2 are satisfied, the licensee must comply with all other provisions in this chapter to the extent they are not preempted by other state or federal law.

Sec. 48. 1. An application for a license pursuant to the provisions of this chapter must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:

- (a) If the applicant is a natural person, the name and address of the applicant.
- (b) If the applicant is a business entity, the name and address of each:
 - (1) Partner;
 - (2) Officer;
 - (3) Director;
 - (4) Manager or member who acts in a managerial capacity; and
 - (5) Registered agent,
of the business entity.

TMX 90 - 00197

APP 011901
ROA 010607

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

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

(d) The address of each location at which the applicant proposes to do business, including, without limitation, each location where the applicant will operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

(e) If the applicant is or intends to be licensed to provide more than one type of service pursuant to the provisions of this chapter, a statement of that intent and which services he provides or intends to provide.

2. Each application for a license must be accompanied by:

(a) A nonrefundable application fee;

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

(c) A fee of not less than \$100 or more than \$500, prorated on the basis of the licensing year.

All money received by the Commissioner pursuant to this subsection must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

3. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 49. 1. Except as otherwise provided in section 50 of this act, each application for a license pursuant to the provisions of this chapter must be accompanied by a surety bond payable to the State of Nevada in the amount of \$50,000 for the use and benefit of any customer receiving the services of the licensee.

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services.

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

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

TMX 90 - 00198

APP 011902
ROA 010608

(a) A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or

(b) An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.

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

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

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

(b) The termination of the bond,
whichever event occurs first.

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

Sec. 50. 1. In lieu of any surety bond, or any portion of the principal sum thereof as required pursuant to the provisions of this chapter, a licensee may deposit with the State Treasurer or with any bank, credit union or trust company authorized to do business in this State as the licensee may select, with the approval of the Commissioner:

(a) Interest-bearing stocks;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State or guaranteed by this State,

in an aggregate amount of, based upon principal amount or market value, whichever is lower, of not less than the amount of the required surety bond or portion thereof.

2. The securities must be held to secure the same obligation as would the surety bond, but the depositor may receive any interest or dividends and, with the approval of the Commissioner, substitute other suitable securities for those deposited.

Sec. 51. 1. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with

TMX 90 - 00199

APP 011903
ROA 010609

the application for a license a statement signed by the applicant which states that the applicant agrees to:

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

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

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

2. This section applies, without limitation, to any office or other place of business located outside this State from which the applicant will conduct business in this State at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 52. 1. Upon the filing of the application and the payment of the fees required pursuant to section 48 of this act, the Commissioner shall investigate the facts concerning the application and the requirements provided for in section 54 of this act.

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

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

Sec. 53. If the Commissioner finds that any applicant does not possess the requirements specified in this chapter, he shall:

1. Enter an order denying the application and notify the applicant of the denial.

2. Within 10 days after the entry of such an order, file his findings and a summary of the evidence supporting those findings and deliver a copy thereof to the applicant.

Sec. 54. 1. The Commissioner shall enter an order granting an application if he finds that the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently.

2. If the Commissioner grants an application, the Commissioner shall:

TMX 90 - 00200

APP 011904
ROA 010610

(a) File his findings of fact together with the transcript of any hearing held pursuant to the provisions of this chapter; and

(b) Issue to the licensee a license in such form and size as is prescribed by the Commissioner for each location at which the licensee proposes to do business.

3. Each licensee shall prominently display his license at the location where he does business. The Commissioner may issue additional licenses to the same licensee for each branch location at which the licensee is authorized to operate under the license, including, without limitation, each branch location where the licensee is authorized to operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means. Nothing in this subsection requires a license for any place of business devoted to accounting, recordkeeping or administrative purposes only.

4. Each license shall:

(a) State the address at which the business is to be conducted; and

(b) State fully:

(1) The name and address of the licensee;

(2) If the licensee is a copartnership or association, the names of its members; and

(3) If the licensee is a corporation, the date and place of its incorporation.

5. A license is not transferable or assignable.

Sec. 55. 1. A license issued pursuant to the provisions of this chapter expires annually on the anniversary of the issuance of the license. A licensee must renew his license on or before the date on which the license expires by paying:

(a) A renewal fee; and

(b) An additional fee for each branch location at which the licensee is authorized to operate under the license.

2. A licensee who fails to renew his license within the time required by this section is not licensed pursuant to the provisions of this chapter.

3. The Commissioner may reinstate an expired license upon receipt of the renewal fee and a fee for reinstatement.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 56. 1. A licensee shall immediately notify the Commissioner of any change of control of the licensee.

2. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be

TMX 90 - 00201

APP 011905
ROA 010611

satisfied, he may deny the application and forbid the applicant from participating in the business of the licensee.

3. As used in this section, "change of control" means:

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

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

Sec. 57. A licensee shall not conduct the business of making loans under any name, at any place or by any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except as permitted in the license or branch license issued to the licensee.

Sec. 58. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.

TMX 90 - 00202

APP 011906
ROA 010612

Sec. 59. 1. *A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

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

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$500.*

4. *This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.*

Sec. 60. 1. *Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.*

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

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

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

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

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

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

5. *As used in this section, "amount of cash advance" means the amount of cash or its equivalent actually received by a customer or paid out at his direction or in his behalf.*

Sec. 61. 1. *Except as otherwise provided in subsection 3, an officer or employee of the Division of Financial Institutions of the Department of Business and Industry shall not:*

- (a) *Be directly or indirectly interested in or act on behalf of any licensee;*
- (b) *Receive, directly or indirectly, any payment from any licensee;*
- (c) *Be indebted to any licensee;*
- (d) *Engage in the negotiation of loans for others with any licensee; or*

TMX 90 - 00203

APP 011907
ROA 010613

(e) Obtain credit or services from a licensee conditioned upon a fraudulent practice or undue or unfair preference over other customers.

2. An employee of the Division of Financial Institutions in the unclassified service of the State shall not obtain new extensions of credit from a licensee while in office.

3. Any officer or employee of the Division of Financial Institutions may be indebted to a licensee on the same terms as are available to the public generally.

4. If an officer or employee of the Division of Financial Institutions has a service, a preferred consideration, an interest or a relationship prohibited by this section at the time of his appointment or employment, or obtains it during his employment, he shall terminate it within 120 days after the date of his appointment or employment or the discovery of the prohibited act.

Sec. 62. 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, short-term loan or title loan is presumed to be engaged in the business of making loans.

Sec. 63. 1. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any check-cashing service or loan service regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 64. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

TMX 90 - 00204

APP 011908
ROA 010614

Sec. 65. 1. *The Commissioner shall charge and collect from each licensee a fee of \$40 per hour for any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. *The Commissioner shall bill each licensee upon the completion of the activity for the fee established pursuant to subsection 1. The licensee shall pay the fee within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.*

3. *The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.*

Sec. 66. *If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.*

Sec. 67. 1. *Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. *The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.*

3. *In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.*

Sec. 68. 1. *If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

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

TMX 90 - 00205

APP 011909
ROA 010615

(a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee a fine of \$500 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

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

3. The grounds for revocation or suspension of a license are that:

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

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

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

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

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his license within 180 days after the date his license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 180 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 69. A licensee may surrender any license issued pursuant to the provisions of this chapter by delivering it to the Commissioner with written notice of its surrender, but a surrender does not affect his civil or criminal liability for acts committed prior thereto.

Sec. 70. A revocation, suspension, expiration or surrender of any license does not impair or affect the obligation of any preexisting lawful loan agreement between the licensee and any customer. Such a loan agreement and all lawful charges thereon may be collected by the licensee, its successors or assigns.

Sec. 71. 1. Annually, on or before April 15, each licensee shall file with the Commissioner a report of operations of the licensed business for the preceding calendar year.

2. The licensee shall make the report under oath and on a form prescribed by the Commissioner.

TMX 90 - 00206

APP 011910
ROA 010616

3. If any person or affiliated group holds more than one license in this State, it may file a composite annual report.

Sec. 72. 1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 73. 1. Except as otherwise provided in this section, if a licensee willfully:

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

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

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

the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

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

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

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

Sec. 74. In addition to any other remedy or penalty, if a licensee violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee for any or all of the following relief:

1. Actual and consequential damages;

2. An additional amount, as statutory damages, which is equal to \$1,000 for each violation;

3. Punitive damages, which are subject to the provisions of NRS 42.005;

4. Reasonable attorney's fees and costs; and

TMX 90 - 00207

APP 011911
ROA 010617

5. *Any other legal or equitable relief that the court deems appropriate.*

Sec. 75. NRS 598D.130 is hereby amended to read as follows:

598D.130 A mortgage, deed of trust or other instrument that encumbers home property as security for repayment of a home loan must expressly indicate in writing in a size equal to at least 14-point bold type on the front page of the mortgage, deed of trust or other instrument that the home loan is a home loan as defined in NRS 598D.040 [,-] and is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

Sec. 76. NRS 232.545 is hereby amended to read as follows:

232.545 1. An Investigative Account for Financial Institutions is hereby created in the State General Fund. The Account consists of money which is:

(a) Received by the Department of Business and Industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The Director of the Department of Business and Industry or his designee may authorize expenditures from the Investigative Account to pay the expenses incurred:

(a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;

(b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and

(c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, "financial institution" means an institution for which licensing or registration is required by the provisions of titles 55 and 56 ~~[and chapters 604 and 649]~~ of NRS ~~[,-]~~, *chapter 649 of NRS and sections 2 to 74, inclusive, of this act.*

Sec. 77. NRS 363A.050 is hereby amended to read as follows:

363A.050 1. Except as otherwise provided in subsection 2, "financial institution" means:

(a) An institution licensed, registered or otherwise authorized to do business in this State pursuant to the provisions of *title 55 or 56 of NRS or chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,] sections 2 to 74, inclusive, of this act,* or a similar institution chartered or licensed pursuant to federal law and doing business in this State;

(b) Any person primarily engaged in:

(1) The purchase, sale and brokerage of securities;

(2) Originating, underwriting and distributing issues of securities;

(3) Buying and selling commodity contracts on either a spot or future basis for the person's own account or for the account of others, if the person

TMX 90 - 00208

APP 011912
ROA 010618

is a member or is associated with a member of a recognized commodity exchange;

(4) Furnishing space and other facilities to members for the purpose of buying, selling or otherwise trading in stocks, stock options, bonds or commodity contracts;

(5) Furnishing investment information and advice to others concerning securities on a contract or fee basis;

(6) Furnishing services to holders of or brokers or dealers in securities or commodities;

(7) Holding or owning the securities of banks for the sole purpose of exercising some degree of control over the activities of the banks whose securities the person holds;

(8) Holding or owning securities of companies other than banks, for the sole purpose of exercising some degree of control over the activities of the companies whose securities the person holds;

(9) Issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain a provision requiring redemption by the company upon request of the holder of the security;

(10) Issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain no provision requiring redemption by the company upon request by the holder of the security;

(11) Issuing unit investment trusts or face-amount certificates;

(12) The management of the money of trusts and foundations organized for religious, educational, charitable or nonprofit research purposes;

(13) The management of the money of trusts and foundations organized for purposes other than religious, educational, charitable or nonprofit research;

(14) Investing in oil and gas royalties or leases, or fractional interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(16) Closed-end investments in real estate or related mortgage assets operating in such a manner as to meet the requirements of the Real Estate Investment Trust Act of 1960, as amended;

(17) Investing; or

(18) Any combination of the activities described in this paragraph, who is doing business in this State;

(c) Any other person conducting loan or credit card processing activities in this State; and

(d) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing

TMX 90 - 00209

APP 011913
ROA 010619

credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this State.

2. The term does not include a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.

Sec. 78. NRS 645B.0119 is hereby amended to read as follows:

645B.0119 "Financial services license or registration" means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, *title 55 or 56 of NRS or chapter [604,] 645, 645A, 645C, 645E or 649 of NRS or [title 55 or 56 of NRS,] sections 2 to 74, inclusive, of this act.*

Sec. 79. NRS 658.098 is hereby amended to read as follows:

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

(a) Check-cashing service or deferred deposit *loan* service that is supervised pursuant to ~~chapter 604 of NRS;~~ *sections 2 to 74, inclusive, of this act;*

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

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

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

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

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

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

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

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

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

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

TMX 90 - 00210

APP 011914
ROA 010620

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

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

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

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

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

Sec. 80. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. A person doing business under the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. *A person licensed to do business pursuant to sections 2 to 74, inclusive, of this act.*

Sec. 81. NRS 675.060 is hereby amended to read as follows:

TMX 90 - 00211

APP 011915
ROA 010621

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business ~~[-]~~, *except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in sections 2 to 74, inclusive, of this act, the person must obtain a license from the Commissioner pursuant to sections 2 to 74, inclusive, of this act before the person may engage in any such business.*

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

Sec. 82. NRS 604.010, 604.020, 604.030, 604.040, 604.050, 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180 and 604.190 are hereby repealed.

Sec. 83. 1. If a person:

(a) On July 1, 2005, holds a valid certificate of registration or license that was issued by the Commissioner of Financial Institutions pursuant to chapter 604 or 675 of NRS before July 1, 2005; and

(b) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in the provisions of sections 2 to 74, inclusive, of this act,

the person's certificate of registration or license shall be deemed to be a license issued by the Commissioner of Financial Institutions pursuant to the provisions of sections 2 to 74, inclusive, of this act until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

2. A person described in subsection 1 shall:

(a) On and after July 1, 2005, comply with all provisions of sections 2 to 74, inclusive, of this act relating to transactions with customers, including, without limitation, all provisions relating to loans, extensions, repayment plans, interest, fees, charges and collections; and

(b) On and after October 1, 2005, comply with all other provisions of sections 2 to 74, inclusive, of this act, except that the person does not have to renew his certificate of registration or license until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

Sec. 84. This act becomes effective on July 1, 2005.”.

Amend the title of the bill, fourth line, by deleting “payday” and inserting “certain short-term”.

TMX 90 - 00212

APP 011916
ROA 010622

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 443.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 470.

Amend the bill as a whole by renumbering sections 1 through 12 as sections 2 through 13 and adding a new section designated section 1, following the enacting clause, to read as follows:

"Section 1. The Charter of the City of Carlin, being Chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new article to be designated Article X, immediately following Article IX, to read as follows:

ARTICLE X

TRANSITIONAL PROVISIONS

Sec. 10.010 Continuation of certain officers.

1. The two members of the City Council elected at the general municipal election held on the Tuesday after the first Monday in June 2001, shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 1 of section 5.010.

2. The Mayor and two members of the City Council elected at the general municipal election held on the Tuesday after the first Monday in June 2003, shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010."

Amend section 1, page 2, line 4, by deleting "December" and inserting "January".

Amend sec. 2, page 2, by deleting lines 22 through 26 and inserting: "provided in section 10.010.

4. ~~{The Mayor and Councilmen first holding office under this Charter shall each receive a monthly salary of \$35 during the terms for which they were elected, selected or appointed. Thereafter, subject}~~ Subject to the provisions of subsection 5 of section"

Amend sec. 3, page 2, line 33, by deleting "June" and inserting "[June".

Amend sec. 3, page 2, by deleting line 34 and inserting: "1973,] November 2006, and at each successive interval of 4 years thereafter,".

Amend sec. 3, page 2, line 35, by deleting "2005,".

Amend sec. 3, page 2, line 38, by deleting "qualified [-]" and inserting "qualified."

Amend sec. 3, page 2, by deleting line 39.

Amend sec. 3, page 2, line 40, by deleting "June" and inserting "[June".

TMX 90 - 00213

APP 011917
ROA 010623

NEVADA LEGISLATURE

Seventy-Third Session, 2005

ASSEMBLY DAILY JOURNAL

THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 26, 2005

Assembly called to order at 11:07 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Deacon Bob Evans.

We give thanks, Lord, for all of our blessings. Please bless all of those who have gathered here today. Bless them and their families with good health, knowledge, happiness, and a caring spirit. Bless these legislators with the gift of leadership as they dedicate themselves daily to serve the people of the state of Nevada. We request all these blessings in Your name, Lord.

AMEN.

Pledge of Allegiance to the Flag.

Assemblywoman Buckley moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was re-referred Assembly Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA BUCKLEY, *Chairman*

Mr. Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 455, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chairman*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 142, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TMX 90 - 00214

APP 011918
ROA 010624

— 61 —

Conflict of interest declared by Assemblyman Seale.

Roll call on Assembly Bill No. 371:

YEAS—41.

NAYS—None.

NOT VOTING—Seale.

Assembly Bill No. 371 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 384.

Bill read third time.

Remarks by Assemblywoman Buckley.

Roll call on Assembly Bill No. 384:

YEAS—42.

NAYS—None.

Assembly Bill No. 384 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 385

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Giunchigliani moved that Assembly Bill No. 385 be taken from the General File and rereferred to the Committee on Ways and Means.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Assemblywoman Giunchigliani moved that Assembly Bill No. 500 be taken from the General File and rereferred to the Committee on Ways and Means.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:31 p.m.

ASSEMBLY IN SESSION

At 1:48 p.m.

Madam Speaker pro Tempore presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 419.

Bill read third time.

Remarks by Assemblyman Perkins.

TMX 90 - 00215

APP 011919
ROA 010625

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 26, 2005

Senate called to order at 12:42 p.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Dixie Jennings-Teats.

Guide our feet, Lord, while we run this race.

Give us the inner resources not only to persevere in difficulties but also to make each step we take one that is worthy of Your blessing upon us.

Remind us of all of those You bless, everyone and thing in Your creation.

Remind us of our common vision, a whole future, Shalom for all Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 19, 364, 384, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Madam President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 210, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair*

Madam President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 365, 485, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair*

Madam President:

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 249, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Finance.

DENNIS NOLAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2005

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 71, 78, 112, 133, 201, 225, 229, 255, 295, 315, 318, 354.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 3, 103, 154, 338, 385, 403, 498, 525.

TMX 90 - 00216

APP 011920
ROA 010626

the injured employee's case. To be assigned an alternate vocational rehabilitation counselor, the injured employee must submit a written request to the entity administering the injured employee's case before the commencement of vocational rehabilitation services. Not later than 10 days after receiving such a request, the entity administering the injured employee's case shall assign the injured employee an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case."

Amend sec. 7, page 3, line 18, by deleting "5" and inserting "6".

Amend sec. 8, page 5, line 45, by deleting "5" and inserting "6".

Amend sec. 9, page 7, line 14, by deleting "6" and inserting "7".

Amend sec. 11, page 10, line 32, by deleting "5" and inserting "6".

Amend the title of the bill to read as follows:

"AN ACT relating to industrial insurance; revising provisions relating to the notices required when a contractor's coverage lapses; requiring an insurer that makes payments of compensation to an injured employee for a permanent total disability to provide certain accountings to the injured employee; requiring an insurer to reopen a claim to consider the payment of compensation for a permanent partial disability under certain circumstances; authorizing an insurer or an injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee under certain circumstances; prohibiting a vocational rehabilitation counselor who is employed by the entity administering an injured employee's case from providing services to the injured employee under certain circumstances; providing an injured employee with the right to be assigned an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case; and providing other matters properly relating thereto."

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 869.

Amend sec. 2, page 1, line 5, by deleting:

"3 to 21," and inserting:

"2.5 to 21.5,".

Amend the bill as a whole by adding a new section designated sec. 2.5, following sec. 2, to read as follows:

"Sec. 2.5. 1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:

TMX 90 - 00217

APP 011921
ROA 010627

- (a) Is automated;
- (b) Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or short-term loan through the machine or other device; and
- (c) Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.

2. The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person."

Amend sec. 8, page 2, by deleting lines 30 and 31 and inserting:
"the extension or repayment plan does not violate the provisions of this chapter."

Amend sec. 9, page 2, line 35, by deleting "written" and inserting "loan".

Amend sec. 9, page 3, line 2, by deleting "the electronic" and inserting "an electronic".

Amend the bill as a whole by adding a new section designated sec. 15.5, following sec. 15, to read as follows:

"Sec. 15.5. "Refund anticipation loan" means a loan offered or made to a taxpayer by a lender or through a facilitator based on the taxpayer's anticipated federal income tax refund."

Amend sec. 16, page 3, by deleting lines 32 and 33 and inserting:

"Sec. 16. "Regulation Z" means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z."

Amend sec. 17, page 3, by deleting lines 37 through 43 and inserting:

- "(a) Charges an annual percentage rate of more than 40 percent; and
- (b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

- (a) A deferred deposit loan;
- (b) A title loan; or
- (c) A refund anticipation loan."

Amend sec. 19, page 4, by deleting lines 5 through 11 and inserting:
"pursuant to a loan agreement which, under its original terms:

- (a) Charges an annual percentage rate of more than 35 percent; and
- (b) Requires the customer to secure the loan by giving possession of the title to a vehicle legally owned by the customer to the person making the loan, or to any agent, affiliate or subsidiary of the person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person's name noted on the title as a lienholder.

2. The term does not include:

- (a) A loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan; or

TMX 90 - 0021890

APP 011922
ROA 010628

(b) *Any other loan for which a vehicle is used as security or collateral if the person making the loan,".*

Amend sec. 21, page 4, by deleting lines 17 through 19 and inserting:

"Sec. 21. *"Title to a vehicle" or "title" means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar"*.

Amend the bill as a whole by adding new sections designated sections 21.2 through 21.8, following sec. 21, to read as follows:

"Sec. 21.2. *"Truth in Lending Act" means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.*

Sec. 21.5. 1. *"Vehicle" means any vehicle, whether or not self-propelled, that is designed or intended for land transportation if the legal owner of the vehicle is required to have a title.*

2. *The term includes, without limitation:*

- (a) *Passenger vehicles;*
- (b) *Recreational vehicles; and*
- (c) *House trailers and travel trailers.*

3. *The term does not include:*

- (a) *Farm vehicles;*
- (b) *Vehicles of a common or contract carrier;*
- (c) *Commercial vehicles;*
- (d) *Construction vehicles;*
- (e) *Military vehicles;*
- (f) *Vehicles used exclusively upon stationary rails or tracks; or*
- (g) *Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of "vehicle."*

Sec. 21.8. 1. *As used in this chapter, unless the context otherwise requires, the following terms have the meanings ascribed to them in the Truth in Lending Act and Regulation Z:*

- (a) *"Amount financed."*
- (b) *"Annual percentage rate."*
- (c) *"Finance charge."*
- (d) *"Payment schedule."*
- (e) *"Total of payments."*

2. *For the purposes of this chapter, proper calculation of the amount financed, annual percentage rate and finance charge for a loan must be made in accordance with the Truth in Lending Act and Regulation Z."*

Amend sec. 23, page 4, line 28, before "loan," by inserting:
"loan or an extension of a".

Amend sec. 23, page 4, line 30, by deleting:
"fees or interest" and inserting:
"additional fees or additional interest".

Amend sec. 27, page 6, between lines 6 and 7, by inserting:

TMX 90 - 00219

APP 011923
ROA 010629

"15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service."

Amend sec. 28, page 6, by deleting lines 7 through 13 and inserting:

"Sec. 28. 1. The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.

2. The Commissioner shall adopt any other regulations as are".

Amend sec. 29, page 6, line 24, by deleting "means." and inserting:

"means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine."

Amend sec. 30, page 6, by deleting lines 26 through 29 and inserting:

"every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.

(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

➤ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection."

Amend sec. 30, page 6, line 33, after "means," by inserting:

"except for an automated loan machine prohibited by section 29 of this act,".

Amend sec. 31, page 7, by deleting lines 11 through 25 and inserting:

"(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 customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the licensee must offer the 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

TMX 90 - 00220

APP 011924
ROA 010630

(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.*"

Amend sec. 32, page 7, line 30, after "Act," by inserting "as amended,".

Amend sec. 32, page 7, line 33, by deleting "initiates" and inserting "commences".

Amend sec. 32, page 7, line 39, by deleting "is" and inserting "was".

Amend sec. 32, page 7, after line 45, by inserting:

"3. *Notwithstanding any provision of NRS 66.010 to the contrary, if:*

(a) *A licensee intends to commence a civil action in a justice's court against a customer to collect a debt; and*

(b) *The customer resides in the county where the loan was made, the licensee is required to commence the civil action in the justice's court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice's court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.*"

Amend sec. 33, page 8, line 12, after "Garnish" by inserting:
"or threaten to garnish".

Amend sec. 33, page 8, line 14, after "Contact" by inserting:
"or threaten to contact".

Amend the bill as a whole by adding a new section designated sec. 33.5, following sec. 33, to read as follows:

"Sec. 33.5. 1. *A licensee shall not:*

(a) *Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or*

(b) *Make a short-term loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.*

2. *A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:*

(a) *For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or*

(b) *For a short-term loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income.*"

Amend sec. 34, page 8, by deleting lines 19 through 38 and inserting:

"Sec. 34. *A licensee shall not make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:*

TMX 90 - 00221

APP 011925
ROA 010631

1. The customer is seeking multiple loans that do not exceed the limits set forth in section 33.5 of this act;

2. The licensee charges the same or a lower annual percentage rate for any additional loans as he charged for the initial loan;

3. Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and

4. If the additional loans are deferred deposit loans and the"

Amend sec. 35, page 9, line 2, by deleting "motor".

Amend sec. 35, page 9, by deleting lines 7 through 22 and inserting:

"(d) More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose 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.

3. Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks".

Amend sec. 36, page 9, by deleting lines 36 through 38 and inserting:

"2. Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan, extension or grace period negotiated and agreed".

Amend sec. 36, page 10, line 2, before "payment" by inserting "the".

Amend the bill as a whole by adding a new section designated sec. 36.5, following sec. 36, to read as follows:

"Sec. 36.5. Notwithstanding any other provision of this chapter to the contrary:

1. The original term of a title loan must not exceed 30 days.

2. The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:

(a) Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;

TMX 90 - 00222

APP 011926
ROA 010632

(b) *The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and*

(c) *No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan."*

Amend sec. 37, page 10, line 18, by deleting "motor".

Amend sec. 37, page 10, by deleting line 27 and inserting:
"obligations, employment and ownership of the vehicle; and".

Amend sec. 38, page 10, line 30, by deleting "chapter," and inserting
"section,".

Amend sec. 38, page 10, line 35, by deleting:
"to commence a legal action".

Amend sec. 38, page 10, lines 36, 40, 41 and 43, by deleting "motor".

Amend sec. 38, page 11, lines 1 and 3, by deleting "motor".

Amend sec. 38, page 11, by deleting lines 4 through 15 and inserting:
"before he entered into the title loan.

3. *If a vehicle is repossessed pursuant to this section:*

(a) *By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or*

(b) *By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.*

4. *If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) *The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;".*

Amend sec. 38, page 11, line 24, by deleting "motor".

Amend sec. 39, page 11, line 31, by deleting "loan:" and inserting "loan;".

Amend sec. 39, page 12, line 6, by deleting "motor".

Amend sec. 40, page 12, line 14, by deleting "customer," and inserting:
"customer as permitted under this chapter,".

Amend sec. 40, page 12, line 23, by deleting "motor".

Amend sec. 42, pages 13 and 14, by deleting lines 7 through 45 on page 13 and lines 1 through 22 on page 14, and inserting:

"Sec. 42. 1. *Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:*

TMX 90 - 00223

APP 011927
ROA 010633

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters into a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

(3) The licensee shall not charge any fee to the customer pursuant to section 45 of this act for a check which is provided as security during the repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

TMX 90 - 00224

APP 011928
ROA 010634

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in section 33.5 of this act;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan."

Amend sec. 42, page 14, between lines 35 and 36, by inserting:

"7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter."

Amend sec. 43, page 14, by deleting lines 36 through 41 and inserting:

"Sec. 43. 1. Except as otherwise provided in subsection 2, if a customer agrees 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 short-term loan to pay the balance of the

TMX 90 - 00225

APP 011929
ROA 010635

outstanding loan, the licensee shall not establish or extend such a period beyond 60 days after the expiration of the initial loan period.

2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:

(a) Makes the deferred deposit loan or short-term 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 deferred deposit loan or short-term 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."

Amend sec. 44, pages 14 and 15, by deleting lines 42 through 45 on page 14 and lines 1 through 12 on page 15, and inserting:

"Sec. 44. 1. Except as otherwise provided in section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate".

TMX 90 - 00226

APP 011930
ROA 010636

Amend sec. 44, page 15, lines 17 and 18, by deleting "12 weeks." and inserting "90 days."

Amend sec. 44, page 15, line 24, by deleting "1," and inserting:
"1 and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act,".

Amend sec. 48, page 17, line 21, by deleting "business," and inserting:
"business under the license,".

Amend sec. 48, page 17, line 25, by deleting "means." and inserting:
"means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 29 of this act.".

Amend sec. 48, page 17, between lines 40 and 41, by inserting:
"4. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.".

Amend sec. 49, page 17, by deleting lines 44 and 45 and inserting:
"the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license.".

Amend sec. 51, page 19, line 39, by deleting "means." and inserting:
"means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act.".

Amend sec. 52, page 19, line 43, by deleting "section" and inserting:
"sections 53.5 and".

Amend the bill as a whole by adding a new section designated sec. 53.5, following sec. 53, to read as follows:

"Sec. 53.5. 1. In addition to any other requirements set forth in this chapter, each applicant must submit proof satisfactory to the Commissioner that the applicant:

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

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

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

TMX 90 - 00227

APP 011931
ROA 010637

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

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

(f) *If the applicant is a natural person:*

(1) *Is at least 21 years of age; and*

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

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

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

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

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

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

Amend sec. 54, page 20, line 21, by deleting "that the" and inserting:
"that:

(a) *The".*

Amend sec. 54, page 20, by deleting line 25 and inserting:

"efficiently; and

(b) *The applicant has satisfied the requirements set forth in section 53.5 of this act."*

Amend sec. 54, page 20, line 41, by deleting "means." and inserting:
"means, except that the Commissioner shall not issue any license that would authorize the licensee to operate through any automated loan machine prohibited by section 29 of this act."

Amend sec. 54, page 20, line 44, by deleting "shall:" and inserting "must:".

Amend sec. 57, page 21, line 41, after "Sec. 57." by inserting "I."

Amend sec. 57, page 22, between lines 2 and 3, by inserting:

"2. *A licensee must obtain the approval of the Commissioner before using or changing a business name.*

3. *A licensee shall not:*

(a) *Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.*

(b) *Use any printed forms which may mislead or confuse the public."*

Amend sec. 59, page 23, line 8, by deleting "means." and inserting:
"means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act."

Amend sec. 60, page 23, line 12, after "separate" by inserting:

TMX 90 - 00228

APP 011932
ROA 010638

"written or electronic".

Amend sec. 64, page 25, line 1, after "Sec. 64." by inserting "1."

Amend sec. 64, page 25, between lines 6 and 7, by inserting:

"2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary."

Amend the bill as a whole by adding a new section designated sec. 65.5, following sec. 65, to read as follows:

"Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant this chapter."

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

"Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter."

Amend sec. 74, page 28, by deleting lines 9 through 21 and inserting:

"Sec. 74. 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for any or all of the following relief:

- (a) Actual and consequential damages;
- (b) Punitive damages, which are subject to the provisions of NRS 42.005;
- (c) Reasonable attorney's fees and costs; and
- (d) Any other legal or equitable relief that the court deems appropriate.

2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:

- (a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of section 29 of this act;
- (b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of section 31 of this act;
- (c) Violates any provision of section 33 of this act;
- (d) Accepts collateral or security for a deferred deposit loan, in violation of section 35 of this act, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;

TMX 90 - 00229

APP 011933
ROA 010639

(e) *Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of section 36 of this act;*

(f) *Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of section 36 of this act;*

(g) *Violates any provision of section 44 of this act; or*

(h) *Violates any provision of section 45 of this act.*

3. *A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:*

(a) *Was not intentional;*

(b) *Was technical in nature; and*

(c) *Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.*

4. *For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error."*

Amend the bill as a whole by adding a new section designated sec. 75.5, following sec. 75, to read as follows:

"Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~[Any]~~ *Except as otherwise provided in section 45 of this act, any person who:*

(a) *Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or*

(b) *Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,*

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. *As used in this section, unless the context otherwise requires:*

(a) *"Credit card" has the meaning ascribed to it in NRS 205.630;*

(b) *"Debit card" has the meaning ascribed to it in NRS 205.635; and*

(c) *"Issuer" has the meaning ascribed to it in NRS 205.650."*

Amend sec. 80, page 32, line 44, by deleting "act." and inserting:

TMX 90 - 00230

APP 011934
ROA 010640

"act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act."

Amend sec. 83, page 33, line 39, by deleting "A" and inserting:

"Except as otherwise provided in subsections 3 and 4, a".

Amend sec. 83, page 34, between lines 6 and 7, by inserting:

"3. A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:

(a) Any provision requiring the use of the Spanish language; and

(b) Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.

4. If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:

(a) Is not economically feasible;

(b) Is prevented by factors beyond the control of the person; or

(c) Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension."

Amend the title of the bill to read as follows:

"AN ACT relating to financial services; revising the standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, certain short-term loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the revised standards and procedures; revising provisions relating to certain unfair lending practices; providing remedies and administrative penalties; and providing other matters properly relating thereto."

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 870.

Amend the bill as a whole by deleting sections 2 and 3 and adding new sections designated sections 2 and 3, following section 1, to read as follows:

"Sec. 2. 1. The Board and a local governmental entity shall, to the extent practicable, reduce duplication in the licensing procedure for a

TMX 90 - 00231

APP 011935
ROA 010641

MAY 27, 2005 — DAY 110

1

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 27, 2005

Senate called to order at 11:36 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Dixie Jennings-Teats.

Create in us clean hearts, O God, and renew a right spirit within us.

As we breathe in, let us come into the center of our beings, into the depths of our lives.

Remind us of what is important as we breathe out.

Let us release all that binds us in narrow concerns.

Let us hear Your invitation to Your common table for all people.

Let the work of this Legislature be centered in true creativity, true consensus for the common good of all Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Madam President:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 44, 540, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Madam President:

Your Committee on Finance, to which was rereferred Senate Bill No. 463, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Madam President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 31, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Commerce and Labor.

WARREN B. HARDY II, *Chair*

Madam President:

Your Committee on Human Resources and Education, to which was referred Assembly Bill No. 280, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

TMX 90 - 00232

APP 011936
ROA 010642

Assembly Bill No. 369.
Bill read third time.
Roll call on Assembly Bill No. 369:
YEAS—21.
NAYS—None.

Assembly Bill No. 369 having received a constitutional majority,
Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 371 be taken from the
General File and placed on the General File on the third agenda.
Remarks by Senator Townsend.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 380.
Bill read third time.
Roll call on Assembly Bill No. 380:
YEAS—21.
NAYS—None.

Assembly Bill No. 380 having received a constitutional majority,
Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 384.
Bill read third time.
Roll call on Assembly Bill No. 384:
YEAS—21.
NAYS—None.

Assembly Bill No. 384 having received a constitutional majority,
Madam President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 418 be taken from the
General File and placed on the bottom of the General File on the third
agenda.
Remarks by Senator Townsend.
Motion carried.

GENERAL FILE AND THIRD READING

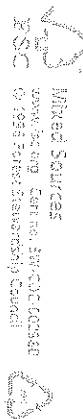
Assembly Bill No. 425.
Bill read third time.

TMX 90 - 00233

APP 011937
ROA 010643

BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE
FOR COMPLETE BILL TEXT



Stuart A. Cooper Co. www.stcooper.com
Los Angeles 800-421-8703 • Atlanta 800-325-7590

APP 011939
ROA 010645

GRACE PERIOD PAYMENTS DEFERMENT AGREEMENT

Date: <Print Date>

Account Number: <Loan ID>

Customer Name: <Customer First Middle Last> Address: <Customer Address, City, State Zip> Co-Borrower Name: <Joint Applicant First Middle Last> Address: <Joint Applicant Address, City, State Zip>	Licensee Name: <TitleMax of Nevada, Inc. d/b/a <brand>> Address: <Store Address, City, State Zip> Vehicle Information: <Vehicle Year Make Model, VIN>
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Definitions and Terms. In this Grace Period Payments Deferment Agreement, "customer," "you," and "your" mean the customer who signed it. "Licensee," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a TitleMax, a title loan services provider licensed and regulated by the Nevada Financial Institutions Division, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, Phone: (702) 486-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. The word "Motor Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership to the Motor Vehicle.

Consideration. You acknowledge and agree that you and we entered into a Title Loan Agreement on <Loan Origination Date> ("Loan Agreement.") Under the Title Loan Agreement, we agreed with you that we may subsequently offer you a "Grace Period" which is a gratuitous period of payments deferment. You agree that we are offering you a "Grace Period" and you are voluntarily accepting such offer after entering into a Loan Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210. **Please note that since this is a "Grace Period" it is not an "extension" as defined in NRS. 604A.065.** Under the Title Loan Agreement, your obligation to pay simple interest under the Loan Agreement remains unchanged. Other than the interest and fees originally provided for in the Title Loan Agreement, we do not charge you any additional fees or interest for entering into this Grace Period Payments Deferment Agreement.

NOW THEREFORE, in consideration of the mutual promises, herein you and we agree to the payments deferment in this written and signed Grace Period Payments Deferment Agreement.

Grace Period Payments Deferment. In the Title Loan Agreement, you agreed to make your scheduled payments in the amounts and on the dates set forth in the Payment Schedule listed in the Federal Truth In Lending Disclosures at the address indicated above, or at such other address as we direct you in writing. During this Grace Period, we have agreed to amend, modify, and defer your payments as set forth below in the Grace Period Payments Deferment Schedule. Therefore, you and we agree to the amended and deferred payments and periods set forth below in the Grace Period Payments Deferment Schedule. Therefore, you agree to pay us in cash the amount owing on the dates set forth in the Grace Period Payments Deferment Schedule set forth below. If any Deferred Due Date falls on a date we are not open for business, then you agree to pay us on the next business day, and we will credit such payment, as if we received it on the appropriate Deferred Due Date. The Grace Period Payments Deferment Agreement will be consummated upon the date you sign it. Time is of the essence in this Grace Period Payments Deferment Agreement. We will not attempt to collect an amount that is greater than the amount owed. We will not attempt to collect the outstanding balance during the term of the Grace Period by process of alternative dispute resolution, by repossessing the Motor Vehicle or by exercising any other right we have under Nevada law, unless you default on the Grace Period Payments Deferment Agreement.

Grace Periods Payments Deferment Schedule

Payment Number	Amount of Payment	Deferred Periodic Due Date
1	<Interest Only Pymnt on New Principal Bal.>	<First 30 Day Due Date>
2	^same as above	^ Plus 30 Days
3	^same as above	^ Plus 30 Days
4	^same as above	^ Plus 30 Days
5	^same as above	^ Plus 30 Days
6	^same as above	^ Plus 30 Days

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

7	^same as above	^ Plus 30 Days
8	<New Principal bal. divided by 7>	^ Plus 30 Days
9	<New Principal bal. divided by 7>	^ Plus 30 Days
10	<New Principal bal. divided by 7>	^ Plus 30 Days
11	<New Principal bal. divided by 7>	^ Plus 30 Days
12	<New Principal bal. divided by 7>	^ Plus 30 Days
13	<New Principal bal. divided by 7>	^ Plus 30 Days
14	<New Principal bal. divided by 7> **If odd amt list odd amt here	^ Plus 30 Days
The total amount paid after making all payments under the terms of the Grace Period Payments Deferment Agreement:		Total of above columns

BECAUSE THIS IS ONLY AN AMENDMENT AND MODIFICATION OF THE LOAN AGREEMENT IN WHICH WE ARE ONLY MODIFYING AND DEFERRING YOUR PAYMENTS UNDER THE TITLE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT ALL OF THE TERMS AND CONDITIONS OF THE TITLE LOAN AGREEMENT, INCLUDING THE CHARGING OF SIMPLE INTEREST AND WAIVER OF JURY TRIAL AND ARBITRATION PROVISION, REMAIN IN FULL FORCE AND EFFECT.

Right to Rescind. You have the right to rescind this Grace Period Payments Deferment Agreement. You may rescind on or before the close of business on the next day of business at the location where the Grace Period Payments Deferment Agreement was initiated. To rescind, you must come to the location where the Grace Period Payments Deferment Agreement was initiated and sign a Cancellation of the Grace Period Payments Deferment Agreement. If you rescind, then we will not charge you any amount for rescinding, and you will be required to make the payments as originally scheduled in the Title Loan Agreement.

Prepayment. You may also pay us in full or make prepayments at any time, without an additional charge or fee, before the final Deferred Periodic Due Date. If you pay the total amount due under the terms of the Title Loan Agreement in full, as deferred through negotiations and agreed to herein, then we shall return the Title to you. You may also make partial prepayments under this Grace Period Payments Deferment Agreement at any time without an additional charge or fee.

Repayment Plan Disclosure: If you default on the loan and this Grace Period Deferred Payments Agreement, we must offer a Repayment Plan to you before we commence any civil action or process of alternative dispute resolution, or before we repossesses the Motor Vehicle.

Default and Repayment Plan. You will be in default under Grace Period Payments Deferment Agreement if you fail to keep any promise made herein. Such default occurs on the day immediately following the date of your failure to perform as described herein. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. You will have the opportunity to enter into a Repayment Plan with a term of at least 90 days after the Date of Default on the Grace Period Payments Deferment Agreement. Under the terms of any Repayment Plan and pursuant to Nevada law: (1) you must enter into the Repayment Plan not later than 30 days after the date of default, unless we allow a longer period; (2) we will allow the period for repayment to extend at least 90 days after the date of default, unless you agree to a shorter term; and (3) we may require you to make an initial payment of not more than 20 percent of the total amount due under the Repayment Plan. If you enter into a Repayment Plan, we will honor the terms and we will not charge any other amount as an incident to or as a condition of entering into a Repayment Plan. Such an amount includes, without limitation: (a) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the rate charged during the term of the original loan agreement; or (b) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. Additionally, if you enter into a Repayment, we will honor the terms of the Repayment Plan, and unless otherwise authorized by Nevada law we will not (i) accept any additional security or collateral from you to enter into the Repayment Plan; (ii) sell to you any insurance (iii) require you to purchase insurance or any other goods or services to enter into the Repayment Plan; (iv) make any other loan to you, unless you are seeking multiple loans that do not exceed the limit set forth under Nevada law; (v) attempt to collect the outstanding balance

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

during the term of the Repayment Plan by repossessing the Vehicle unless you default on the Repayment Plan or (vi) attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. Therefore, if you (i) default on Grace Period Payments Deferment Agreement and do not enter into a Repayment Plan and we do not waive the default, or (ii) default on Grace Period Payments Deferment Agreement, enter into a Repayment Plan, and default on the terms of the Repayment Plan, then we may pursue any remedy Nevada law allows, including seeking repossession and sale of the Motor Vehicle.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain our security interest and possession of the Title during this Grace Period Payments Deferment Agreement.

Acknowledgment of Simple Interest Accrual. You acknowledge that we use the simple interest method to calculate and accrue the interest owing under the Loan Agreement. Interest is not compounded under the Loan Agreement. You acknowledge that simple interest is charged on the outstanding principal balance. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We calculated and estimated the simple interest under the Loan Agreement and disclosed in the "Finance Charge" disclosure assuming you would pay each scheduled payment in the amount scheduled and on the scheduled Payment Dates. The original Payment Schedule in the Loan Agreement provided for payments which would ratably and fully amortize the entire Principal Amount and interest payable. The interest rate under the Loan Agreement remains unchanged. You acknowledge that simple interest is charged on the unpaid principal balance of this Loan Agreement at the daily rate of <Original APR/365 (4 decimals)>% from the date of this Loan Agreement until the earlier of: (i) the due date of your last payment as set forth in the original Payment Schedule; or (ii) payment in full. Now that the Payment Schedule has changed, you acknowledge that the new Payment Schedule provided for in this Grace Period Payments Deferment Agreement, if followed, will ratably and fully amortize the entire Principal Amount and interest payable over a longer period of time than the original Payment Schedule in the Loan Agreement. As such you acknowledge and agree you will continue to incur interest as provided in the Loan Agreement. You further agree that in setting the amount of the payments and dates of the payments, we have estimated the accrued interest owing to us assuming you make the payments in the amounts scheduled and on the exact dates set forth in the Grace Periods Payments Deferment Schedule above. Early payments may decrease the amount of interest you owe. Making a payment in an amount greater than scheduled above may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. You may request a payoff at any time.

Governing Law and Assignment. Nevada law governs the Loan Agreement and this Grace Period Payments Deferment Agreement, except the Federal Arbitration Act ("FAA") governs the Waiver of Jury Trial and Arbitration Provision. We may assign or transfer the Loan Agreement and Grace Period Payments Deferment Agreement or any of our rights.

By signing this Grace Period Payments Deferment Agreement, you acknowledge that it was filled in before you did so and that you have received a completed copy of it. You agree that the information you provided to before entering into this Grace Period Payments Deferment Agreement is accurate. You represent that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. **You acknowledge that you have read this Grace Period Payments Deferment Agreement, and agree to its terms. You further acknowledge that except as amended herein, all of the terms of the Title Loan Agreement remain enforceable including but not limited to the charging of simple interest and Waiver of Jury Trial and Arbitration Provision.**

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. If the term of this loan is shorter than 210 days, you further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if your status as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse of such member changes.

Customer's Signature

LICENSEE: TitleMax of Nevada, Inc. d/b/a <brand>

Co-Borrower's Signature

Its Authorized Agent

Date

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368.

TM.TB.NV.grace-period-deferment-agmt.1.22.2014

APP 011942
ROA 010648

TMX 91 - 00003



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337 P.3d 755
Supreme Court of Nevada.

STATE of Nevada DEPARTMENT OF BUSINESS
AND INDUSTRY, FINANCIAL INSTITUTIONS
DIVISION, Appellant,

v.

CHECK CITY PARTNERSHIP, LLC, d/b/a Check
City, A Nevada Limited Liability COMPANY,
Respondent.

No. 62888. | Nov. 13, 2014.

Synopsis

Background: Deferred deposit lender brought action against the Financial Institutions Division for declaratory relief in the form of clarification of statute that limited the amount of a deferred deposit loan to 25% of the borrower's expected gross monthly income. The District Court, Clark County, Kenneth C. Cory, J., entered summary judgment in favor of lender. Division appealed.

[Holding:] The Supreme Court, Parraguirre, J., held that statutory cap of 25% on deferred deposit loans included both the principal amount loaned and any interest or fees charged.

Affirmed.

West Headnotes (5)

[1]

Statutes

⇒ Plain language; plain, ordinary, common, or literal meaning

When examining the plain meaning of a statute, Supreme Court presumes that the Legislature intended to use words in their usual and natural meaning.

Cases that cite this headnote

[2]

Statutes

⇒ Defined terms; definitional provisions

When a term is defined in a statute, the statutory definition must govern.

Cases that cite this headnote

[3]

Consumer Credit

⇒ Particular businesses or transactions

Consumer Credit

⇒ Rate and amount of interest or finance charge

Statute that prohibited deferred deposit loan that exceeded 25% of the expected gross monthly income of the customer when the loan was made defined the phrase "deferred deposit loan" to include principal, interest, and fees, not just the principal amount borrowed, and, thus, statutory cap of 25% on deferred deposit loans included both the principal amount loaned and any interest or fees charged. West's NRSA 604A.425.

Cases that cite this headnote

[4]

Administrative Law and Procedure

⇒ Exhaustion of administrative remedies

Exhaustion of administrative remedies is not required where the only issue is the interpretation of a statute.

Cases that cite this headnote

[5]

Injunction

⇒ Irreparable injury

Injunction

⇒ Mootness and ripeness; ineffectual remedy

The possibility of a license suspension may

constitute irreparable harm for the purpose of granting a preliminary injunction, which would be sufficient to form a justiciable case or controversy.

Cases that cite this headnote

Attorneys and Law Firms

*755 Catherine Cortez Masto, Attorney General, and Christopher Eccles, Daniel D. Ebihara, and David J. Pope, Deputy Attorneys General, Carson City, for Appellant.

Holland & Hart LLP and Patrick J. Reilly and Nicole E. Lovelock, Las Vegas, for Respondent.

BEFORE THE COURT EN BANC.

OPINION

By the Court, PARRAGUIRRE, J.:

NRS 604A.425 limits the amount of a deferred deposit loan to 25 percent of a borrower's expected gross monthly income. In this appeal, we are asked to determine whether that cap includes only the principal borrowed or the principal amount plus any interest or fees charged. We conclude that NRS 604A.425 unambiguously provides that the 25-percent cap includes both principal and any interest or fees charged. Accordingly, we reverse the district court's order granting declaratory relief in Check City's favor.

FACTS

A deferred deposit loan is a transaction wherein a borrower is given a loan that must be repaid in full within a relatively short time frame. The lender generally charges a flat fee based on a very high interest rate. As collateral, the borrower gives the lender a *756 post-dated check that includes the principal amount and any interest or fees to be incurred.¹ The lender then holds that check during the term of the loan. At the end of the loan's term, the borrower may either pay the lender, who will return

the post-dated check, or the lender may deposit the check. The loan is for a short, fixed period that cannot exceed 35 days. NRS 604A.408. Loans for longer periods are referred to as "high-interest loans," which are governed by separate provisions of NRS 604A.425. NRS 604A.408(2).

As an example, the record in this case includes a loan agreement under which a customer borrowed \$300 and agreed to pay \$321 the following week. The federal Truth in Lending Act requires lenders to disclose fees as an annual percentage rate (APR). 15 U.S.C. § 1601 *et seq.* (2012); 12 C.F.R. § 226.17 (2014). According to the loan document, the \$21 "Finance Charge" was based on a 1-week loan term and an APR of 364. Nevada does not have a usury law, so there is no statutory cap on interest rates.

However, NRS 604A.425 limits the amount of a deferred deposit loan to 25 percent of the borrower's expected gross monthly income. In 2008, the Nevada Financial Institutions Division (FID) began enforcing the 25-percent cap as including both the principal borrowed and interest charged.² In two separate Reports of Examination issued to Check City, the FID informed Check City of this interpretation, but did not fine or cite it for issuing loans that violated the FID's interpretation of NRS 604A.425.

In June 2013, Check City filed a complaint for declaratory relief in the Eighth Judicial District seeking clarification of NRS 604A.425. The FID filed a motion to dismiss, arguing that there was no justiciable controversy and Check City had not exhausted its administrative remedies. The district court rejected these arguments and granted Check City's motion for summary judgment, concluding that the 25-percent cap only applied to the principal borrowed. The FID now brings this appeal.

DISCUSSION

On appeal, the FID argues that the district court erred in concluding that NRS 604A.425's 25-percent cap only refers to the principal borrowed, rather than to the principal plus interest and fees.

We review questions of statutory interpretation *de novo*. *Estate of Smith v. Mahoney's Silver Nugget, Inc.*, 127 Nev. —, —, 265 P.3d 688, 690 (2011). We will not look beyond the plain language of a statute to determine its meaning when the statute is unambiguous. *Id.* "[A] statute is ambiguous when it is capable of being

understood in two or more senses by reasonably informed persons....” *Id.* (internal quotation marks omitted). If a statute is ambiguous, this court will look to “the context and the spirit of the law or the causes which induced the legislature to enact it.” *D.R. Norton, Inc. v. Eighth Judicial Dist. Court*, 123 Nev. 468, 476, 168 P.3d 731, 738 (2007) (quoting *McKay v. Bd. of Supervisors*, 102 Nev. 644, 650–51, 730 P.2d 438, 443 (1986)). To determine the Legislature’s intent, we look to “legislative history, reason, and considerations of public policy....” *Chanos v. Nev. Tax Comm’n*, 124 Nev. 232, 240, 181 P.3d 675, 681 (2008).

The threshold inquiry, then, is whether NRS 604A.425 unambiguously states that the 25-percent cap includes both the principal *757 amount borrowed and any interest or fees charged. NRS 604A.425 provides: “A licensee shall not ... [m]ake a *deferred deposit loan* that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made.” NRS 604A.425(1)(a) (emphasis added). NRS 604A.050 defines “deferred deposit loan” as follows:

“Deferred deposit loan” means a *transaction* in which, pursuant to a loan agreement:

1. A customer tenders to another person:

(a) A personal check drawn upon the account of the customer; or

(b) Written authorization for an electronic transfer of money for a specified amount from the account of the customer; and

2. The other person:

(a) Provides to the customer an amount of money that is equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction; and

(b) Agrees, for a specified period, not to cash the check or execute an electronic transfer of money for the amount specified in the written authorization.

(Emphases added.)

The district court applied what it considered a plain-language, commonsense meaning for the phrase “deferred deposit loan,” concluding that the phrase only encompassed the principal borrowed. However, we find that the language of NRS 604A.050 does not limit deferred deposit loans to just the amount borrowed, as it clearly contemplates that a deferred deposit loan is a

transaction based on a loan agreement. That loan agreement, in turn, is made up of various terms including both the amount borrowed and any fees charged. Therefore, deferred deposit loans are not limited to just the amount borrowed.

NRS 604A.050 defines “deferred deposit loan” by describing a deferred deposit loan transaction. NRS 604A.050(1) describes the customer’s basic obligations, and NRS 604A.050(2) describes the basic obligations of the “other person,” typically a licensed lender. When these two subsections are read together, a “deferred deposit loan” is a transaction with three distinctive characteristics that separate it from other types of loan agreements: (1) the customer secures a loan with a check; (2) the lender finances an amount that is equal to the check the customer tendered, minus any fees due to the lender; and (3) the lender holds the check as security and deposits it only when an agreed-upon date has arrived.

NRS 604A.050 makes clear that the principal amount borrowed is merely one aspect of the larger transaction. NRS 604A.050(2)(a) states that as a part of the overall transaction, the lender will “[p]rovide[] to the customer an amount of money that is equal to the face value of the check [held as security] ... less any fee charged for the transaction.” (Emphasis added.) Accordingly, by its terms, a deferred deposit loan transaction encompasses more than simply the amount borrowed but also includes some consideration to the lender beyond the customer’s promise to repay the amount borrowed. Moreover, the amount of a deferred deposit loan must be fixed by the value of the entire loan transaction, including principal, fees, and interest, because NRS 604A.050 unambiguously defines a deferred deposit loan as “a transaction.”

In light of the statutory definition provided by NRS 604A.050 for “deferred deposit loan,” we hold that NRS 604A.425 unambiguously limits the total amount of a deferred deposit loan transaction—comprised of principal, interest, and any additional fees—to 25 percent of a customer’s expected gross monthly income.

[1] [2] [3] Check City relies on *Black’s Law Dictionary’s* since-revised definition of a “loan” to argue that the unambiguous meaning of “loan” is nothing more than the amount borrowed.³ When examining the *758 plain meaning of a statute, “we presume that the Legislature intended to use words in their usual and natural meaning.” *McGrath v. State, Dep’t of Pub. Safety*, 123 Nev. 120, 123, 159 P.3d 239, 241 (2007). Even if we were to accept Check City’s interpretation of the usual and natural meaning of the word “loan,” that definition would conflict with the Legislature’s statutory definition. Specifically,

NRS 604A.080 defines “loan” by referring the reader to NRS 604A.050’s definition of deferred deposit loan.⁴ In such a case, the statutory definition must govern. *Williams v. Clark Cnty. Dist. Attorney*, 118 Nev. 473, 485, 50 P.3d 536, 544 (2002) (“A statute’s express definition of a term controls the construction of that term no matter where the term appears in the statute.”).

[4] [5] Thus, we conclude that NRS 604A.425’s 25-percent cap on deferred deposit loans includes both the principal amount loaned and any interest or fees charged. NRS 604A.050 defines the phrase “deferred deposit loan” to include principal, interest, and fees, not just the principal amount borrowed, and neither NRS 604A.425 nor NRS

604A.050 is ambiguous. Accordingly, we reverse the district court’s order granting summary judgment.⁵

We concur: GIBBONS, C.J., PICKERING, HARDESTY, DOUGLAS, CHERRY and SAITTA, JJ.

All Citations

337 P.3d 755, 130 Nev. Adv. Op. 90

Footnotes

¹ Instead of a post-dated check, the borrower may provide the lender with a written authorization for an electronic transfer of money from the borrower’s bank account. NRS 604A.050(/)(b). We acknowledge both methods but refer only to “checks” for the sake of simplicity.

² The FID and another deferred deposit lender, Advanced Check Cashing & Payday Loan (ACC), filed a joint petition for declaratory relief seeking clarification of NRS 604A.425 in 2008. The district court in that case concluded that the 25-percent cap includes both interest and principal. Check City focuses a portion of its argument on the fact that it was not informed of, or included in, the joint petition that the FID filed with ACC. Check City, however, does not argue that it was a necessary party to that case under NRCP 19(a), and it does not provide a legal basis for its argument that it should have been informed of, or included in, the ACC case. Furthermore, the specifics of the ACC case are not material because this case requires de novo review of the relevant statute. Accordingly, we do not address the extensive references Check City makes to being excluded from the ACC case.

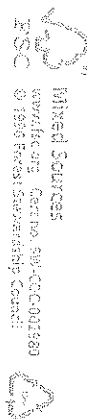
³ Check City cites the sixth edition of *Black’s Law Dictionary*, which defines a “loan” as:
A lending. Delivery by one party to and receipt by another party a sum of money upon agreement, express or implied, to repay it with or without interest. Anything furnished for temporary use to a person at his request, on condition that it shall be returned, or its equivalent in kind, with or without compensation for its use.
Black’s Law Dictionary 936 (6th ed.1990) (citations omitted). The most recent edition defines a loan as “1. An act of lending; a grant of something for temporary use.... 2. A thing lent for the borrower’s temporary use; esp., a sum of money lent at interest” *Black’s Law Dictionary* 1019 (9th ed.2009).

⁴ “‘Loan’ means any deferred deposit loan, high-interest loan or title loan, or any extension or repayment plan relating to such a loan....” NRS 604A.080.

⁵ The FID argues that Check City has not exhausted its administrative remedies and that this matter does not present a justiciable case or controversy. We disagree. Exhaustion is not required where, as here, the only issue is the interpretation of a statute. *Malecon Tobacco, LLC v. Dep’t of Taxation*, 118 Nev. 837, 839, 59 P.3d 474, 475–76 (2002). Additionally, the possibility of a license suspension—a consequence Check City might have faced if it failed to comply with the FID’s interpretation of NRS 604A.425—may constitute irreparable harm for the purpose of granting a preliminary injunction, see *Dep’t of Bus. & Indus., Fin. Insts. Div. v. Nev. Ass’n Servs., Inc.*, 128 Nev. —, —, 294 P.3d 1223, 1228 (2012), which would be sufficient to form a justiciable case or controversy, see *Doe v. Bryan*, 102 Nev. 523, 525, 728 P.2d 443, 444 (1986).

State, Dept. of Bus. & Indus. v. Check City, 337 P.3d 755 (2014)

130 Nev. Adv. Op. 90



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APP 011949
ROA 010655

294 P.3d 1223
Supreme Court of Nevada.

The STATE of **Nevada** DEPARTMENT OF
BUSINESS AND INDUSTRY, FINANCIAL
INSTITUTIONS DIVISION; and George E. Burns,
individually and in his official capacity as
Commissioner of the State of **Nevada**,
Department of Business and Industry, Financial
Institutions Division, Appellants,
v.
NEVADA ASSOCIATION SERVICES, INC.;
RMI Management, LLC; and Angius & Terry
Collections, Inc., Respondents.

No. 57470. | Aug. 2, 2012.

Synopsis

Background: Collection agencies sought preliminary injunction prohibiting Nevada Department of Business and Industry, Financial Institutions Division and its commissioner from enforcing advisory opinion regarding appropriate amount of homeowners' association lien fees agencies could collect. The Eighth Judicial District Court, Clark County, Susan Johnson, J., granted preliminary injunction. Department and commissioner appealed.

Holdings: The Supreme Court, Gibbons, J., held that:

^[1] Division lacked jurisdiction to issue advisory opinion regarding appropriate amount of homeowners' association lien fees, and

^[2] enforcement of opinion would have resulted in irreparable harm.

Affirmed.

Opinion, 2012 WL 1923974, superseded.

West Headnotes (5)

^[1] **Appeal and Error**
⇨ Injunction

The Supreme Court reviews a district court's grant of a preliminary injunction for an abuse of discretion and will reverse only when the district court's decision was based on an erroneous legal standard or on clearly erroneous findings of fact. West's NRSA 33.010.

1 Cases that cite this headnote

^[2] **Appeal and Error**
⇨ Equitable proceedings

When the underlying issues in a motion for preliminary injunction involve questions of statutory construction, including the meaning and scope of a statute, the Supreme Court reviews those questions of law de novo. West's NRSA 33.010.

Cases that cite this headnote

^[3] **Common Interest Communities**
⇨ Rule-making and oversight authority

Department of Business and Industry, the Financial Institutions Division lacked jurisdiction to issue advisory opinion regarding the appropriate amount of homeowners' association lien fees collection agencies could recover pursuant to statute governing liens against units of common-interest communities for assessments, where statute provided the Commission on Common Interest Communities and Condominium Hotels (CCICCH) and the Real Estate Division of Department of Business and Industry with the sole responsibility of determining what fees could be charged, the maximum amount of such fees, and the fees maintained a priority. West's NRSA 116.3116, 649.051.

2 Cases that cite this headnote

[4]

Statutes

Presumptions, inferences, and burden of proof

Wherever a power is conferred by statute, everything necessary to carry out the power and make it effectual and complete will be implied.

Cases that cite this headnote

[5]

Common Interest Communities

Proceedings, hearings, determinations, and orders

Permitting Department of Business and Industry, Financial Institutions Division to enforce advisory opinion regarding the appropriate amount of homeowners' association lien fees collection agencies could recover pursuant to statute governing liens against units of common-interest communities for assessments would have caused collection agencies irreparable harm, so as to warrant grant of preliminary injunction to prevent enforcement, where enforcement of opinion would have resulted in instigation of disciplinary action against agencies, and disciplinary action would have been placed in public record. West's NRSA 116.3116.

1 Cases that cite this headnote

Attorneys and Law Firms

*1223 Catherine Cortez Masto, Attorney General, and Daniel D. Ebihara, Deputy Attorney General, Carson City, for Appellants.

*1224 Holland & Hart LLP and Patrick John Reilly and Nicole E. Lovelock, Las Vegas, for Respondents.

BEFORE DOUGLAS, GIBBONS and PARRAGUIRRE, JJ.

OPINION

By the Court, GIBBONS, J.:

In this appeal, we review a district court order granting a preliminary injunction prohibiting appellants State of Nevada Department of Business and Industry, the Financial Institutions Division, and its Commissioner, George E. Burns (collectively, the Department), from enforcing its declaratory order and advisory opinion regarding the appropriate amount of homeowners' association lien fees respondents Nevada Association Services, Inc.; RMI Management, LLC; and Angius & Terry Collections, Inc. (collectively, NAS) can collect. Because the district court did not abuse its discretion in determining that the Department did not have jurisdiction to issue an advisory opinion regarding NRS Chapter 116 and that NAS would suffer irreparable harm if the Department enforced its opinion, we affirm the district court's order granting NAS's request for injunctive relief.

FACTS AND PROCEDURAL HISTORY

The Department is responsible for regulating the collection practices of collection agencies in the state of Nevada. The statutes pertaining to the regulation and licensing of collection agencies are found in NRS Chapter 649. The Department has the authority to issue advisory opinions "as to the applicability of any [such] statutory provision." NRS 233B.120. A homeowners' association (or unit owners' association), which may act on behalf of a common-interest community, will often employ collection agencies to assist it with collecting assessments owed by homeowners within the community. The statutes governing common-interest communities and common-interest ownership are contained in NRS Chapter 116.

In November 2010, the Department issued an advisory opinion in which it, *inter alia*, interpreted certain statutes within NRS Chapter 116, in particular NRS 116.3116, and their importance in the Department's regulation of collection agencies. The primary question presented to the Department was as follows:

Pursuant to NRS 116.3116, what portion of the lien, if any, is superior to the unit's first mortgage lender's security interest ("super priority lien") and may the sum total of the super priority lien amount, whether it be comprised of assessments, fees, costs of collection or other charges, ever

exceed 9 times the monthly assessment amount for common expenses based on the periodic budget adopted by the association pursuant to NRS [116.3115 ...?

In addressing this question, the Department noted that the interpretation of provisions within NRS Chapter 116 was required but that it would only address this chapter as it related to collection agencies and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692f. The Department then went on to reference NRS 649.020(3)(a), stating that a collection agency includes

“a community manager while engaged in the management of a common-interest community or the management of an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure of a lien pursuant to NRS 116.31162, to 116.31168, inclusive, or 116B.635 to 116B.660, inclusive.”

Because the Department believed that homeowners' associations had not sufficiently fixed the amount of fees that collection agencies may charge, the Department concluded that the determination of the additional sums would have to be authorized by law in order to be collected by the collection agencies. In *1225 coming to its conclusion as to what fees were authorized by law, the Department noted that any penalties, fees, and charges are enforceable as assessments, and that in order for a lien to maintain super priority,² it cannot be in an amount in excess of the value of the assessments that would have become due in a nine-month period preceding the institution of an action to enforce the lien. Furthermore, the Department found that in order for the additional fees to be valid, the fees must be approved by the homeowners' associations, not added independently by the collection agency. The Department concluded that

[a] collection agency is limited to the total of nine (9) months of assessments for common charges on the amount it can collect pursuant to priority status provided in NRS 116.3116(2). This nine (9) month cap includes any additional fees, charges, interest, costs, penalties or fines which the association could apply towards a lien pursuant to NRS 116.3116.

... Additionally, prior to the imposition of any additional fees, charges, penalty and interest to any assessment or fine by a collection agency, the association must expressly approve the fees, charges, penalty and interest pursuant to the provisions in its governing documents.

Less than one month after the Department issued its opinion, NAS filed its complaint and motion for preliminary injunction in district court. As prominent collection agencies, NAS has been involved in several lawsuits to determine its rights with respect to the types of liens described above and NAS's priority in the chain of title.

NAS's complaint was prompted by the threat that the Department would enforce its advisory opinion. NAS primarily argued that the Department lacked jurisdiction to issue advisory opinions interpreting provisions of NRS Chapter 116. In support of its request for a preliminary injunction, NAS argued that because the Department did not have jurisdiction to issue the advisory opinion, NAS would likely succeed on the merits of the case, and if the opinion was enforced, it would suffer irreparable harm.

Following a hearing, the district court granted NAS's request for a preliminary injunction. In its order, the court determined that neither NRS Chapter 649 nor NRS Chapter 116 authorized the Department to interpret the provisions of NRS Chapter 116. Conversely, the district court found that the Real Estate Division of the Department of Business and Industry and the Commission for Common Interest Communities and Condominium Hotels (CCICCH) have exclusive jurisdiction to interpret and administer the provisions of NRS Chapter 116. Therefore, the court determined that only the Real Estate Division and the CCICCH could decide what fees homeowners' associations could add to the total assessments in filing a lien. Having determined that the Department lacked jurisdiction to issue the opinion, the district court concluded that NAS had sustained its burden to prove a likelihood of success on the merits. The court then found that NAS would suffer irreparable harm if the injunction did not issue because NAS would be faced with the threat of future litigation, public records showing that it had been subject to actions filed by the Department, and, finally, the prospect of temporarily losing its license to carry on collection activities. The Department now appeals the district court's order granting the preliminary injunction.

DISCUSSION

The Department contends that the district court abused its discretion in enjoining it from enforcing its advisory opinion. The Department argues that NAS failed to show that it had a likelihood of success on the merits because the Department had jurisdiction to issue the advisory opinion. Further, it argues that NAS would not suffer irreparable harm because the administrative disciplinary process is a requirement of holding a license and irreparable harm cannot be based on the filing of an administrative complaint. We disagree.

***1226 Preliminary injunction**

^[1] ^[2] A preliminary injunction is proper when the moving party can demonstrate that it has a reasonable likelihood of success on the merits and that it will suffer irreparable harm for which compensatory damages would not suffice. See NRS 33.010; *University Sys. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). We review a district court's grant of a preliminary injunction for an abuse of discretion and will reverse only when the district court's decision was based "on an erroneous legal standard or on clearly erroneous findings of fact." *Boulder Oaks Cmty. Ass'n v. B & J Andrews*, 125 Nev. 397, 403, 215 P.3d 27, 31 (2009) (internal quotations omitted). However, when the underlying issues in the motion for preliminary injunction "involve[] questions of statutory construction, including the meaning and scope of a statute, we review ... those questions [of law] de novo." *Nevadans for Prop. Rights v. Sec'y of State*, 122 Nev. 894, 901, 141 P.3d 1235, 1240 (2006).

Reasonable likelihood of success on the merits

^[3] The Department's primary contention on appeal is that NAS failed to show that it had a likelihood of success on the merits because the Department had jurisdiction to issue an advisory opinion regarding NRS Chapter 116. In order for us to determine whether the Department had jurisdiction to issue such an advisory opinion, we must review several sections from NRS Chapters 649 and 116.

NRS Chapter 649

Under NRS 649.051, the commissioner of the Department is granted authority to administer and enforce the provisions of NRS Chapter 649 and may adopt "such regulations as may be necessary to carry out the provisions of this chapter." NRS 649.053. The commissioner is also responsible for the issuance of licenses allowing collection agencies to operate within the state. NRS 649.075(1). NRS 649.375 describes which

collection agency practices are prohibited. As such practices pertain to this case, collection agencies may not "[c]ollect or attempt to collect any interest, charge, fee or expense incidental to the principal obligation unless ... such [sums] a[re] authorized by law or [have been] agreed to by the parties." NRS 649.375(2)(a)-(b). And, if such violations occur, the Department may impose fines or, in more severe cases, suspend or revoke the license of a collection agency. NRS 649.395(1)-(3). Finally, as defined in NRS 649.020(3)(a), a collection agency may include a community manager "if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure of a lien pursuant to NRS 116.31162 to 116.31168, inclusive, or 116B.635 to 116B.660, inclusive."

NRS Chapter 116

Article 3 of Chapter 116 contains provisions for the management of common-interest communities. Unit owners' associations may "hire and discharge managing agents and other employees, agents and independent contractors," and may also "make contracts and incur liabilities." NRS 116.3102(1)(c), (e). NRS 116.310313(1) also allows "[a]n association [to] charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation." This section also provides that "[t]he [CCICCH] shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section." *Id.* (emphasis added). Additionally,

[t]he provisions of th[e] section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, ... a community manager or a collection agency.

NRS 116.310313(2). The language of the two sections is clear in that the CCICCH is solely responsible for determining the type and *1227 amount of fees that may be collected by associations.

In its order granting the preliminary injunction, the district court pointed to additional statutes in NRS Chapter 116, which it believed supported a finding that only the Real Estate Division and the CCICCH could

adopt regulations to supplement, as well as interpret, the statutory provisions of the chapter. NRS 116.615 provides, in pertinent part, for the administration and regulation of the chapter as follows:

1. The provisions of this chapter *must* be administered by the [Real Estate] Division, subject to the administrative supervision of the Director of the Department of Business and Industry.
2. [The CCICCH] and the [Real Estate] Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.
3. [The CCICCH], or the [Real Estate] Administrator with the approval of the [CCICCH], may adopt such regulations as are necessary to carry out the provisions of this chapter.

(Emphasis added.) The language of this provision is clear that the CCICCH and the Real Estate Division are responsible for regulating and administering the chapter. There is no provision granting any other commission or department the authority to regulate or interpret the language of the chapter. NRS Chapter 116 also addresses the issuance of advisory opinions, stating that “[t]he [Real Estate] Division shall provide by regulation for the filing and prompt disposition of petitions for declaratory orders and advisory opinions as to the applicability or interpretation of: (a) [a]ny provision of this chapter or chapter 116A or 116B of NRS.” NRS 116.623(1)(a).

^[4] The language of NRS 116.615 and NRS 116.623 is clear and unambiguous. Thus, we apply a plain reading. See *Westpark Owners’ Ass’n v. Dist. Ct.*, 123 Nev. 349, 357, 167 P.3d 421, 427 (2007). We will also read NRS Chapter 116 and NRS Chapter 649 in a way that harmonizes them as a whole. *Southern Nev. Homebuilders v. Clark County*, 121 Nev. 446, 449, 117 P.3d 171, 173 (2005). Based on a plain, harmonized reading of these statutes, the responsibility of determining which fees may be charged, the maximum amount of such fees, and whether they maintain a priority, rests with the Real Estate Division and the CCICCH. See NRS 116.615; NRS 116.623. Because the Real Estate Division is charged with adopting appropriate regulations concerning NRS Chapter 116, the regulations regarding the fees chargeable by community managers would then become “authorized by law” as required by NRS 649.375(2)(a).⁴ See NRS 116.615; NRS 116.623. Allowing the Real Estate Division to adopt regulations concerning the amount collectible by community managers and allowing

the Department to enforce those regulations, if the community managers act in derogation of those regulations, harmonizes the chapters in a way to give each its full effect. See *Southern Nev. Homebuilders*, 121 Nev. at 449, 117 P.3d at 173. Furthermore, the Department’s enforcement of the regulations adopted by the Real Estate Division avoids the absurd result of having a regulation without someone with authority to enforce it because the Real Estate Division is not charged with enforcing its regulations. See *id.* We therefore determine that the plain language of the statutes requires that the CCICCH and the Real Estate Division, and no other commission or division, interpret NRS Chapter 116. Consequently, ***1228** the Department lacked jurisdiction to issue an advisory opinion interpreting NRS Chapter 116. Therefore, the district court did not abuse its discretion in determining that NAS had a likelihood of success on the merits.

Irreparable harm

^[5] The district court found that not only would the instigation of disciplinary action against NAS by the Department be harmful in and of itself, but also that any such disciplinary action would have the added harmful effect of placing the matter in the public record. It also found that even a temporary revocation of NAS’s collection license could lead to irreparable harm because it would be unable to conduct its business.

We have determined that “acts committed without just cause which unreasonably interfere with a business or destroy its credit or profits, may do an irreparable injury.” *Sobol v. Capital Management*, 102 Nev. 444, 446, 726 P.2d 335, 337 (1986); see also *Com. v. Yameen*, 401 Mass. 331, 516 N.E.2d 1149, 1151 (1987) (“A licensee whose license has been revoked or suspended immediately suffers the irreparable penalty of loss of [license] for which there is no practical compensation.” (alteration in original) (internal quotations omitted)).

Here, the district court found that the mere act of filing a disciplinary action against NAS would cause irreparable harm. In its findings, the district court explained that it was possible for the Department to revoke NAS’s license without a hearing under its powers pursuant to NRS 649.395(2)(a), which allows the Department to revoke a collection license “without notice and hearing if ... necessary for the immediate protection of the public,” and “[t]he licensee is afforded a hearing to contest the suspension or revocation within 20 days” thereafter. NRS 649.395(2)(b). Thus, if such an instance occurred, NAS would be unable to conduct any business during that time, not just on those liens that may contain unauthorized fees.

The district court properly determined that the inability to conduct any business would cause irreparable harm. *Sobol*, 102 Nev. at 446, 726 P.2d at 337. It was within the district court's discretion to find that NAS would suffer irreparable harm because it was threatened with the prospect of losing its license to conduct business. Therefore, NAS sustained its burden, under NRS 33.010, to prove that it had a reasonable likelihood of success on the merits and that it would suffer irreparable harm for which compensatory damages would not suffice. Consequently, we determine that the district court did not abuse its discretion in granting NAS's request for injunctive relief, and we therefore affirm its order.⁵

We concur: DOUGLAS and PARRAGUIRRE, JJ.

All Citations

294 P.3d 1223, 128 Nev. Adv. Op. 34

Footnotes

- 1 We affirmed the district court's order in an unpublished order entered May 23, 2012. Respondents and other interested parties subsequently filed motions to reissue the decision as a published opinion. NRAP 36(f). Cause appearing, we grant the motions. Accordingly, we issue this opinion in place of the prior unpublished order.
- 2 Priority status over certain types of encumbrances is granted to liens against units for delinquent assessments. NRS 116.3116(2); NRS 116.093 (defining "unit").
- 3 A community manager is "a person who provides for or otherwise engages in the management of a common-interest community or the management of an association of a condominium hotel." NRS 116.023.
- 4 The Department also argues that it had implied authority to examine NRS Chapter 116. Although it is true that "wherever a power is conferred by statute, everything necessary to carry out the power and make it effectual and complete will be implied," *Checker, Inc. v. Public Serv. Comm'n*, 84 Nev. 623, 629-30, 446 P.2d 981, 985 (1968), this rule of statutory construction is inapplicable in this situation because the Department can rely on the interpretations and regulations of the Real Estate Division concerning NRS Chapter 116. The Department would not need to act on its own to properly effectuate its statutory powers. Further, if the Department determines that certain regulations should be enacted or that an interpretation of a provision is required, nothing prevents it from requesting the CCICCH and/or the Real Estate Division to so act.
- 5 We have reviewed all of the Department's remaining contentions and conclude that they are without merit.



Mixed Sources
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APP 011956
ROA 010662

LCB File No. R150-05

**PROPOSED REGULATION OF THE
DIVISION OF FINANCIAL INSTITUTIONS OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**NOTICE OF INTENT TO ACT UPON A REGULATION
Notice of Hearing for The Adoption and Amendment of Regulations of
The Financial Institutions Division of the Department of Business and Industry**

**NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED
REGULATIONS OF CHECK-CASHING, DEFERRED DEPOSIT LOAN,
SHORT-TERM LOAN AND TITLE LOAN SERVICES**

September 16, 2005

The State of Nevada, Financial Institutions Division ("Division") is proposing the adoption of regulations to chapter 604A of the Nevada Administrative Code (NAC) that pertain to check-cashing, deferred deposit loan, short-term loan and title loan services. A workshop to solicit comments from interested persons on the proposed regulations will be held at the following locations through simultaneous videoconference:

Date: Friday, October 7, 2005

Time: 9:00 a.m.

In Las Vegas: Grant Sawyer Building
555 E. Washington Avenue
Room 4401
Las Vegas, Nevada 89101

In Carson City: State Legislature
401 S. Carson Street
Room 4100
Carson City, Nevada 89701

The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations:

To adopt regulations amend chapter 604A of the Nevada Administrative Code as required by the mandates contained in NRS chapter 604A to provide for the licensing and regulation of providers of check-cashing, deferred deposit loan, short-term loan, and title loan services including the establishment of fees for licensing, audit, examination, investigation, and the Division's CPA.

This Notice has been sent to all persons on the Division's mailing list for administrative regulations, posted on the Division's web site at <http://www.fid.state.nv.us>, and posted at the following public locations for inspection by members of the public:

Financial Institutions Division
2785 E. Desert Inn Road, Suite 180,
Las Vegas, Nevada 89121

Financial Institutions Division
901 S. Stewart Street, 1003
Carson City, Nevada 89701

State Library
100 Stewart Street
Carson City, Nevada 89701

The proposed regulations to be considered for amendment and adoption can be obtained by visiting or contacting the Division directly or on the Internet at: <http://www.fid.state.nv.us>. Copies of this Notice and/or the proposed regulations will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the workshop must notify Steve Kondrup, Deputy Commissioner, at the Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the workshop. Any questions should be directed to Steve Kondrup, Deputy Commissioner, at (702) 486-4120.

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS OF CHECK-CASHING, DEFERRED DEPOSIT LOAN, SHORT-TERM LOAN AND TITLE LOAN SERVICES

September 16, 2005

The State of Nevada, Financial Institutions Division ("Division") is proposing the adoption of regulations to chapter 604A of the Nevada Administrative Code (NAC) that pertain to check-cashing, deferred deposit loan, short-term loan and title loan services. A workshop to solicit comments from interested persons on the proposed regulations will be held at the following locations through simultaneous videoconference:

Date: Friday, October 21, 2005

Time: 9:00 a.m.

In Las Vegas: Grant Sawyer Building
555 E. Washington Avenue
Room 4401
Las Vegas, Nevada 89101

In Carson City: State Legislature
401 S. Carson Street
Room 4100
Carson City, Nevada 89701

The purpose of the workshop is to solicit comments from interested persons on the following general topics addressed in the proposed regulations:

To adopt regulations amend chapter 604A of the Nevada Administrative Code as required by the mandates contained in NRS chapter 604A to provide for the licensing and regulation of providers of check-cashing, deferred deposit loan, short-term loan, and title loan services including the establishment of fees for licensing, audit, examination, investigation, and the Division's CPA.

This Notice has been sent to all persons on the Division's mailing list for administrative regulations, posted on the Division's web site at <http://www.fid.state.nv.us>, and posted at the following public locations for inspection by members of the public:

Financial Institutions Division
2785 E. Desert Inn Road, Suite 180,
Las Vegas, Nevada 89121

Financial Institutions Division
901 S. Stewart Street, 1003
Carson City, Nevada 89701

State Library
100 Stewart Street
Carson City, Nevada 89701

The proposed regulations to be considered for amendment and adoption can be obtained by visiting or contacting the Division directly or on the Internet at: <http://www.fid.state.nv.us>. Copies of this Notice and/or the proposed regulations will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Members of the public who are disabled and require special accommodations or assistance at the workshop must notify Steve Kondrup, Deputy Commissioner, at the Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the workshop. Any questions should be directed to Steve Kondrup, Deputy Commissioner, at (702) 486-4120.

NOTICE OF INTENT TO ACT UPON REGULATION

September 16, 2005

Notice of hearing for the adoption and amendment of regulations governing providers of check-cashing, deferred deposit loan, short-term loan and title loan services

The Financial Institutions Division ("Division") will hold a public hearing for the purpose of ordering the adoption and amendment of regulations that pertain to chapter 604A of the Nevada Administrative Code (NAC) and soliciting comments from interested persons regarding the same. The hearing will be held at the following locations through simultaneous video conference:

Date: Friday, October 21, 2005

Time: 9:15 a.m. or immediately after the workshop scheduled at 9:00 a.m. at the same location

In Las Vegas: Grant Sawyer Building
555 E. Washington Avenue
Room 4401
Las Vegas, Nevada 89101

In Carson City: State Legislature
401 S. Carson Street
Room 4100
Carson City, Nevada 89701

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The need for and the purpose of the proposed regulation or amendment.** The 2005 legislative session passed Assembly Bill 384 (AB 384), which bill was signed by the Governor and became effective July 1, 2005. AB 384 provides for a new chapter in the Nevada Revised Statutes (NRS), NRS chapter 604A. AB 384 also mandates the Commissioner of the Financial Institutions Division adopt certain regulations and further provides the Division with authority to adopt regulations as necessary to effect the purposes of NRS chapter 604A. Pursuant to the mandate and authority under AB 384, the proposed regulations are necessary for the Division to

properly license and regulate check-cashing, deferred deposit loan, short-term loan and title loan services in Nevada.

2. **Either the terms or the substance of the regulation to be adopted, amended, or repealed, or a description of the subjects and issues involved.** The terms of the proposed regulations to be adopted and amended are attached hereto as the proposed regulations of check-cashing, deferred deposit loan, short-term loan, and title loan services under NAC 604A.
3. **The estimated economic effect of the regulation on the business which it is to regulate and on the public.** The estimated economic effect of the proposed regulations to be adopted and amended on providers of check-cashing, deferred deposit loan, short-term loan, and title loan services and the public are as follows:

A. **Estimated economic effect:** It is estimated that the proposed regulations to be adopted and amended would have a small economic effect on providers of check-cashing, deferred deposit loan, short-term loan, and title loan services.

(i). **Adverse and beneficial effects:** The proposed regulations to be adopted and amended provide for licensing, audit, examination, investigation, and CPA fees by the Division. However, the proposed regulations implement the provisions of NRS chapter 604A, provide consumer protection benefits, and offset the costs to the Division in the licensing and regulation of providers of check-cashing, deferred deposit loan, short-term loan, and title loan services.

(ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects as the adverse and beneficial effects.

B. **Estimated economic effect on the public:** It is estimated that the proposed regulations to be adopted and amended will not have a negative economic effect on public.

(i). **Adverse and beneficial effects:** The proposed regulations to be adopted and amended implement the provisions of NRS chapter 604A for the licensing and regulation of providers of check-cashing, deferred deposit loan, short-term loan, and title loan services as well as provide consumer protection benefits to the public.

- (ii). **Immediate and long-term effects:** The proposed regulations to be adopted and amended will have similar immediate and long-term effects for the public.
4. **The estimated cost to the agency for enforcement of the proposed regulation.** There is no estimated cost to the Division beyond costs that are within the allotted legal budget of the Division.
 5. **A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.** If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency. The proposed regulations to be adopted and amended do not overlap or duplicate any regulations of other state or local government agencies or of any federal agency.
 6. **If the regulation is required pursuant to federal law, a citation and description of the federal law.** The proposed regulations to be adopted and amended are not required by federal law.
 7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.** The proposed regulations to be adopted and amended are not more stringent than federal regulation.
 8. **Whether the proposed regulation establishes a new fee or increases an existing fee.** The proposed regulations to be adopted and amended establish fees for application, licensing, audit, examination, investigation, CPA, which fees are required to be established by regulation pursuant to NRS chapter 604A.

Persons wishing to comment upon the proposed actions and order of the Division may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the attention of Steve Kondrup, Deputy Commissioner, at the Financial Institutions Division, 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121. Written submissions must be received by the Financial Institutions Division on or before October 14, 2005. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Financial Institutions Division may proceed immediately to act upon any written submissions.

Members of the public who are disabled and require special accommodations or assistance at the workshop must notify Steve Kondrup, Deputy Commissioner, at the Financial Institutions Division in writing at 2785 E. Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, no later than 5 working days prior to the hearing.

A copy of this notice and the regulations to be adopted and amended will be on file at the following locations for inspection and review by members of the public during business hours:

Financial Institutions Division
2785 E. Desert Inn Road, Suite 180
Las Vegas, Nevada 89121

Financial Institutions Division
901 S. Stewart Street, 1003
Carson City, Nevada 89701

State Library
100 Stewart Street
Carson City, Nevada 89701

In addition, a copy of this notice and the proposed regulations to be adopted and amended will also be at the main public library in all counties in which an office of the agency is not maintained for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations and amendments are also available in the State of Nevada Registrar of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us> and <http://www.fid.state.nv.us>. Copies of this notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Attn: Public Posting
Churchill County Library
5553 S. Maine Street
Fallon, NV 89406

Attn: Public Posting
Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049
(171 Central Street)

Attn: Public Posting
Las Vegas – Clark County Library
833 Las Vegas Blvd. N.
Las Vegas, NV 89101

Attn: Public Posting
Pershing County Library
P.O. Box 781; (1125 Central Avenue)
Lovelock, NV 89419

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

Attn: Public Posting
Storey County Library
P.O. Box 14; (95 South R Street)
Virginia City, NV 89449

Attn: Public Posting
Esmeralda County Library
P.O. Box 430; (Fourth & Crook Sts.)
Goldfield, NV 89316

Attn: Public Posting
Washoe County Library
P.O. Box 2151; (301 S. Center)
Reno, NV 89505

Attn: Public Posting
Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

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

Attn: Public Posting
Humboldt County Library
85 East 5th St.
Winnemucca, NV 89445

Attn: Public Posting
Battle Mountain Branch Library (Lander County)
P.O. Box 141
Battle Mountain, NV 89820

Attn: Public Posting
93 Main St.
P.O. Box 330
Pioche, NV 89043

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

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

Attn: Public Posting
Douglas County Library
P.O. Box 337
Minden, NV 89423

Attn: Public Posting
Mineral County Library
P.O. Box 1390; (First & A Streets)
Hawthorne, NV 89415

Attn: Public Posting
Goldfield Public Library
P.O. Box 430
Goldfield, NV 89013

LCB File No. R150-05

**PROPOSED REGULATION OF THE
DIVISION OF FINANCIAL INSTITUTIONS OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**FINANCIAL INSTITUTIONS DIVISION
PROPOSED ADOPTION AND AMENDMENTS TO THE REGULATIONS OF
CHECK-CASHING SERVICES, DEFERRED DEPOSIT LOAN SERVICES,
SHORT-TERM LOAN SERVICES, AND TITLE LOAN SERVICES**

Explanation: Material in *bold italics* is new material; material lined out within ~~{bold brackets}~~ is material to be omitted.

Purpose: To adopt regulations under chapter 604A of the Nevada Administrative Code.

General Authority: Assembly Bill 384 (2005); Senate Bill 431 (2005); Assembly Bill 1 (2005 Special Session).

Agency Address:

Financial Institutions Division
2785 E. Desert Inn Road, Suite 180
Las Vegas, Nevada 89121

Agency Contact Persons:

Carol Tidd, Commissioner
ctidd@fid.state.nv.us
Steve Kondrup, Deputy Commissioner
skondrup@fid.state.nv.us
Telephone: (702) 486-4120
Facsimile: (702) 486-4563

Deputy Attorney General Providing Assistance to the Agency:

Mark J. Krueger, Senior Deputy Attorney General
mjkruerge@ag.state.nv.us
Telephone: (775) 684-1213
Facsimile: (775) 684-1108
100 N. Carson Street, Carson City, Nevada 89701

Section 1. Chapter 604A of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 26.

Section 2. Definitions.

As used in this chapter, unless the context otherwise requires, the words and terms defined herein have the meanings ascribed to them as in chapter 604A of NRS.

The term "Division" means the Financial Institutions Division.

The term "Commissioner" means the Commissioner of the Division.

Section 3. Application for licensure.

An application for a license must, in addition to any other requirements provided by chapter 604A of NRS:

- 1. Be on a form prescribed by the Commissioner;*
- 2. Be verified;*
- 3. State the proposed location of the principal office and any branch offices;*
- 4. State the proposed name under which the applicant will conduct business;*
- 5. List the name, capacity, title, residential address and business address and phone number of each person having an interest in the business, including, without limitation, any principal, partner, officer, manager, trustee and director;*
- 6. Include, on a form provided by the division, a record of the personal history of each person having at least 25 percent ownership of the voting stock, partnership or member interest of the entity seeking registration;*
- 7. Include a financial statement of the applicant;*
- 8. Include the name designated of the manager or other person responsible for the operation of any office of the applicant;*
- 9. Include a statement of the intent of the applicant to provide one or more types of service pursuant to chapter 604A of NRS; and*

Section 4. Display of certificate.

A licensee shall prominently display each original license or original branch license in a conspicuous place in the location for which the license or branch license was issued. A licensee, or any person, shall not duplicate any license issued pursuant to chapter 604A of NRS.

Section 5. Commercial zoned location required; Residential location prohibited.

- 1. A licensee conducting the services described in chapter 604A of NRS, must:*
 - (a) conduct said services from a business location that is zoned commercial, and*
 - (b) conduct said services pursuant to a valid business license.*
- 2. A licensee shall not conduct the services described in chapter 604A of NRS at or in a residential location.*

Section 6. Physical location required for conduct of service by the Internet

Any licensee conducting the services described in chapter 604A of NRS through the use of the Internet must also maintain a physical location approved by the Commissioner. The physical location approved by the Commissioner is not required to be open to the public

but is subject to audits, examinations or investigations by the Division at any time pursuant to chapter 604A of NRS.

Section 7. Grounds for suspension or revocation of or placement of conditions on a license.

- 1. In addition to the provisions of chapter 604A of NRS, the Division may:*
 - (a) Suspend, revoke or place conditions upon a license if the licensee:*
 - (1) Is insolvent or in such financial condition that he cannot continue his business and ensure the financial safety of his customers;*
 - (2) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to chapter 604A of NRS;*
 - (3) Does not conduct his business in accordance with law;*
 - (4) Makes a material misrepresentation of fact or fails to disclose a material fact that he knew or should have known concerning a transaction governed by chapter 604A of NRS or this chapter;*
 - (5) Knowingly makes or causes to be made to the Division any false representation of material fact;*
 - (6) Suppresses or withholds from the Division any information that the licensee possesses, which, if submitted to the Division, would have rendered the licensee ineligible to be licensed pursuant to chapter 604A of NRS or this chapter;*
 - (7) Refuses to permit an examination of his books and affairs by the Division;*
 - (8) Refuses or fails within a reasonable time to provide the Division with any information that the Division requires pursuant to chapter 604A of NRS or this chapter;*
 - (9) Refuses or fails to pay within a reasonable time any fees assessed to licensees pursuant to chapter 604A of NRS or this chapter;*
 - (10) Fails to provide the surety bond or security in lieu of a surety bond as required by chapter 604A of NRS; or*
 - (11) Engages in any other conduct constituting a deceitful, fraudulent or dishonest business practice;*
- 2. Each day on which a person violates a provision of chapter 604A of NRS or this chapter is a separate violation.*

Section 8. Loan agreement written in Spanish.

- 1. A loan agreement used by a licensee conducting a transaction in Spanish pursuant to chapter 604A of NRS, must:*
 - (a). Be translated by a certified court interpreter as certified by the Nevada Supreme Court; and*
 - (b). Be accompanied by a certificate by the certified court interpreter identifying the document as:*
 - (1) The document translated by the certified court interpreter,*
 - (2) The date the document was translated, and*

(b) *Overnight delivery by common carrier with proof of return receipt.*

2. *The 30 day period for the customer to accept the offer to enter into a repayment plan does not commence until the date of receipt of the offer pursuant to section 1.*

Section 15. Fees for checks not paid upon presentment limited to actual costs incurred

For purposes of chapter 604A of NRS (sec. 45(1)), a licensee may impose a fee upon a customer for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed in an amount:

- (a) *Not to exceed the actual costs incurred by the licensee, and*
- (b) *Not more than \$25.*

Section 16. Maintenance of records by licensee.

A licensee shall maintain for a period of 3 years at an office in this state designated by the licensee a copy or the original of all records pertaining to each transaction with a customer that occurs in this state and such records must be made available to the Division immediately upon demand by the Division.

Section 17. Public inspection of records filed with commissioner.

Except as otherwise provided by law, all papers, documents, reports and other written instruments filed with the Division pursuant to chapter 604A of NRS and this chapter are open to public inspection, except that the commissioner may withhold from public inspection, for such time as he considers necessary, information that in his judgment is required to be withheld to protect the public welfare or the welfare of a licensee.

Section 18. Prohibited acts.

- 1. *A licensee or his employee shall not:*
 - (a) *Take any form of collateral as a condition for entering into a transaction with a customer.*
 - (b) *Require or accept a guarantor to a transaction entered into with a customer, except that the licensee may require, as a condition of providing a check-cashing service, that the customer provide a check guarantee card issued by a depository institution.*
 - (c) *Cash a check of the customer in any manner other than by providing the customer with cash or by issuing the customer a check from the licensee. If the licensee issues the customer his own check, the licensee shall draw the check on an insured account that is identified as belonging to the licensee and is maintained in a depository institution authorized to do business in this state. If a check that is issued by a licensee is not paid upon presentation because of insufficient funds, the licensee will be subject to disciplinary action provided for within this chapter.*

- (d) *Use any device, subterfuge, pretense or deceptive means or representations to collect on a check.*
 - (e) *Collect or attempt to collect any interest incidental to the check other than the fees disclosed pursuant to chapter 604A of NRS.*
 - (f) *Operate his business from any location, address or post office box other than the location listed on his license.*
 - (g) *Harass the employer of a customer in attempting to collect on a check.*
 - (h) *Advertise for sale or threaten to advertise for sale any check as a means to enforce payment of the check, unless the licensee is acting pursuant to a court order.*
 - (i) *Publish or post, or cause to be published or posted, a list of customers who have not paid on their checks, except that the licensee may publish or post such a list for the benefit of his stockholders or membership in relation to the internal affairs of the licensee.*
2. *This section does not prohibit a licensee from selling his receivables or assigning past due receivables to a collection agent for collection.*

Section 19. Operation prohibited without compliance with certain requirements.

A foreign corporation, association or business trust shall not operate a check-cashing, deferred deposit loan service, short-term loan, or title loan service in this state unless the foreign corporation, association or business trust:

- 1. *Qualifies to do business in this state pursuant to chapter 80 of NRS; and*
- 2. *Is licensed pursuant to chapter 604A of NRS.*

Section 20. Advertising.

- 1. *No licensee may advertise in any manner that may tend to confuse the identity of the licensee with any other unrelated licensee.*
- 2. *No licensee may advertise in any manner that a loan of a prospective borrower with another licensee will be paid or increased if the loan is transferred to the advertising licensee.*
- 3. *No licensee shall advertise in a manner that is unethical. The Commissioner reserves the right to require all licensees to submit proposed advertising for approval before its dissemination through the press, by radio or television.*

Section 21. Credit life insurance and credit health or disability insurance.

- 1. *As used in this section, "credit insurance" means both credit life insurance and credit health or disability insurance.*
- 2. *If a licensee provides, obtains or arranges any credit insurance as security for a loan, the premium or cost of such insurance to the borrower must not exceed the rate or rates established by the commissioner of insurance pursuant to the insurance laws. The insurance is subject to the laws and regulations of the division of insurance of the department of business and industry.*

3. *If a loan on which credit insurance has been obtained, arranged or provided by the licensee is prepaid in full, a refund of a portion of the insurance premium or cost must be made to the borrower, unless such prepayment in full was by death claim. If the insurance refund plus interest refund together amount to less than \$1, no refund need be made.*
4. *When a loan is prepaid in full by a death claim payment, the unearned portion of credit health or disability insurance premium must be refunded as of the date of death, but no refund may be made as to premiums paid for credit life insurance.*
5. *Only one party obligated on the loan may be covered by such credit insurance, and the premium or insurance cost may only be collected with respect to that party.*
6. *No statement, direct or implied, may be made to any borrower which would lead the borrower to believe that the granting of a loan was contingent upon his obtaining credit insurance as security for the loan.*
7. *Licensees shall post in each loan interview position a sign with the following language clearly printed in 3/8 inch print: "The purchase of credit life or accident and health insurance is not required as a condition for the granting of a loan."*
8. *If an insured borrower dies during the term of the loan contract, the credit life insurance must be sufficient at least to pay an amount which will discharge the loan completely at the date of death, without any exception, reservation or limitation.*
9. *If the premium or insurance cost is computed on the principal amount of loan and not also on interest and service fee contracted to be paid, the entire proceeds of any death claim to the extent provided in subsection 8 must be payable to the licensee.*
10. *If the premium or insurance cost is computed on the total original amount of the note (principal plus interest and service fee), the proceeds of any death claim must not be less than the greater of the following:*
 - (a) *The unpaid balance of the face amount of the note, principal plus the combined interest and service fee, which under the contract is scheduled to be outstanding at the date of death (also referred to as the scheduled balance); or*
 - (b) *The actual unpaid amount of the loan, which is the unpaid balance of the face amount of the note less the required refund of interest and service fee, which refund must be computed as at the date of death (referred to as the net balance).*
11. *Whenever the amount of any death claim is in excess of the net balance due at the date of death, the excess must be paid by the licensee to the estate of the borrower, the surviving spouse or the next of kin and this must be an obligation of the licensee. Licensees also are required to see that insurance policies arranged in connection with loans provide for death claims to be paid in accordance with this section. The licensee's records must reflect accurately the amount of the death claim, the amount, if any, in excess of the net balance and the person to whom the excess was paid.*

Section 22. Requests for payment; ledger cards.

1. *Requests for payment must be made only to those obligated on the loan contract.*
2. *Collection attempts through written or printed communication, sent by mail, must be enclosed in a sealed envelope.*

3. *The ledger card must indicate when an account has been placed for collection or legal action taken. It must also indicate whether judgment was obtained, together with the date and the amount of the judgment.*
4. *On prepaid accounts, the ledger card must clearly indicate the amount rebated, both for interest and for insurance.*
5. *Adequate records which will enable the commissioner of financial institutions to reconcile outstanding balances must be maintained in each licensed office.*
6. *If there no longer is an outstanding indebtedness from the borrower to the licensee, there must be delivered to the borrower by the licensee a termination statement as required by the Uniform Commercial Code (chapter 104 of NRS). Such delivery is necessary even though the Uniform Commercial Code under such circumstances does not require delivery of a termination statement unless the borrower makes a written demand upon the secured party for a termination statement.*
7. *If ledger cards or similar records for loan accounts and installment sale contract accounts are commingled in a licensee's files, there must be a system by which such cards may be readily identified one from the other, such as being of different colors or having corners of different colors. All of such cards must bear the date of the contract and must identify the type of transaction reflected on them.*

Section 23. Fee for supervision and related activities: Amount; collection; failure to pay.

1. *The Division will charge and collect a fee of \$60 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 604A of NRS.*
2. *The Division will bill each licensee upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The commissioner may waive the penalty for good cause.*
3. *Failure of a licensee to pay the fee required by subsection 1 as provided in this section constitutes grounds for revocation of its license.*
4. *The Division shall not renew a licensee's license if a licensee fails to pay the fee required by subsection 1 by the date for renewal of his license and*
 - (a) *The licensee is considered to be not licensed at the date for renewal.*

Section 24. Fee for the assessment for costs related to audits and examination to read as follows:

1. *Each licensee shall pay to the Division an annual assessment in an amount calculated in accordance with NAC 658.030 to cover the costs related to the employment of a certified public accountant and the performance, review or conduct of audits and examinations conducted by the Division.*
2. *The Division shall bill each licensee for the assessment. The assessment must be paid within 30 calendar days after the date the bill is received.*

3. *A charge of 10 percent of the assessment will be imposed on any licensee whose assessment is received by the Division after the date on which the assessment is due. The commissioner may waive the penalty for good cause.*
4. *Failure of a licensee to pay the fee required by subsection 1 as provided in this section constitutes grounds for revocation of its license.*
5. *The Division shall not renew a licensee's license if a licensee fails to pay the assessment required by subsection 1 by the date for renewal of his license and*
 - (a) *The licensee is considered to be not licensed at the date for renewal.*

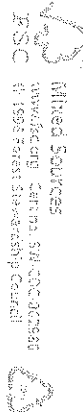
Section 25. Fees for application and renewal

1. *The fee for an application for a license to conduct the services under chapter 604A of NRS is \$375.*
2. *The fee for an application for a branch license to conduct the services under chapter 604A of NRS is \$75.*
3. *The fee for the annual renewal for each license to conduct the services under chapter 604A of NRS is \$375.*
4. *The fee for the annual renewal of each branch license to conduct the services under chapter 604A of NRS is \$75.*

Section 26. Notice to customers; Form

1. *The notice form posted by each licensee pursuant to chapter 604A of NRS (sec. 30(1)) must be in substantially the following form and may include fees for only those services the licensee provides:*

- *(At least 18-point bold type)*
- **NOTICE OF FEES CHARGED FOR SERVICES**
- *(At least 16-point type)*
- *Check-cashing fees: \$____.*
- *Deferred deposit loan fees: \$____.*
- *Short-term loan fees: \$____.*
- *Title loan fees: \$____.*
- *(At least 18-point bold type)*
- **NOTICE OF RIGHT TO CONTACT THE DIVISION OF FINANCIAL INSTITUTIONS REGARDING CONCERNS OR COMPLAINTS**
- *(At least 16-point bold type)*
- *You are entitled to contact the Division of Financial Institutions regarding concerns or complaints of the service provider with whom you are dealing with by calling the following number toll free in Nevada: (At least 18-point bold type) 1-866-858-8951.*



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

NAC 604A WORKSHOP

October 10, 2012

Minutes

A public hearing set forth by the Commissioner of the Financial Institutions Division regarding the proposed changes to regulations for Chapter 604A of the Nevada Administrative Code (NAC) in conjunction with Nevada Revised Statutes (NRS) 604A was held on October 10, 2012 at the Grant Sawyer Building 555 E. Washington Ave., Room 4412, Las Vegas, NV 89101 with video conference at Legislative Counsel Bureau 401 S. Carson St., Room 2135, Carson City, NV 89701.

Financial Institutions Division staff in attendance:

Las Vegas:

Commissioner: George E. Burns
Deputy Commissioner: Carla C. Kolebuck
Acting Supervisory Examiner: Matt O'Brien
Division Counsel: Sr. Deputy A.G.: David Pope
Division Counsel: Deputy A.G.: Daniel Edihara
Associate Examiner: Christopher Hui
Associate Examiner: Felix Luna
Associate Examiner: Harveen Sekhon

Carson City:

Certified Public Accountant: Christopher Schneider
Supervisory Examiner: Doug Liveringhouse
Supervisory Examiner: Monica Villines

1) Call to Order

Deputy Commissioner Carla Kolebuck commenced the workshop of Chapter 604A of the Nevada Administration Code (NAC) on October 10, 2012 at 10:03 am referencing the agenda and proposed regulations for consideration at the hearing.

2) Public Comment

No public comment was received.

3) Possible Action Regarding Ability to Repay

**APP 011976
ROA 010682**

TMX 95 - 00001

3-A-1

Deputy Commissioner Carla Kolebuck stated the agenda and the proposed regulation referenced as Exhibit A which defines the "ability to repay" under NRS 604A.450 to include any renewal and repayment periods submitted by interested members of the industry.

3-A-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit A.

3-A-3

No public comment was received.

3-B-1

Deputy Commissioner Carla Kolebuck stated the agenda and the proposed regulation referenced as Exhibit B defining "ability to repay" submitted by the Division.

3-B-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit B.

3-B-3

Deputy Commissioner Carla Kolebuck introduced examples prepared by the Division to illustrate the proposed definition of "ability to repay" in the context of a 30-day loan and a 210-day loan to be shown on the projector screen, with hard copies distributed to Workshop attendees.

3-B-3

Commissioner George Burns discussed the language being introduced in the proposed regulation defining ability to repay as standard underwriting concepts to ensure that the customer can afford to repay the loan that they are taking out from the lender; to ensure responsible lending; and to eliminate predatory lending as much as possible. The Commissioner then went over the examples illustrating application of the proposed definition shown on the projector screen and the handouts.

3-B-4

Public comment was given by Dan Wulz from Legal Aid Center of Southern Nevada. Mr. Wulz stated that they fully support the Division's proposal in Exhibit B and its definition of ability to repay. He stated that a consumer must be judged on the ability to repay based on the original term of the loan, and not a longer period that includes renewal periods and repayment periods. Mr. Wulz stated that if the industry had requested the ability to repay to be considered over a 7 month period on a 30-day loan, then he would have no doubt that there would have been more negotiation as to whether permitting 6 additional periods of extension would be good policy. He

APP 011977
ROA 010683

further stated that repayment plan periods should never be included in the ability to repay since that plans for a default which is not appropriate. It is difficult to believe that the legislature had any such intention regarding ability to repay in a title loan.

3-B-5

Former Assembly Speaker Barbara Buckley, author of the payday loan legislation and currently Executive Director of Legal Aid Center of Southern Nevada stated she is in support of Financial Institution Division's proposed regulation governing ability to repay. She indicated that the intent and policy of the legislation was to permit a short term high interest loan, but upon default, there would be a change in interest rate to prevent the "debt treadmill." Ms. Buckley further stated that allowing interest to accrue during a repayment plan as part of ability to repay would be contrary to legislative intent.

3-B-6

Robert Frimet from Advantage Check Cashing stated that as a lending industry, they should be able to collect interest upon default as permitted in mortgage lending. Mr. Frimet stated that the industry is there to serve as a viable business and serve the public. He further stated concerns about how to determine and satisfy requirements for "verifiable/stated expenses."

3-B-7

Commissioner George Burns stated the intent for the language is to allow as much flexibility as possible for the industry to conduct their business. As far as verifiable/stated expenses, the language is verifiable and/or stated since it is understood that not all expenses are verifiable. However, reasonable and prudent business practices should be followed, along with the customer's affidavit. The Commissioner further stated that the proposed language is not intended to overburden the licensee, but it is to ensure the customer can afford to pay back the loan and to promote good public policy and good business practices. He noted that it is anticipated that another workshop will be held before having a final product on these regulatory proposals.

3-B-8

Brian Schmidt with TMX Finance stated they do not support the Division's Exhibit B indicating that they had submitted a compromise proposal the previous week and wanted to ensure that the Division received it.

Deputy Commissioner Carla Kalebuck stated that the Division had received the proposal but not in time to incorporate it into the agenda.

Brian Schmidt then stated that they would like the Division to consider the extension and repayment periods within the ability to repay; he believes their practices are in full compliance with the statutes. He also stated that the detail concerning verified/stated expenses may not be a practical solution since many folks do not keep track of all expenses and are not verifiable. In addition, debts owed by customers may be paid by another individual. Mr. Schmidt stated that his "modified gross income" proposal incorporates a more practical approach to expenses that

APP 011978
ROA 010684

TMX 95 - 00003

could be deducted. He had an additional comment regarding the interpretation of NRS 604A.045 defining "default." Mr. Schmidt stated that several things must occur for a default, requiring repayment plan periods, extensions and grace periods to be taken into consideration.

4) Possible Action Regarding Grace Periods

4-A-1

Deputy Commissioner Carla Kolebuck stated the agenda and the proposed regulation referenced as Exhibit C submitted by interested members of the industry regarding accrual of contract interest during a grace period.

4-A-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit C.

4-A-3

No public comment was received.

4-B-1

Deputy Commissioner Carla Kolebuck stated the agenda and the proposed regulation Exhibit D regarding accrual of contract interest during a grace period submitted by the Division.

4-B-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit D.

4-B-3

Deputy Commissioner Carla Kolebuck stated the proposed regulatory language submitted in Exhibit D was due to concerns raised by members of the title loan industry regarding an installment loan scenario where late paying borrowers end up paying less interest over time than on time borrowers due to contract rate of interest ceasing to accrue after a default. It was stated that the Division acknowledges some ambiguity exists in the statutes, and that a possible interpretation would permit the contract rate of interest to be charged during a grace period so long as it is not considered "additional interest or fees" on the loan. The Division drafted this proposal in an attempt to address this concern and to expand its coverage to include other 604A lenders, not just title lenders.

4-B-4

John McCloskey from Select Management Resources had questions on how the proposed regulation Exhibit D would affect a 30-day loan or a 210-day loan and when interest would still accrue.

Deputy Commissioner Carla Koblebuck stated that the proposed language does not affect single payment loans; it would only affect loans that involve multiple payments provided that a grace period during the loan term is incorporated in the loan agreement.

4-B-5

Dan Wulz of Legal Aid Center of Southern Nevada stated that they fully support the Division's submission of Exhibit D and that it is in accordance with 604A.210 and 604A.070 concerning what can be charged during a grace period. He further stated "grace period" means any period of deferment offered gratuitously by a licensee to a customer, and that gratuitously means without charge and there can be no accrual of the contract rate during any grace period.

4-B-6

Former Assembly Speaker Barbara Buckley, author of the payday loan legislation currently Executive Director of Legal Aid Center of Southern Nevada stated she agrees with Mr. Wulz's statement of the legislative intent on grace period. She indicated that some lenders wanted to work with customers to ensure that payments were received upon a default and to work something out in the contracts. The idea of grace period was intended as a period of grace, not as an opportunity to charge more fees. With that, she supports the Division's proposed regulation.

5) Possible Action Regarding Interest that May be Collected During a Repayment Plan.

5-A-1

Deputy Commissioner Carla Koblebuck stated the agenda and the proposed regulation referenced as Exhibit E submitted by interested members of the industry concerning accrual of interest during a repayment plan.

5-A-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit E.

5-A-3

No public comment was received.

5-B-1

Deputy Commissioner Carla Koblebuck stated the agenda and the proposed regulation referenced as Exhibit F defining the amount of interest that may be collected during a repayment plan.

5-B-2

Acting Supervisory Examiner Matt O'Brien read the proposed regulation Exhibit F.

5-C-1

Deputy Commissioner Carla Kolebuck stated the proposed regulatory language is intended to clarify and incorporate into regulation the Division's Declaratory Order and Advisory Opinion regarding interest that can be collected during a repayment plan period. Then she gave a synopsis of the examples that would be illustrated involving a 30-day loan and a 210-day loan.

5-C-2

Acting Supervisory Examiner Matt O'Brien went over the examples on the projector screen and in handouts to Workshop attendees illustrating the Division's proposal of what can or cannot be collected during a repayment plan.

5-C-3

Deputy Commissioner Carla Kolebuck added that under the proposed regulation, a lender may recover the total amount of unpaid interest under the repayment plan, provided that the plan is structured to not exceed the APR of the original agreement.

5-C-4

Dan Wulz of Legal Aid Center of Southern Nevada stated that they fully support the Division's submission of Exhibit F, concerning what can be collected during a repayment plan. He understands that it is in accordance with the Division's 2009 advisory opinion and that fully explains the Division's rationale which is fully supported by the law. Mr. Wulz further stated that the principle matter as evidenced by the statutory scheme is getting someone off the "debt treadmill" and allowing accrual of contract interest during a repayment plan does not accomplish this.

5-C-5

Former Assembly Speaker Barbara Buckley, author of the payday loan legislation and currently Executive Director of Legal Aid Center of Southern Nevada stated the whole idea behind the repayment plan was to get the customer off the "debt treadmill", to take the principal and the interest that accrued over a short period of time and come up with a way to allow them to repay the funds. Allowing interest to accrue at the original loan rate during a repayment plan means that the consumer would not be able to make the terms of the repayment plan. Accrual of contract interest during a repayment plan vitiates the rationale for a repayment plan, since after a default, interest drops to prime plus 10%. Ms. Buckley further stated that she fully supports the Division's proposed regulation which meets and serves the legislative intent.

5-C-6

Jonathan Patterson of Cash Plus had questions on the examples given concerning NSF fees and if such fees could be recovered on repayment plan without lengthening the term.

Acting Supervisory Examiner Matt O'Brien stated that the fee can be collected in a repayment plan under the condition that APR does not exceed the original contract rate.

6) Possible Action Regarding the Proposed Regulations LCB File No. R130-08

6-A-1

Deputy Commissioner Carla Kolebuck introduces the next agenda item regarding LCB File No. R130-08.

6-A-2

Acting Supervisory Examiner Matt O'Brien read section 1.

6-A-3

No public comment was received.

6-B-1

Acting Supervisory Examiner Matt O'Brien read section 2.

6-B-2

Jacqueline Bryant Rombardo with Holland and Hart representing Dollar Loan Center LLC asked the Division to consider providing the licensee with notice and the opportunity to demonstrate that the interest of the public does not outweigh that of the licensee if the Commissioner determines to disclose confidential information.

Deputy Commissioner Carla Kolebuck stated an example would be if the information requested is the subject of a subpoena, the Division would be required to provide the information, or if there was a purchaser of the business, it might be outweigh the licensee's interest in non-disclosure.

Ms. Rombardo questioned whether the applicant or licensee may be able to demonstrate that their interest might outweigh the public's interest in disclosure.

Commissioner George Burns made a statement regarding Chapter 604A, indicating that currently 604A licensees have absolutely no confidentiality of their information. The Division is seeking to bring to 604A licensees similar provisions concerning confidentiality that are provided to other types of licensees and to bring uniformity in those regulations for all licensees so all are treated in an equitable manner.

Ms. Rombardo stated she also has written comments that she is submitting.

6-B-3

Former Assembly Speaker Barbara Buckley questioned why the Division would keep reports of examination confidential.

APP 011982
ROA 010688

TMX 95 - 00007

Commissioner George Burns stated that maintaining the confidentiality of the report, also maintains the integrity of the examination process. It is far more productive that the licensee understands that the findings remain confidential for their diligent correction. When that confidentiality cannot be ensured, every finding the Division finds may bring litigation and it also brings resistance instead of cooperation. It is a much more conducive process if the licensee understands that confidentiality exists for them to rectify those matters that the Division has found. If the findings or conclusions involve an egregious violation of law, then the Division may issue disciplinary action such as a Cease and Desist Order, issue fines or 233B hearings. Licensees would not be able to get away with violations that are severe.

Former Assembly Speaker Barbara Buckley stated she would like the Commissioner to consider that when there are findings that might not bring disciplinary action but are also not corrected by the licensee, to allow such information to be given to the public in order to allow consumers to research and make resourceful decisions.

6-C-1

Acting Supervisory Examiner Matt O'Brien read section 3.

6-C-2

No public comment was received.

6-D-1

Acting Supervisory Examiner Matt O'Brien read section 4.

6-D-2

No public comment was received.

6-E-1

Acting Supervisory Examiner Matt O'Brien stated that the Division is hereby withdrawing the proposed language of section 5.

6-E-2

Commissioner George Burns stated the Division proposes deletion of this section clarifying certain requirements for deferred deposit and high interest loans made pursuant to NRS 604A.480 since these matters are the subject of a pending Attorney General's Opinion.

6-E-3

No public comment was received.

6-F-1

Acting Supervisory Examiner Matt O'Brien read section 6.

6-F-2

No public comment was received.

6-G-1

Acting Supervisory Examiner Matt O'Brien read section 7.

6-G-2

No public comment was received.

6-H-1

Acting Supervisory Examiner Matt O'Brien read section 8.

6-H-2

No public comment was received.

6-I-1

Acting Supervisory Examiner Matt O'Brien read section 9.

6-I-2

No public comment was received.

6-J-1

Acting Supervisory Examiner Matt O'Brien read section 10.

6-J-2

No public comment was received.

6-K-1

Acting Supervisory Examiner Matt O'Brien read section 11.

6-K-2

No public comment was received.

6-L-1

Acting Supervisory Examiner Matt O'Brien read section 12.

6-L-2

No public comment was received.

6-M-1

Acting Supervisory Examiner Matt O'Brien read section 13.

6-M-2

No public comment was received.

6-N-1

Acting Supervisory Examiner Matt O'Brien read section 14.

6-N-2

No public comment was received.

6-O-1

Acting Supervisory Examiner Matt O'Brien read section 15.

6-O-2

No public comment was received.

6-P-1

Acting Supervisory Examiner Matt O'Brien stated that the Division is withdrawing the proposed changes to Subsections 1 through 5 of Section 16 relating to NAC 604A.090. He then read Section 16.

6-P-2

Commissioner George Burns stated that the Division proposes the deletion of amendments to Subsections 1-5 of Section 16 that proposed increasing fees for examinations, license applications, renewals and license reinstatement due to current economic conditions.

6-P-3

Robert Frimet from Advantage Check Cashing stated he would like the Division to consider performing examinations after notice to the licensee rather than surprise examinations without notice due to overburdening the licensee.

6-P-4

Jacqueline Bryant Rombardo with Holland and Hart representing Dollar Loan Center LLC had questions with subsections 7 and 8. She asked how the CPA assessment is applied, on a per licensee or per branch basis.

Commissioner George Burns stated that the statute providing for the CPA assessment allows the Division to charge \$300 per licensee; however the Division has only been charging the main branch of the office the amount needed to fund the operations of the CPA and that the assessment has been far below the \$300 amount allowed.

Jacqueline Bryant Rombardo with Holland and Hart questioned section 8, regarding attorney general assessment asking how that assessment is determined.

Commissioner George Burns stated that the AG assessment is charged per location in order to spread out the cost over a greater number. He indicated that the most recent AG assessment was a 38 percent reduction from the previous year, and was also due in part to the increase of licensees the Division currently regulates. Licensees each paid 1/1000th of the total assessment, or .001%.

Jacqueline Bryant Rombardo with Holland and Hart questioned if the AG fee is once a year and fluctuated based on the costs associated with the assessment.

Commissioner George Burns stated that is correct.

6-Q-1

Acting Supervisory Examiner Matt O'Brien read section 17.

6-Q-2

No public comment was received.

6-R-1

Acting Supervisory Examiner Matt O'Brien read section 18.

6-R-2

No public comment was received.

6-S-1

Acting Supervisory Examiner Matt O'Brien read section 18.

6-S-2

No public comment was received.

6-T-1

Acting Supervisory Examiner Matt O'Brien read section 19.

6-T-2

No public comment was received.

6-U-1

Acting Supervisory Examiner Matt O'Brien read section 20 subsections 1-3, then he stated subsection 4 relating to NRS 604A.425 is being withdrawn.

6-U-2

Commissioner George Burns stated the Division proposes deletion of subsection 4 clarifying the amounts to be included in the calculation of a deferred deposit loan for purposes of the limitation imposed under NRS 604A.425 because the 1st Judicial Court of Nevada has ruled on the matter, and it is currently on appeal to the Nevada Supreme Court.

6-U-3

No public comment was received.

6-V-1

Acting Supervisory Examiner Matt O'Brien stated the proposed changes set forth in section 21 relating to NAC 604A.220 is being withdrawn by the Division.

6-V-2

Commissioner George Burns stated the Division proposes the deletion of section 21 clarifying the prohibition of accepting a check as security for a high-interest loan since it is unnecessary and duplicative.

6-V-3

No public comment was received.

6-W-1

Acting Supervisory Examiner Matt O'Brien stated the Division is withdrawing the proposed changes to NAC 604A.230 listed in Section 22.

6-W-2

Commissioner George Burns stated the Division proposes the deletion of Section 22 restricting loans made to repeat borrowers, internet lending and the imposition of additional collection fees since it appears that these matters appear to have been rectified in the industry in a way that is acceptable to the Division.

6-W-3

No public comment was received.

6-X-1

Deputy Commissioner Carla Kalebuck stated that the Commissioner will hear comments and take possible action regarding whether NAC 604A.220 should be deleted in its entirety. The Division proposes the deletion in its entirety of NAC 604A.220 since it is unnecessary and duplicative of NRS 604A.435.

6-X-2

Acting Supervisory Examiner Matt O'Brien read NAC 604A.220.

6-X-3

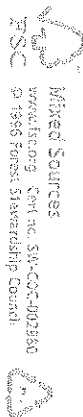
No public comment was received.

7) Additional Public Comment

Alfredo Alonso with Lewis and Roça stated they plan to submit comments on behalf of CFSA and others in the next few days and look forward to working on the proposed regulations.

8) Adjournment

Meeting adjourned on October 10, 2012 at 11:45 am.



Stuart A. Cooper Co. www.stcooper.com
Los Angeles 800-421-8703 • Atlanta 800-326-7590

APP 011989
ROA 010695

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
 Case No. A-15-719176-C Dept XXI
(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): <p style="text-align: center;">TITELMAX OF NEVADA, INC., a Nevada Corporation</p>	Defendant(s) (name/address/phone): <p style="text-align: center;">State of Nevada, Department of Business and Industry Financial Institutions Division</p>
Attorney (name/address/phone): <p style="text-align: center;">Patrick J. Reilly, Esq. Holland & Hart, LLP 9555 Hillwood Drive, 2nd Floor Las Vegas, Nevada 89134</p>	Attorney (name/address/phone):

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

Civil Case Filing Types

Real Property 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	Negligence <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	Torts 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 Probate <i>(select case type and estate value)</i> <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 & Contract 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/Appeal 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 Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing 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.

5-29-15

Date

Signature of initiating party or representative

See other side for family-related case filings.


CLERK OF THE COURT

COMP

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**

TITLEMAX OF NEVADA, INC., a Nevada
corporation,

Plaintiff,

vs.

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

Defendant.

Case No.: A-15-719176-C

Dept. No.: XXI

COMPLAINT

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

Plaintiff TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, for its Complaint against State of Nevada, Department of Business and Industry, Financial Institutions Division (the "FID"), hereby states and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

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

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

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

1 States Constitution, and in accordance with NRS 41.031, under which the State of Nevada
2 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. TitleMax is a lender licensed pursuant to NRS Chapter 604A and is a "licensee"
6 within the meaning of NRS 604A.075.

7 6. TitleMax offers title loans to its borrowers.

8 7. Title loans are governed by NRS Chapter 604A and are regulated by the FID and
9 its Commissioner.

10 8. In 2014, the FID conducted an examination of TitleMax.

11 9. After the completion of the examination, the FID issued reports of examination
12 (collectively "ROEs") covering statutory and regulatory compliance at TitleMax's various retail
13 stores located in the State of Nevada.

14 **INCORRECT CONCLUSIONS IN ROES RELATED TO NAC 604A.230**

15 10. The ROEs provided that TitleMax violated NAC 604A.230 whenever TitleMax
16 allowed a co-borrower to be associated with said loan when that co-borrower not on the title of
17 the vehicle.

18 11. The FID examiner concluded erroneously that the co-borrower was a "guarantor"
19 and that TitleMax was violating NAC 604A.230.

20 12. When there is a co-borrower not listed on the title of the vehicle associated with
21 said loan, the co-borrower becomes contractually bound as a principal obligor, and not as a
22 guarantor.

23 13. Based on the examiner's incorrect application of NAC 604A.230, the FID issued
24 a "Needs Improvement" rating, thereby indicating that TitleMax had demonstrated less than
25 satisfactory compliance in the examination.

26 14. TitleMax has no administrative remedy available to challenge the incorrect
27 findings of fact or conclusions of law contained in the ROE, and no other opportunity to contest
28 such findings or conclusions.

15. NAC 604A.230 does not prohibit the underwriting of a title loan with a co-borrower as a principal obligor.

INCORRECT CONCLUSIONS IN ROES RELATED TO

NRS 604A.210 AND NRS 604A.445

16. The ROEs provided that TitleMax violated NRS 604A.210 and NRS 604A.445 whenever a customer executed a grace period payment deferment agreement (the "Deferment Agreement") on a 210-day installment loan.

17. The FID examiner's conclusion was incorrect in determining that the foregoing constituted a violation of NRS 604A.210 and NRS 604A.445.

18. Based on the examiner's incorrect understanding of the Deferment Agreement, the FID issued a "Needs Improvement" rating thereby indicating that TitleMax had demonstrated less than satisfactory compliance in the examination.

19. TitleMax has no administrative remedy available to challenge the incorrect findings of fact or conclusions of law contained in the ROE, and no other opportunity to contest such findings or conclusions.

FIRST CLAIM FOR RELIEF

(Declaratory Relief)

20. TitleMax hereby repeats, realleges, and incorporates all of the allegations contained in the preceding paragraphs as though fully set forth herein.

21. A true and ripe controversy exists between TitleMax and the FID as to the interpretation and application of NRS 604A.210, NRS 604A.445, and NAC 604A.230, in particular as to whether TitleMax "violated" said statutes and regulation.

22. TitleMax seeks a declaration that an individual may be a co-borrower on a title loan without violating NAC 604A.230 when said individual is not listed on title of the vehicle associated with said loan.

23. TitleMax seeks a declaration that the Deferment Agreement does not violate NRS 604A.210 or NRS 604A.445.

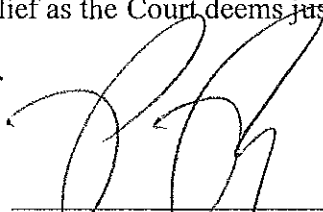
1 24. Declaratory relief is necessary to determine the foregoing rights, status, or other
2 legal relations thereunder.

3 **PRAYER FOR RELIEF**

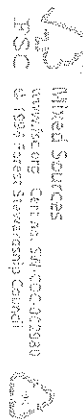
4 WHEREFORE, TitleMax demands judgment against Defendant as follows:

- 5 1. For declaratory relief as described herein; and
6 2. For such other and further relief as the Court deems just and proper.

7 DATED this 29th day of May, 2015.

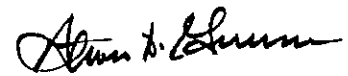
8 
9 _____
10 Patrick J. Reilly, Esq.
11 Joseph G. Went, Esq.
12 HOLLAND & HART LLP
13 9555 Hillwood Drive, Second Floor
14 Las Vegas, Nevada 89134

15 Attorneys for Plaintiff



Stuart G. Cooper Co. www.stcooper.com
Los Angeles 800-421-8703 • Atlanta 800-325-7590

APP 011995
ROA 010701



CLERK OF THE COURT

1 **ACOM**
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*

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DISTRICT COURT
CLARK COUNTY, NEVADA

TITLEMAX OF NEVADA, INC., a Nevada
corporation,

Plaintiff,

vs.

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

Defendant.

Case No.: A-15-719176-C

Dept. No.: XXI

AMENDED COMPLAINT

**Arbitration Exemption Claimed—
Declaratory Relief and Action Seeking
Extraordinary Relief**

Plaintiff TitleMax of Nevada, Inc. dba TitleMax and/or TitleBucks ("TitleMax"), by and through its attorneys of record, the law firm of Holland & Hart LLP, for its Amended Complaint against State of Nevada, Department of Business and Industry, Financial Institutions Division (the "FID"), hereby states and alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. TitleMax is an entity created pursuant to the laws of the State of Nevada and is authorized to do business in Clark County, Nevada.
2. The FID is an agency of the State of Nevada.
3. This Court has subject matter jurisdiction pursuant to Article VI of the Nevada Constitution, and personal jurisdiction over the FID in accordance with NRS 14.065, on the

1 grounds that such jurisdiction is not inconsistent with the Nevada Constitution or the United
2 States Constitution, and in accordance with NRS 41.031, under which the State of Nevada
3 waives its sovereign immunity.

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

5 **GENERAL ALLEGATIONS**

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

8 6. TitleMax offers title loans to its borrowers.

9 7. Title loans are governed by NRS Chapter 604A and are regulated by the FID and
10 its Commissioner.

11 8. In 2014, the FID conducted an examination of TitleMax.

12 9. After the completion of the examination, the FID issued reports of examination
13 (collectively "ROEs") covering statutory and regulatory compliance at TitleMax's various retail
14 stores located in the State of Nevada.

15 **INCORRECT CONCLUSIONS OF LAW IN ROES RELATED TO NAC 604A.230**

16 10. The ROEs provided that TitleMax violated NAC 604A.230 whenever TitleMax
17 allowed a co-borrower to be associated with said loan when that co-borrower not on the title of
18 the vehicle.

19 11. The FID examiner concluded erroneously that the co-borrower was a "guarantor"
20 and that TitleMax was violating NAC 604A.230.

21 12. When there is a co-borrower not listed on the title of the vehicle associated with
22 said loan, the co-borrower becomes contractually bound as a principal obligor, and not as a
23 guarantor.

24 13. Based on the examiner's incorrect interpretation of NAC 604A.230, the FID
25 issued a "Needs Improvement" rating, thereby indicating that TitleMax had demonstrated less
26 than satisfactory compliance in the examination.

27 14. NAC 604A.230 does not prohibit the underwriting of a title loan with a co-
28 borrower as a principal obligor.

1 15. In 2015, the FID conducted another examination of TitleMax. The FID has
2 advised that it intends forthwith to issue an "Unsatisfactory" rating in this year's ROE based
3 upon the exact same legal issue.

4 16. The FID has further advised that, after the issuance of an "Unsatisfactory" rating,
5 the FID intends to refer TitleMax to the Attorney General for enforcement.

6 **INCORRECT CONCLUSIONS OF LAW IN ROEs RELATED TO**

7 **NRS 604A.210 AND NRS 604A.445**

8 17. The ROEs provided that TitleMax violated NRS 604A.210 and NRS 604A.445
9 whenever a customer executed a grace period payment deferment agreement (the "Deferment
10 Agreement") on a 210-day installment loan.

11 18. The FID examiner's legal conclusion was incorrect in determining that the
12 foregoing constituted a violation of NRS 604A.210 and NRS 604A.445, based upon an incorrect
13 reading of these statutes.

14 19. Based on the examiner's incorrect interpretation of the foregoing statutes, the FID
15 issued a "Needs Improvement" rating thereby indicating that TitleMax had demonstrated less
16 than satisfactory compliance in the examination.

17 20. In 2015, the FID conducted another examination of TitleMax. The FID has
18 advised that it intends to issue forthwith an "Unsatisfactory" rating in this year's ROE based
19 upon the exact same legal interpretation.

20 21. The FID has further advised that, after the issuance of an "Unsatisfactory" rating,
21 the FID intends to refer TitleMax to the Attorney General for enforcement.

22 **FIRST CLAIM FOR RELIEF**

23 **(Declaratory Relief)**

24 22. TitleMax hereby repeats, realleges, and incorporates all of the allegations
25 contained in the preceding paragraphs as though fully set forth herein.

26 23. A true and ripe controversy exists between TitleMax and the FID as to the
27 interpretation of NRS 604A.210, NRS 604A.445, and NAC 604A.230, which led to the FID's
28 conclusion that TitleMax "violated" said statutes and regulation.

24. TitleMax seeks a declaration that an individual may be a co-borrower on a title loan without violating NAC 604A.230 when said individual is not listed on title of the vehicle associated with said loan.

25. TitleMax seeks a declaration interpreting NRS 604A.210 and NRS 604A.445, as referenced herein.

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

PRAYER FOR RELIEF

WHEREFORE, TitleMax demands judgment against Defendant as follows:

1. For declaratory relief as described herein;

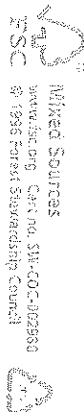
2. For preliminary and permanent injunctive relief enjoining the FID from imposing or seeking to impose discipline based upon alleged violations of NRS 604A.210, NRS 604A.445, and NAC 604A.230, in particular as to whether TitleMax “violated” said statutes and regulation; and

3. For such other and further relief as the Court deems just and proper.

DATED this 17th 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



Stewart G. Cooper Co. www.stcooper.com
Los Angeles 800-421-8703 · Atlanta 800-325-7580

APP 012000
ROA 010706

Patrick Reilly

From: Christopher A. Eccles <CEccles@ag.nv.gov>
Sent: Thursday, July 23, 2015 12:15 PM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Harveen said the report is going out today or tomorrow. FID will not bring an administrative complaint if we agree to a Chapter 29. Please let me know and thanks.

Chris Eccles
Deputy Attorney General

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by e-mail at ceccles@ag.nv.gov and delete the message and attachments from your computer and network. Thank you.

From: Patrick Reilly [mailto:PREilly@hollandhart.com]
Sent: Thursday, July 23, 2015 10:39 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

iris,

I never heard back as to whether the Division would actually commit to refrain from commencing an administrative proceeding in the event that the parties agree to convert the matter to a Chapter 29 proceeding. Can you please let me know?

Also, has an Unsatisfactory actually been issued yet?

Thanks.

*Patrick J. Reilly, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
www.hollandhart.com
Telephone (702) 222-2542
Cell Phone (702) 882-0112
Facsimile (702) 669-4650*

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From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Wednesday, July 15, 2015 11:12 AM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Yes, you heard wrong. TitleMax did receive a "Needs Improvement" rating last year. My understanding is that if the examiners found substantially the same issues this year, then TitleMax may be rated "Unsatisfactory." The latter rating is typically when the Divisions refers the matter to the AG for possible action such as an administrative complaint.

I think that if we agree to a Chapter 29, it is unlikely that the Division would proceed with an administrative complaint even if TitleMax receives an Unsatisfactory rating, until we receive a ruling from the judge. I will talk to the client today to confirm this.

Thanks,

Chris Eccles
Deputy Attorney General

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From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]
Sent: Wednesday, July 15, 2015 8:52 AM
To: Christopher A. Eccles
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Thanks Chris. Just as a follow up, I understood from our conversation that TitleMax had received an Unsatisfactory last year and was about to get another one this year. I went back to the Complaint, however, and saw that last year was merely a "Needs Improvement." Did I just hear you wrong? And what does that mean in terms of possible administrative proceedings if TitleMax does not agree to convert the action to a Chapter 29 proceeding?

Pat

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]
Sent: Tuesday, July 14, 2015 6:50 PM
To: Patrick Reilly
Cc: David J. Pope
Subject: RE: Joint Declaratory Relief

Thanks, Pat. Yes, I agree that if we convert to a Chapter 29 we should set our briefing schedule by stipulation. Please let me know when you have an answer from your client.
Thanks,

Chris Eccles
Deputy Attorney General

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From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]

Sent: Monday, July 13, 2015 11:29 AM

To: Christopher A. Eccles

Cc: David J. Pope

Subject: RE: Joint Declaratory Relief

I'm checking with the client. The initial response to your suggestion to convert the action to a Chapter 29 proceeding was favorable and I should have a formal response shortly. Assuming TitleMax is agreeable to converting the action to a Chapter 29 dispute, we could simply set a briefing schedule by stipulation.

Thanks.

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]

Sent: Monday, July 13, 2015 10:10 AM

To: Patrick Reilly

Cc: David J. Pope

Subject: RE: Joint Declaratory Relief

Are you agreeable to an extension the 31st?

Thanks,

Chris Eccles

Deputy Attorney General

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From: Patrick Reilly [<mailto:PREilly@hollandhart.com>]

Sent: Monday, July 13, 2015 10:03 AM

To: Christopher A. Eccles

Cc: David J. Pope

Subject: RE: Joint Declaratory Relief

I have not had a chance to talk with the client but hope to today. If you need an extension on anything, please let me know.

Thanks.

From: Christopher A. Eccles [<mailto:CEccles@ag.nv.gov>]

Sent: Monday, July 13, 2015 9:41 AM

To: Patrick Reilly

Cc: David J. Pope

Subject: Joint Declaratory Relief

Hi Pat,

Is there any headway on the possibility of TitleMax converting to a Chapter 29? It's an awesome (and short) chapter! The whole chapter is copied below. We think that this is the quickest way to a judge's interpretation.

Please let us know and thanks.

CHAPTER 29 - SUBMITTING A CONTROVERSY WITHOUT ACTION

<u>NRS 29.010</u>	Submission of a controversy without action.
<u>NRS 29.020</u>	Entry of judgment; judgment roll.
<u>NRS 29.030</u>	Enforcement and appeal of judgment.

NRS 29.010 Submission of a controversy without action. Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which should have jurisdiction if an action had been brought. But it must appear, by affidavit, that the controversy is real, and the proceedings in good faith, to determine the rights of the parties. The court shall thereupon hear and determine the case and render judgment thereon, as if an action were pending.

[1911 CPA § 310; RL § 5252; NCL § 8808]

NRS 29.020 Entry of judgment; judgment roll. Judgment shall be entered in the judgment book as in other cases, but without costs for any proceeding prior to the trial. The case, the submission and a copy of the judgment shall constitute the judgment roll.

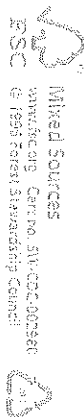
[1911 CPA § 311; RL § 5253; NCL § 8809]

NRS 29.030 Enforcement and appeal of judgment. The judgment may be enforced in the same manner as if it had been rendered in an action, and shall be in the same manner subject to appeal.

[1911 CPA § 312; RL § 5254; NCL § 8810]

Chris Eccles
Deputy Attorney General

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Los Angeles 800-421-8703 • Atlanta 800-325-7530

APP 012005
ROA 010711

STATE OF NEVADA



BRIAN SANDOVAL
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

FINANCIAL INSTITUTIONS DIVISION

BRUCE BRESLOW
Director

GEORGE E. BURNS
Commissioner

October 13, 2015

Titlemax of Nevada Inc.
Attention: Jessica Starbuck, Sr. Managing Paralegal
15 Bull Street Suite 200
Savannah, GA 31401

Subject: Complaint from Gloria Whitaker and Devon Whitaker, Reference 69623

Dear Ms. Starbuck:

We are in receipt of a verified complaint from Gloria Whitaker and Devon Whitaker filed against your company. Please provide copies of loan agreements including paystubs, payment history (from the beginning of the business relationship) or account ledger, payment receipts and any document pertaining to the account such as repayment plan and car title.

You have twenty days to respond to the complaint and to provide the documents being requested. Failure to respond to this complaint in the allotted time period will subject your firm to disciplinary action. If you are unable to comply with this request within the allotted time period, you should contact the undersigned immediately.

Your response will be reviewed and will be provided to the complainant.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard J. Esterly".

Leonard J. Esterly
Deputy Commissioner

Cc: Gloria Whitaker, Devon Whitaker

Certified Mail: 7012 1010 0000 1181 3987

LAS VEGAS
Office of the Commissioner
2785 E. Desert Inn Road, Suite 180
Las Vegas, NV 89121
(702) 486-4120 Fax (702) 486-4563

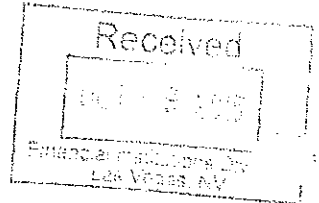
NORTHERN NEVADA
Examination & CPA Office
1755 East Plumb Lane, Ste 243
Reno, NV 89502
(775) 688-1730 Fax (775) 688-1735
Web Address: <http://fid.slate.nv.us>

CARSON CITY
Licensing Office
1830 College Parkway, Suite 100
Carson City, NV 89706
(775) 684-2970 Fax (775) 684-2971
APP 012006
ROA 010712

TMX 99 - 00001

STATE OF NEVADA DEPARTMENT OF
BUSINESS AND INDUSTRY FINANCIAL
INSTITUTIONS DIVISION

2785 E Desert Inn Road Suite 180, Las Vegas, NV 89121
(702) 486-4120 * Toll free (866) 858-8951 * Fax (702) 486-4563
E-mail: FIDMaster@fid.state.nv.us www.fid.state.nv.us



69423

COMPLAINT FORM

Please Print or Type

Your Name: Gloria Whitaker & Devon Whitaker

Address: 4801 E. Sahara Ave #11, LV, NV 89104 & 3866 Lincoln Rd, LV, NV 89115

Home Telephone: 702-613-7813

Business Telephone: _____

Please indicate if you are represented by legal counsel: Yes ☐ No ☒

Assisted by
Legal Aid Center of
Southern Nevada

Name of Person or Business complaint is against: TitleMax of Nevada, Inc. d/b/a TitleBucks

Address of Person or Business: 4750 W. Lake Mead #102, Las Vegas, NV 89108

Type of Licensee/Business (circle): State Chartered Bank State Chartered Credit Union Thrift Co Trust Co Money Transmitter
Installment Loan Check Cashing/Deferred Deposit/High Interest/Title Loan Collection Agency Uniform Debt Mgt Services

In filing this complaint, I understand that the Financial Institutions Division cannot provide legal advice or legal representation, act as a mediator in any dispute or compel financial remedy or refund. In this regard, we suggest that you seek private counsel to protect your interests. I am filing this complaint to notify your division of activities of a regulated industry and to request your assistance in resolving this matter.

Nature of Complaint:

I am 66 years old and my son, Devon, is 30 years old. In December 2013, I had custody of two of my grandchildren. My social security was \$737 a month and I received \$318 a month for my grandchildren. Devon was not working, as he was transitioning out of the military (his last month of income was October 2013). Our income was \$1055 a month. Devon owns a 2002 Ford F150 but no income so together we went to TitleBucks, at 4750 W. Lake Mead Blvd, to obtain a title loan. I showed TitleBucks my social security benefits letter and the money for my grandchildren, as our income. Devon had no income but he did have the title to the truck. TitleBucks did not ask us what our monthly expenses were. We were given a \$2000 loan on December 3, 2013 and were told to make payments every month until the loan was paid off. We struggled to make the payments, which were \$265 a month. We paid off the December 2013 loan on March 3, 2015 by making a double payment of \$530. Megan, the TitleBucks employee, did not give us the title back. Instead she and another employee named Marie told us we were preferred customers and TitleBucks knew we were struggling financially. I explained I wasn't getting money for my grandchildren anymore, but the employee offered us another loan, promising lower interest and low payments. She gave us papers to sign that were covered by other papers. She gave us another \$2000 loan. We did not receive a copy of the contract and no one explained the terms. They knew I received my social security on the 3rd of the month so we came on the 3rd or earlier, unless the 3rd fell on a weekend.

(additional space available on attached pages)

I declare under penalty of perjury that the above statement and attachment consisting of 23 total pages is true and correct to the best of my knowledge. I understand that a copy of this complaint may be sent to the person or business against whom I am filing this complaint.

Gloria Whitaker
Signature

Devon Whitaker

10-07-2015
Date

10-07-2015
APP 012007
ROA 010713

TMX 99 - 00002

Continuation of Complaint:

We believed she was helping us, so we signed and accepted the \$2000 loan.

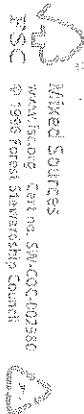
We made the April payment right after getting my social security, paying \$200, on April 6, 2015. TitleBucks gave us a receipt (with no boxes checked) and only listed Devon's name for the loan. We realized that my name was not on the Title Loan Agreement (except for the signature page). When I asked TitleBucks for our paperwork a few months ago, they gave me a Title Loan Agreement front page with both of our names on it, but the form is in Spanish. We do not speak Spanish. TitleBucks also gave us an Affidavit with the papers, with only Devon's name on it (but with both of our signatures) which we do not remember reading or being told about before we signed it, stating we gave TitleBucks our income and obligations, etc.. for the March 3, 2015 loan. But TitleBucks did not ask for, nor did we give them, any financial information in March 2015, except for me telling them I had LESS income that we did in December of 2013. Devon had no income so if he is the only one on the loan, TitleBucks gave a loan to a person with no income.

I made the next \$200.00 payment on May 4, 2015 and received a receipt the same as last one. Before I made the June payment, Devon asked me why the Title Loan Agreement from March 3, 2015 said the loan was 7 months with payments of \$410.68 a month. That's not what we were told, nor was that what we were paying. We went to TitleBucks on June 4th to find out what was going on. Valsina Marshall told us the company needed to update their computers, that we were supposed to pay \$199.80 a month, and to sign the corrected page. We believed we were re-signing what we were told were the terms of loan on March 3, 2015 loan. The same day, TitleBucks charged me \$40 more because they said the payment was late, but they said they can't say it's a late fee, so they said it was "interest accrued." But we always paid on or near the 3rd of the month because that's when I get my social security and they knew that. They said they would let me pay the \$40 in two installments, so I paid it over 2 months. We paid again on June 30, 2015 and again on August 1, 2015. On September 8, 2015, I paid again and they told me I had another payment due on September 29th and that after that, the payments were going up to \$285 a month. My income is only \$737 a month! I cannot continue to afford these payments. I don't understand how they can tell us one thing, have us sign different agreements without any explanations, keep my son's title for 2 years, and yet we still owe \$2000. This month, TitleBucks told me to have another company "buy" the title loan from them so I can get a better interest rate and better payments.

We did not have the ability to repay the loans and Titlebucks knew that. Devon, the titled owner of the vehicle, had no income and gave no proof of income. My income was \$1055 a month. TitleBucks did not ask us our expenses. TitleBucks had us sign a 7 month loan but told us the loan was for 14 months. TitleBucks didn't tell me there was a month (July) where I was supposed to pay twice. When we asked them why we had the 7 month loan paperwork, TitleBucks told us it was a computer thing and had a us sign another agreement. TitleBucks did not explain anything about a "grace period" or offer a repayment plan. The 7 month Agreement says the interest is \$874.71. Titlebucks charged us \$1398.60 in interest for the loan over a 14 month period, plus \$40 in late fees, calling it accrued interest, on something they are now calling a "grace period" and "deferred period" but there is no deferment - TitleBucks is making over \$600 more in interest on the "grace period", but I don't know how much the interest rate is because it doesn't disclose the interest in that agreement. TitleBucks gave me an Account Summary when I asked for my documents. The Interest Rate shows 121.55% but the employee told me it's only 9.99%. I cannot figure it out.

I spoke to Anthony, from TitleBucks, on September 9, 2015. He told me, "NRS 604A" says everything TitleBucks did to us was legal. I asked what they could do to help me. Anthony said they could give us "a few weeks," but when I asked for a couple of months, Anthony said they can't do that. He did not offer us a repayment plan. He did not tell me what would happen if we defaulted on the loan. He said he couldn't do anything else to help, but give us a few weeks. He told me our next payment wouldn't be due until October 29, 2015. But we had a payment due on September 29, 2015, which we paid.

TitleBucks has taken advantage of my son and me. They have not told us the truth of what we were getting into; they had us sign documents but didn't explain what we were signing. They told us the loan was the same as the loan in 2013, but had a sign a completely different loan. TitleBucks didn't tell us the terms of the March 2015 loan but then charged us a late fee when we paid the same way we were paying for 2 years. Their practices should not be legal and we are asking that you investigate TitleBucks to stop them from doing to this financially fragile people.



Stewart & Cooper Co. www.stcooper.com
Los Angeles 800-421-8703 • Atlanta 800-328-7580

APP 012009
ROA 010715

TITLEBUCKS

November 12, 2015

VIA FEDERAL EXPRESS

Mr. Leonard J. Esterly
Deputy Commissioner
Nevada Department of Business and Industry
Financial Institutions Division
2785 E. Desert Inn Road, Suite 180
Las Vegas, NV 89121

RE: TitleMax of Nevada, Inc. ("TitleBucks")
4750 W. Lake Mead, Suite 102
Las Vegas, NV 89108

Ms. Gloria and Mr. Devon Whitaker
Reference: 69623

4801 E. Sahara Avenue #11
Las Vegas, NV 89104

3866 Lincoln Road
Las Vegas, NV 89115

Dear Mr. Esterly:

I am in receipt of the complaint you forwarded filed by Ms. Gloria Whitaker and Mr. Devon Whitaker. Please accept this as TitleBucks' response to the same. I have reviewed the Whitakers' account and submit to you the following:

The Whitakers entered into a transaction with TitleBucks on December 3, 2013. The resulting loan was paid in full on March 3, 2015, and accordingly the account is closed.

The Whitakers entered into a second transaction with TitleBucks on March 3, 2015, wherein they received funds in the amount of \$2,000.00 and pledged Mr. Whitaker's 2002 Ford F150 (the "Vehicle") as collateral. At the time of the transaction, the Whitakers completed and executed both a Customer Application (the "Application") and a Title Loan Agreement (the "Agreement"), copies of which are enclosed.

The Whitakers made seven (7) payments in conjunction with this transaction. Copies of the Customer Receipts and Transaction History Report reflecting those payments are enclosed. The Whitakers elected to enter into a Grace Period Payments Deferment Agreement (the "Deferment Agreement") on June 4, 2015, a copy of which is also enclosed.

• 15 Bull Street Ste 200 • Savannah, GA 31401 •

(912) 525-2675 • Fax (912) 525-2679

APP 012010
ROA 010716
TMX 100 - 00001

The Whitakers' complaint states that TitleBucks did not ask for proof of income at the time of the loan. With each loan that is processed, TitleBucks evaluates the customer's ability to repay and bases that assessment on information provided by the customer. The same is true in this case. Not only did TitleBucks consider the Whitakers' current and expected income, obligations, and employment status, but the Whitakers in fact affirmed that the information upon which TitleBucks relied to make that assessment was true and correct.

Upon applying for the loan, the Whitakers' reported income that exceeded the reported monthly expenses, confirming that they were able to repay the loan.

On the Application, the Whitakers listed their monthly income as \$1,053.00 and outlined that their gross monthly obligations were \$600.00. The bottom of Page 3 of the Application states, "By signing below and submitting this Customer Application, you are verifying that all of the information in this Customer Application is accurate and correct, including...current and expected gross monthly income and obligations". As the Application bears both of the Whitakers' signatures, they acknowledged and verified this information to be accurate.

Further, the Whitakers executed an Affidavit at the time of the transaction, which specifically states, among other things, "(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and (b) The customer has the ability to repay the title loan." A copy of the Affidavit bearing the Whitakers' signatures, confirming their income information was accurate and that they did in fact have the ability to repay the loan, is also enclosed.

The Whitakers' complaint goes on to state that they did not fully understand the terms of the Agreement. As the Agreement bears both of the Whitakers' signatures, indicating that they understood and agreed to abide by the terms outlined therein, the assertion that they did not understand the terms of the Agreement is not substantiated. Moreover, this loan is the Whitakers' second loan with TitleBucks, and as such, they had working knowledge of the loan process at the time they entered into second transaction. Further, the Whitakers had the right to rescind the Agreement without penalty by returning the loan proceeds before close of business the following day. This would have given the Whitakers ample time to re-read the loan documents and gave them an opportunity to change their minds if they did not agree with the terms. The Whitakers did not exercise this option.

With regard to the first page of the Agreement being in Spanish, this is a known software glitch that has since been corrected. At each instance of reprinting after the initial transaction was complete, the first page of the Agreement would print out in Spanish. When the store reprinted the Agreement at the Whitakers' request, the first page printed in Spanish. However, the Annual Percentage Rate, Finance Charge, Amount Financed and Total of Payments (the Federal Truth-In-Lending Disclosures) along with the schedule of when the payments were to be made are all in English.

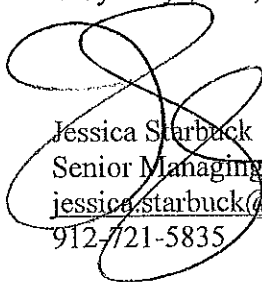
Ms. Gloria and Mr. Devon Whitaker
November 12, 2015
Page 3 of 3

The Whitakers do not specify a desired resolution; further, I have found no evidence to support the Whitakers' allegations that 1) they cannot afford to make payments on the loan based on the income information they provided to TitleBucks and affirmed was accurate, and 2) that TitleBucks did not consider the Whitakers' ability to repay. To the contrary, TitleBucks obtained at least two verifications from both of the Whitakers indicating that they had the ability to repay.

However, in light of the Whitakers' apparent difficulties in making payments to their accounts, TitleBucks is willing to work with them and has already offered them a significantly reduced payment to close their account, and is currently waiting to hear back on that offer.

Please feel free to contact me with any questions you may have.

Very truly yours,



Jessica Starbuck
Senior Managing Paralegal
jessica.starbuck@titlemax.biz
912-721-5835

Enclosures

APP 012012
ROA 010718
TMX 100 - 00003

STATE OF NEVADA

DEPARTMENT OF MOTOR VEHICLES

CERTIFICATE OF TITLE

VIN 1FTRW07632KA21562	YEAR 2002	MAKE FORD	MODEL F150 SUPER	VEHICLE BODY TCW	TITLE NUMBER NV006651216
DATE ISSUED 01/07/2014	ODOMETER MILES EXEMPT	FUEL TYPE G	SALES TAX PD	EMPTY WT 4655	GROSS WT 6250
VEHICLE COLOR	ODOMETER BRAND			BRANDS	GVWR

OWNER(S) NAME AND ADDRESS

WHITAKER DEVON
3866 LINCOLN RD
LAS VEGAS NV 89115-0369

LIENHOLDER NAME AND ADDRESS

TITLEMAX OF NEVADA INC DBA TITLEBUCKS
4750 W LAKE MEAD BLVD STE 102
LAS VEGAS NV 89108-6121

LIENHOLDER RELEASE - INTEREST IN THE VEHICLE DESCRIBED ON THIS TITLE IS HEREBY RELEASED:

SIGNATURE OF AUTHORIZED AGENT _____ DATE _____

PRINTED NAME OF AGENT AND COMPANY _____

FEDERAL AND STATE LAW REQUIRES THAT YOU STATE THE MILEAGE IN CONNECTION WITH THE TRANSFER OF OWNERSHIP. FAILURE TO COMPLETE OR PROVIDING A FALSE STATEMENT MAY RESULT IN FINES AND/OR IMPRISONMENT.
The undersigned hereby certifies the vehicle described in this title has been transferred to the following buyer(s):

Printed Full Legal Name of Buyer _____ Nevada Driver's License Number or Identification Number _____ ☐ AND ☐ OR

Printed Full Legal Name of Buyer _____ Nevada Driver's License Number or Identification Number _____

Address _____ City _____ State _____ Zip Code _____
I certify to the best of my knowledge the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked.
☐ NO The mileage stated is in excess of its mechanical limits.
☐ TENTHS The odometer reading is not the actual mileage. WARNING: ODOMETER DISCREPANCY.
☐ ODOMETER HEADING Exempt - Model year over 8 years old.

Signature of Seller(s)/Agent/Dealership _____

Printed Name of Seller(s)/Agent/Dealership _____

I am aware of the above odometer certification made by the seller/agent. ☐

Dealer's License Number _____ Date of Sale _____

Signature of Buyer _____

Printed Full Legal Name of Buyer _____
CONTROL NO.

ACCORDING TO THE RECORDS OF THE DEPARTMENT OF MOTOR VEHICLES, THE PERSON NAMED HEREON IS THE OWNER OF THE VEHICLE DESCRIBED ABOVE, SUBJECT TO LIEN AS SHOWN.

1651845C
(THIS IS NOT A TITLE NO.)

VP-2 (Rev. 8/10)

ALTERATION OR ERASURE VOIDS THIS TITLE

APP 012013

ROA 010719

PMX 100 - 00004

Customer Application

Personal Information

Date 3-3-15	State Issued ID Number 1401435795	Date of Birth 02-10-1985	Social Security # 536195416
Last Name Whitaker	First Name Devon	Middle Name Levon	
Home Phone None	Cell Phone 702 747-1205	Email Address (optional) ssydevan@yahoo.com	
Best time to call? Mornings	Which number do you prefer that we call? C. Home Phone <input type="checkbox"/> Cell Phone <input checked="" type="checkbox"/>		
Physical Address (Street Number & Name) 5250 Stewart Ave			Apt #
City Las Vegas	State Nevada	Zip 89110	County Clark
Mailing Address (if different from physical address) Same as Above			
City	State	Zip	

Source of Income

Employer * (Source of Income) Unemployed	Employer Address (Street Number & Name)		
City	State	Zip	Time at Job?
Work Phone #	Title	Supervisor	
Pay Frequency: (check one) <input type="checkbox"/> 1st & 15th of month <input type="checkbox"/> 15th & end of month <input type="checkbox"/> Bi-weekly (every 2 weeks) <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly (last day) <input type="checkbox"/> Monthly (1st day) <input type="checkbox"/> Monthly (3rd day) <input type="checkbox"/> Self-Employed	Next Payday	Current and Expected Gross Monthly Income	Gross Monthly Obligation Work Shift
SEE CO-DEVELOPER PAGE			
*Alimony, child support or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation. Alimony, child support, or separate maintenance received under: <input type="checkbox"/> court order <input type="checkbox"/> written agreement <input type="checkbox"/> oral understanding.			
Are you currently in bankruptcy? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no			

Credit References

Business Name NV Energy	Phone # 702-367-5555
Address (Street Number & Name) 4276 W. Sahara	City Las Vegas
State NV	Zip 89151
Business Name COX	Phone # 702-838-2011
Address (Street Number & Name) 9240 W. Sahara Ave	City Las Vegas
State NV	Zip 89117

Personal References

Name Jolanda Piles	Address (Street Number & Name) 5250 Stewart Ave	City LV	State NV	Zip 89110
Relationship To You Daughter	Phone	Cell	N/A	
Name Pat Pilling	Address (Street Number & Name) 4618 Holloman	City LV	State NV	Zip 89110
Relationship To You Friend	Phone 702-278-5392	Cell	N/A	
Name Michael Miller	Address (Street Number & Name)	City	State	Zip
Relationship To You Friend	Phone (702) 838-6144	Cell		
Name Patricia Thomas	Address (Street Number & Name)	City	State	Zip
Relationship To You Friend	Phone (702) 618-8914	Cell		

Co-Applicant Information

Date 3/3/15	State Issued ID Number 2620371812	Date of Birth 09-1949	Social Security # 432-78-8544
Last Name Winkler	First Name Gloria	Middle Name Jean	
Home Phone NA	Cell Phone (702) 613-78-13	Email Address (optional) NA	
Best time to call? Evening	Which number do you prefer that we call? <input type="checkbox"/> Home Phone <input checked="" type="checkbox"/> Cell Phone		
Physical Address (Street Number & Name) 5250 Stewart		Apt # 2075	
City Las Vegas	State NV	Zip 89110	County Clark
Mailing Address (if different from physical address) Same			
City Same	State	Zip	
Employer * (Source of Income) Same		Employer Address (Street Number & Name)	
City Same	State	Zip	Time at Job?
Work Phone # NA	Job Title	Supervisor	
Pay Frequency (check one) <input type="checkbox"/> 1st & 15th of month <input type="checkbox"/> 15th & end of month <input type="checkbox"/> Biweekly (every 2 weeks) <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly (last day) <input type="checkbox"/> Monthly (1st day) <input checked="" type="checkbox"/> Monthly (3rd day) <input type="checkbox"/> Self-Employed	Next Payday 4-8-15	Current and Expected Gross Monthly Income \$1863 Gross Monthly Obligations \$600	Work Shift 12:30-5:00 PM Disability BW
*Alimony, child support or separate maintenance income need not be revealed if you do not wish to have it considered as a basis for repaying this obligation. Alimony, child support, or separate maintenance received under: <input type="checkbox"/> court order <input type="checkbox"/> written agreement <input type="checkbox"/> oral understanding. NA			
Are you currently in bankruptcy? <input type="checkbox"/> yes <input checked="" type="checkbox"/> no			
How did you hear about us? (Circle one.)			
Friend/Referral	Name of referrer?	Saw Store	Television
Internet	Billboard	Postcard	Other
		Yellow Pages	Repeat Customer <input checked="" type="checkbox"/>

ADDITIONAL TERMS AND CONDITIONS OF THIS CUSTOMER APPLICATION

Notice. The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580, www.ftc.gov

***Consent to E-mail Communications and Electronic Disclosures.** You are not required to provide your email address. If you provided your email address and authorized us to send emails to you ("Your Consent"), then you are requesting to receive emails from us. This includes disclosures and solicitations. You further consent to the use and acceptance of electronic records, and electronic disclosures. This Consent to E-mail Communications and Electronic Disclosures informs you of your rights when receiving legally required disclosures, notices, and any other information from us. By providing Your Consent, you acknowledge receipt of this disclosure. You consent to the use of electronic records, and disclosures. The emails and disclosures we may send, may include for example, disclosures or notices under state or federal law, including those pursuant to the Equal Credit Opportunity Act, Truth in Lending Act, Gramm-Leach-Bliley Act, and other disclosures or notices under applicable federal, state or local laws or regulations, or any other notices, information, or solicitations we may send. You may request a paper copy of any emailed disclosures by submitting a request through the link found within the emails. You may also send a written request to TitleMax, P. O. Box 8323, Savannah, GA 31412. We will provide such paper copies to you at no charge. We will retain all Disclosures as required by applicable law. Your Consent only applies to emails we send and receive. You consent to electronically receiving disclosures relating to transactions, accounts, and other emails electronically. Before deciding to obtain electronic disclosures, you acknowledge that you considered whether you have the required hardware and software capabilities. To access and retain Disclosures electronically, you will need to use the following computer software and hardware: a PC with Internet access and an Internet Browser that meets the following minimum requirements: Microsoft® Internet Explorer 8.1 or later versions or Mozilla Firefox 2.0 or later versions. The specific Internet Browser must also support at least 128-bit encryption. To read some documents, you will need a PDF file reader like Adobe® Acrobat Reader. If these requirements change and a material risk arises that you won't receive Disclosures electronically, we will notify you. You will need a printer or long-term storage, such as a disk drive, to retain, download, or print the Disclosures. You may withdraw Your Consent at any time. If you want to withdraw Your Consent, submit a request through the link in any email we send, or write to the address found in this disclosure. If you withdraw Your Consent, such withdrawal will not affect the legal effectiveness, validity, or enforceability of prior electronic Disclosures. If your electronic address, mailing address, telephone number, or any information you provided changes, then you agree to inform us. You may contact us by clicking the appropriate link in any email, or writing to the address in this disclosure. BY PROVIDING YOUR EMAIL ADDRESS, AND THEREBY AGREEING, YOU ACKNOWLEDGE AND AGREE THAT YOU: (1) CAN ACCESS THE DISCLOSURES IN THE DESIGNATED FORMATS DESCRIBED ABOVE, (2) READ THE INFORMATION ABOUT ELECTRONIC RECORDS, AND DISCLOSURES, IN THIS CONSENT TO E-MAIL COMMUNICATIONS AND ELECTRONIC DISCLOSURES, (3) CONSENT TO HAVING DISCLOSURES PROVIDED OR MADE AVAILABLE TO YOU IN ELECTRONIC FORM, (4) CONSENT TO DOING BUSINESS WITH US ELECTRONICALLY, AND (5) MAY REQUEST A PAPER COPY OF ANY EMAILED DISCLOSURES, WHICH WE WILL PROVIDE TO YOU AT NO CHARGE. You may request and obtain a copy of this information to retain for future reference

Cellular Phone Calls: Receipt of cellular phone calls may be subject to charges from your service provider. If you have listed a cell phone above or you give us an updated cell phone number, then you authorize us to call your cell phone number to provide account information such as payment reminders and special promotional offers or sales offers such as offers for credit services, credit, or other financial services.

Phone Messages. You authorize us to contact the phone numbers listed. You authorize us to mail correspondence to your address. You authorize us to call and leave messages on any answering machine at your phone numbers above.

Release of Information. You authorize us to verify all of the information that you have provided and you acknowledge that this information may be used to verify certain past or current credit or payment history information from third party source(s). You further authorize and consent that we may contact any person or company listed on this Customer Application, including any persons that you may add at a later date. Your application may be rejected if any information provided is found to be false.

Credit Inquiries and Reporting Authorization. By signing below, you further agree and authorize us to obtain your credit history reports from credit bureaus and other credit reporting agencies or companies.

ARBITRATION. Arbitration is a means for legal matters between parties to be resolved by a neutral arbitrator rather than a Court. We have a policy of arbitrating all claims, demands, and disputes which cannot be resolved in a small claims tribunal, including the scope and validity of this arbitration provision and any right you may have to participate in an alleged class action (hereinafter "dispute(s)"). All customer agreements contain another arbitration provision that supersedes this arbitration provision and governs the resolution of disputes. However, if you do not enter into a customer agreement with us, then this arbitration provision governs the resolution of disputes. You agree that **YOU ARE WAIVING YOUR RIGHT TO HAVE A TRIAL BY JURY** to resolve disputes against us. The Federal Arbitration Act governs this arbitration provision. If any party has a dispute, they must notify the others in writing of the dispute. You have the right to select either of the following arbitration organizations, which will govern the arbitration under its consumer rules: American Arbitration Association (1-866-778-7879) <http://www.aac.org> or JAMS (1-800-352-5267) <http://www.jamsadr.com>, and we will advance all of the expenses associated with the arbitration, including the filing, administrative, hearing and arbitrator's fees. You will be responsible for your attorney's fees, if any. Any appeal of a judgment from a small claims tribunal shall be resolved by binding arbitration. The arbitrator shall not conduct class arbitration. The arbitration hearing will be conducted in the county in which this Customer Application was signed. If the arbitration associations listed above are not available and the parties cannot otherwise agree on a substitute, then any party may petition a court pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. sections 1-16 to select an arbitration organization, provided such arbitration organization shall enforce the terms of this Customer Application and the Arbitration Provision, including the prohibition on class arbitration.

WARNING: This type of transaction is only intended to address short-term, NOT long-term, credit needs. Repeated or frequent use can create serious financial hardships. You should evaluate the costs and benefits of all alternatives before entering into this type of transaction. Other forms of short-term credit that may be less expensive include a loan from another institution or from family or friends, a credit card cash advance, an account with overdraft protection, or a salary advance.

Privacy Policy. You verify that you have received a copy of the company's Privacy Policy.

Updates: You agree to inform us of any changes to the information contained in this Customer Application throughout the course of your business relationship with us.

Ability to Repay Verification.

Pursuant to Nevada law, we are required to obtain a written and signed Affidavit from you addressing the following: (i) you have provided TitleMax with true and correct information concerning your income, obligations, employment and ownership of the vehicle; and (ii) you have the ability to repay. You will be asked to sign the Affidavit before signing the Title Loan Agreement. TitleMax offers a "thirty day" Title Loan and six "thirty day" extensions as allowed by Nevada law. In addition, Nevada law requires that the amount of our loan does not exceed the fair market value of your motor vehicle. Furthermore, we have a policy of allowing those who remain in good standing with TitleMax by timely extending their loan obligations six times as allowed by law, to participate in an interest free workout repayment plan, in which no down payment is required. For such customers, we typically agree to a 7 to 8 month interest free repayment plan with a payment amount that never exceeds the extension payment amount. Therefore, in performing our internal underwriting and ability to repay analysis for your requested loan, we will (i) examine the motor vehicle and determine its fair market value, and (ii) rely upon the employment and sources of income information as well as the current and expected gross monthly income and obligations made in this Application, and assume no changes in same for 14 months. **IF YOU EXPECT (i) YOUR EMPLOYMENT OR SOURCE OF INCOME, OR (ii) YOUR GROSS MONTHLY INCOME AND GROSS MONTHLY OBLIGATIONS TO CHANGE IN THE NEXT 14- 15 MONTHS, PLEASE EXPLAIN THE CHANGES AS FOLLOWS:**

NO

By signing below and submitting this Customer Application, you are verifying that all of the information in this Customer Application is accurate and correct, including the personal references, contact information, employment or source of income, and current and

expected gross monthly income and obligations. You agree that you have told us about any changes you expect within the next 14 months relating to (i) your employment or source of income, and (ii) current and expected gross monthly income and obligations. You agree that you have read and understood all the above statements, including the Arbitration Provision.

Diana Whitaker

Applicant Signature

3/3/15

Date

Maria J. Whitaker

Co-Applicant Signature

3/3/15

Date

Contrato De Préstamo Sobre Vehículo

Fecha: 3/6/2015

Número: 12169-0153927

Información del Cliente & Co-Cliente		NÚMERO DE CUENTA: 12169-0153927	
NOMBRE DE PILA Devon	APELLIDO Whitaker	NOMBRE DE PILA DEL CO-CLIENTE Gloria	NOMBRE DE PILA DEL CO-CLIENTE Whitaker
SEGURO SOCIAL (SSN) XXX-XX-5416	LIC. DE CONDUCIR/ID. DE ESTADO NO.2600371012	SSN DEL CO-CLIENTE XXX-XX-8544	LIC. DE CONDUCIR/ID. DE ESTADO NO. DEL CO-CLIENTE
DOMICILIO 3866 Lincoln Rd		DOMICILIO CO-CLIENTE 5250 Steward #2075	
CIUDAD Las Vegas	ESTADO NV	CODIGO POSTAL 89115	CIUDAD - CO-CLIENTE Las Vegas
			ESTADO - CO-CLIENTE NV
			CODIGO POSTAL CO-CLIENTE 89110
TELÉFONO CASA (702)651-0152	FECHA DE NACIMIENTO 2/10/1985	TELÉFONO CASA CO-CLIENTES (702)613-7813	FECHA DE NACIMIENTO CO-CLIENTE 9/19/1949
Datos del Vehículo y del Titular		HORAS DE ATENCIÓN DEL TITULAR Lunes a Viernes 9:00 A.M. a 7:00 P.M., Sábado 10:00 A.M. a 4:00 P.M., No se atiende los Domingos	
NOMBRE DE PILA/NOMBRE DEL TITULAR TitleMax of Nevada, Inc. d/b/a TitleBucks		NÚMERO DE TELÉFONO DEL TITULAR (702)877-4141	
DOMICILIO DEL TITULAR 4750 W. Lake Mead, #102		CIUDAD DEL TITULAR Las Vegas	ESTADO DEL TITULAR NV
		CÓDIGO POSTAL DEL TITULAR 89108	
NÚMERO DE IDENTIFICACIÓN DEL VEHÍCULO (VIN) 1FTRW07632KA21582		PLACA DE CIRCULACIÓN 833-TSP	
AÑO DEL VEHÍCULO 2002	MARCA DEL VEHÍCULO FORD	MODELO DEL VEHÍCULO F150	COLOR DEL VEHÍCULO GOLD

Términos. En este Contrato de Préstamo sobre Vehículo ("Contrato de Préstamo"), las palabras "cliente", usted, y "su" se refieren al cliente que lo firma. Las palabras "Titular", "nosotros", y "nuestro" se refieren a TitleMax de Nevada, Inc. d/b/a TitleMax un prestamista sobre vehículos autorizado y regulado por la División de Instituciones Financieras de Nevada, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121, Teléfono: (702) 488-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. La palabra "Vehículo" se refiere a el vehículo ya identificado. La palabra "Título" se refiere al certificado de título o propiedad del vehículo ya identificado.

Plazo, Capital, Interés, Costos y Pagos. El plazo original de este préstamo es de 210 días. Usted promete pagarnos puntualmente en efectivo o según algún otro acuerdo escrito \$2,000.00 ("Monto de Capital"), el cual incluye cualquier costo de presentación descrito a continuación además de todo interés sobre el saldo de capital no pagado de este Contrato de Préstamo a una tasa diaria de 0.333% a partir de la fecha de este Contrato de Préstamo hasta 09/29/2015 el que sea más temprano entre: (i) la fecha de vencimiento de su último pago, según se define en el Horario de Pago a continuación; o (ii) se cancele por completo. Usted también promete pagar cualquier otro costo dispuesto en este Contrato de Préstamo. Usted acuerda hacer sus pagos en las cantidades y fechas indicadas en el Horario de Pago a continuación ("Fecha de Vencimiento") en el domicilio antedicho, o en cualquier otro domicilio según se le indique por escrito. Si alguna Fecha de Vencimiento cae en un día donde no atendemos, entonces usted acuerda pagarnos al siguiente día hábil, y acreditaremos dicho pago como si hubiera sido hecho en la Fecha de Vencimiento en sí. El Contrato de Préstamo toma efecto en la fecha en el que lo firma. La Puntualidad es clave en este Contrato de Arrendamiento. En consideración a que usted nos entregará el Título a nosotros y nos concede una garantía de interés sobre el Vehículo delindo a continuación, usted promete pagar puntualmente según se define en el Contrato de Préstamo, y nosotros acordamos concederle el préstamo en la Cantidad de Capital dispuesta arriba.

APP 012018
ROA 010724
TMX 100 - 00009

FEDERAL TRUTH-IN-LENDING DISCLOSURE

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of your credit as a yearly rate.	The dollar amount the credit will cost you.	The amount of credit provided to you or on your behalf.	The amount you will have paid after you have made all payments as scheduled.
121.545 %	\$874.71	\$2,000.00	\$2,874.71

Your payment schedule will be:

Number of Payments	Amount of Payments	When Payments are Due
6	\$410.68	4/2/2015 and each 30 days thereafter
1	\$410.63	9/29/2015

Security: You are giving a security interest in the Title to the Motor Vehicle.
 Filing Fee: \$ 0.00
 Prepayment: If you pay off early, you will not have to pay a penalty, and you may be entitled to a refund of part of the finance charge

See the terms below and on the other pages of this Loan Agreement for any additional information about nonpayment, default, any required repayment in full before the scheduled date and any prepayment refunds and penalties.

Itemization of Amount Financed of	\$2,000.00
1. Amount given to you directly:	\$2,000.00
2. Amount paid on your account:	\$0.00
3. Amount paid to public officials:	\$ 0.00
4. Amount paid to _____ on your behalf:	\$0.00

Calculation of Interest, Application of Payments and Security Interest. We use the simple interest method to calculate the interest. We calculated the simple interest assuming you will pay on the scheduled Payment Dates. If you make your payments on the dates set forth in the Payment Schedule, the Finance Charge box above discloses the total amount of interest you will owe us under this Loan Agreement. Payments are calculated to ratably and fully amortize the entire Principal Amount and interest payable. Interest is not compounded. Early payments may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We require you to give us possession of the Title, and you hereby give us possession of the Title. You grant us a security interest in the Motor Vehicle listed above. We will maintain possession of the Title during this Loan Agreement.

Right to Rescind and Prepayment. You may rescind this loan pursuant to Nevada law. You may rescind before we close on our next business day, at the location listed above. We will not charge you any amount for rescinding. To rescind, you must deliver funds equal to the face value of the loan, less any fees charged. If you rescind, then we will return the Title to you, and refund any amount paid. You have the right to make payments in any amount in advance at any time without incurring any charge, fee or penalty. If you prepay any amount at any time, then the final payment amounts will be adjusted as appropriate to reflect any prepayments we receive. If you prepay pursuant to this Loan Agreement, then we will return the Title to you.

Grace Period. For purposes of this Loan Agreement, the term "grace period" means the gratuitous period of payments deferment (i) which we offer to you after entering into this Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210, (ii) you voluntarily accept such terms of the payments deferment after entering into the Loan Agreement, and (iii) you and we agree to such terms of payments deferment in a written and signed "Grace Period Payments Deferment Agreement." We allow customers that are in good standing during the term of this Loan Agreement to request and enter into a Grace Period Payments Deferment Agreement. You may request and enter into a Grace Period Payments Deferment Agreement by returning to our store not earlier than one business day following the date of this Loan Agreement. If you enter into a Grace Period Payments Deferment Agreement, your obligation to pay simple interest under this Loan Agreement remains unchanged. Other than the interest and fees originally provided for in this Loan Agreement, we do not charge you any additional fees or interest for entering into a Grace Period Payments Deferment Agreement.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5358

Page 2 of 4

TM TB NV installment loan agreement 11/04/2014

APP 012019
 ROA 010725
 TMX 100 - 00010

Repayment Plan Disclosure: If you default on your loan, we must offer a Repayment Plan to you before we commence any civil action or process of alternative dispute resolution, or before we repossess the Motor Vehicle.

Repayment Plan. If you default and are entitled to enter into a Repayment Plan, we will offer you a "Repayment Plan." We will give you the opportunity to enter into a Repayment Plan for 30 days after such default. The minimum term of the "Repayment Plan" is 90 days. We may require you to make an initial payment of not more than 20 percent of the total amount due under the terms of the Repayment Plan. We shall not except as otherwise provided by this NRS 604A, charge any other amount to you, including, without limitation, any amount or charge payable directly or indirectly by you and imposed directly or indirectly by us as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation: (i) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or (ii) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. We will not take additional security for entering into a Repayment Plan or attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. We will not sell you any insurance or require you to purchase insurance or any other goods or services to enter into the Repayment Plan. We will not make any other loan to you while you are in a Repayment Plan. Upon default of your obligations under the Repayment Plan, we may repossess the Motor Vehicle.

Default, Acceleration, Repossession, and Post-Default Interest. You will be in default and entitled to enter into a Repayment Plan on the day immediately following the date you fail to (i) make a scheduled payment on this loan; (ii) make a scheduled payment on or before the due date for the payment under the terms Grace Period Payments Deferment Agreement; (iii) pay this loan in full on or before the expiration of the initial loan period as set forth herein unless you have entered into a Grace Period Payments Deferment Agreement; (iv) pay this loan in full on or before the expiration of the period as set forth Grace Period Payments Deferment Agreement; or (v) pay any payment under any Grace Period we have extended under NRS 604A.210. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. However, we are not required to make an offer for you to enter into a Repayment Plan more than once for each loan. Provided that the due date of the repayment plan does not violate the provisions of Nevada Law, you will be in default and not entitled to enter into a Repayment Plan, if you fail (i) to make a scheduled payment on this loan on or before the due date for the payment under the terms of any repayment plan relating to this loan or (ii) to pay a loan in full on or before the due date any repayment plan relating to the loan. If you are in default and entitled to enter into a Repayment Plan, we may accelerate the balance, but we cannot repossess the Motor Vehicle before offering you a Repayment Plan. If you are in default under the Loan Agreement and Grace Period Payments Deferment Agreement and not entitled to enter into a Repayment Plan or if you are in default under the Repayment Plan, we may seek repossession and sale of the Motor Vehicle as well as any other remedy allowed by Nevada law. If you use fraud to secure a title loan, or if you wrongfully transfer any interest in the Motor Vehicle to a third party, then we may bring a civil action against you for any or all of the following relief: (i) the amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by us and you as permitted, less any prior payments made by you; (ii) reasonable attorney's fees and costs; and (iii) any other legal or equitable relief that the court or arbitrator deems appropriate. If we do not use one or more remedies following your default, we do not waive our right to the same or another remedy or remedies. Our rights herein are cumulative, not exclusive.

Governing Law and Assignment. Nevada law governs this Loan Agreement, except the Federal Arbitration Act ("FAA") governs the Waiver of Jury Trial and Arbitration Provision. We may assign or transfer this Loan Agreement or any of our rights.

Affidavit. You acknowledge and agree that you provided us with an affidavit stating: (a) The customer provided licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the Motor Vehicle; and (b) The customer has the ability to repay the title loan.

WAIVER OF JURY TRIAL AND ARBITRATION PROVISION. Arbitration is a process in which persons with a dispute: (a) waive their rights to file a lawsuit and proceed in court and to have a jury trial to resolve their disputes; and (b) agree, instead, to submit their disputes to a neutral third person (an "arbitrator") for a decision. Each party to the dispute has an opportunity to present some evidence to the arbitrator. Pre-arbitration discovery may be limited. Arbitration proceedings are private and less formal than court trials. The arbitrator will issue a final and binding decision resolving the dispute, which may be enforced as a court judgment. A court rarely overturns an arbitrator's decision. **THEREFORE, YOU ACKNOWLEDGE AND AGREE AS FOLLOWS:**

1. For purposes of this Waiver of Jury Trial and Arbitration Provision (hereinafter the "Arbitration Provision"), the words "dispute" and "disputes" are given the broadest possible meaning and include, without limitation (a) all claims, disputes, or controversies arising from or relating directly or indirectly to the signing of this Arbitration Provision, the validity and scope of this Arbitration Provision and any claim or attempt to set aside this Arbitration Provision; (b) all federal or state law claims, disputes or controversies, arising from or relating directly or indirectly to this Loan Agreement (including the Arbitration Provision), the information you gave us before entering into this Loan Agreement, and/or any past agreement or agreements between you and us; (c) all counterclaims, cross-claims and third-party claims; (d) all common law claims, based upon contract, tort, fraud, or other intentional torts; (e) all claims based upon a violation of any state or federal constitution, statute or regulation; (f) all claims asserted by us against you, including claims for money damages to collect any sum we claim you owe us; (g) all claims asserted by you individually against us and/or any of our employees, agents, directors, officers, shareholders, governors, managers, members, parent company or affiliated entities (hereinafter collectively referred to as "related third parties"), including claims for money damages and/or equitable or injunctive relief; (h) all claims asserted on your behalf by another person; (i) all claims asserted by you as a private attorney general, as a representative and member of a class of persons, or in any other representative capacity, against us and/or related third parties (hereinafter referred to as "Representative Claims"); and/or (j) all claims arising from or relating directly or indirectly to the disclosure by us or related third parties of any non-public personal information about you.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 904-6398

Page 3 of 7

TM - B Nevada Loan Agreement 2/14/17

APP 012020
ROA 010726
TMX 100 - 00011

2. You acknowledge and agree that by entering into this Arbitration Provision:

- (a) YOU ARE WAIVING YOUR RIGHT TO HAVE A TRIAL BY JURY TO RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES;
- (b) YOU ARE WAIVING YOUR RIGHT TO HAVE A COURT, OTHER THAN A SMALL CLAIMS TRIBUNAL, RESOLVE ANY DISPUTE ALLEGED AGAINST US OR RELATED THIRD PARTIES; and
- (c) YOU ARE WAIVING YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, AND/OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT FILED AGAINST US AND/OR RELATED THIRD PARTIES.

3. Except as provided in Paragraph 6 below, all disputes including any Representative Claims against us and/or related third parties shall be resolved by binding arbitration only on an individual basis with you. THEREFORE, THE ARBITRATOR SHALL NOT CONDUCT CLASS ARBITRATION; THAT IS, THE ARBITRATOR SHALL NOT ALLOW YOU TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY FOR OTHERS IN THE ARBITRATION.

4. Any party to a dispute, including related third parties, may send the other party written notice by certified mail return receipt requested of their intent to arbitrate and setting forth the subject of the dispute along with the relief requested, even if a lawsuit has been filed. Regardless of who demands arbitration, you shall have the right to select either of the following arbitration organizations to administer the arbitration: the American Arbitration Association (1-800-778-7879) <http://www.adr.org>, or JAMS (1-800-352-5267) <http://www.jamsadr.com>. However, the parties may agree to select a local arbitrator who is an attorney, retired judge, or arbitrator registered and in good standing with an arbitration association and arbitrate pursuant to such arbitrator's rules. If the arbitration associations listed above are not available and the parties cannot otherwise agree on a substitute, then any party may petition a court pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. sections 1-16 to select an arbitration organization, provided such arbitration organization shall enforce the terms of this Loan Agreement and the Arbitration Provision, including the prohibition on class arbitration. The party receiving notice of arbitration will respond in writing by certified mail return receipt requested within twenty (20) days. If you demand arbitration, you must inform us in your demand of the arbitration organization you have selected or whether you desire to select a local arbitrator. If related third parties or we demand arbitration, you must notify us within twenty (20) days in writing by certified mail return receipt requested of your decision to select an arbitration organization or your desire to select a local arbitrator. If you fail to notify us, then we have the right to select an arbitration organization. The parties to such dispute will be governed by the rules and procedures of such arbitration organization applicable to consumer disputes, to the extent those rules and procedures do not contradict the express terms of this Loan Agreement or the Arbitration Provision, including the limitations on the arbitrator below. You may obtain a copy of the rules and procedures by contacting the arbitration organization listed above.

5. Regardless of who demands arbitration, we will advance your portion of the expenses associated with the arbitration, including the filing, administrative, hearing and arbitrator's fees ("Arbitration Fees"). Throughout the arbitration, each party shall bear his or her own attorneys' fees and expenses, such as witness and expert witness fees. The arbitrator shall apply applicable substantive law consistent with the FAA, and applicable statutes of limitation, and shall honor claims of privilege recognized at law. The arbitration hearing will be conducted in the county of your residence, or within 30 miles from such county, or in the county in which the transaction under this Loan Agreement occurred, or in such other place as shall be ordered by the arbitrator. The arbitrator may decide, with or without a hearing, any motion that is substantially similar to a motion to dismiss for failure to state a claim or a motion for summary judgment. In conducting the arbitration proceeding, the arbitrator shall not apply any federal or state rules of civil procedure or evidence. If allowed by statute or applicable law, the arbitrator may award statutory damages and/or reasonable attorneys' fees and expenses. If the arbitrator renders a decision or an award in your favor resolving the dispute, then you will not be responsible for reimbursing us for your portion of the Arbitration Fees, and we will reimburse you for any Arbitration Fees you have previously paid. If the arbitrator does not render a decision or an award in your favor resolving the dispute, then the arbitrator shall require you to reimburse us for the Arbitration Fees we have advanced, not to exceed the amount which would have been assessed as court costs if the dispute had been resolved by a state court with jurisdiction, less any Arbitration Fees you have previously paid. At the timely request of any party, the arbitrator shall provide a written explanation for the award. The arbitrator's award may be filed with any court having jurisdiction.

6. All parties, including related third parties, shall retain the right to seek adjudication in a small claims tribunal for disputes within the scope of such tribunal's jurisdiction. Any dispute, which cannot be adjudicated within the jurisdiction of a small claims tribunal, shall be resolved by binding arbitration. Any appeal of a judgment from a small claims tribunal shall be resolved by binding arbitration. Furthermore, nothing in this Arbitration Provision shall limit the right of you or us (a) to foreclose against the Motor Vehicle by the exercise of any power under the Loan Agreement or under applicable law, (b) to exercise self-help remedies such as set off or repossession, or (c) to obtain provisional or ancillary remedies such as pre-judgment seizure of property, delinque, replevin, or injunctive relief, or to seek or obtain any other traditional equitable relief which does not claim money damages from a court having jurisdiction. The institution and maintenance by you or us of any action set forth in this Paragraph 6 shall not constitute a waiver of the right to submit any dispute to arbitration, including any counterclaim asserted.

7. This Arbitration Provision is made pursuant to a transaction involving interstate commerce and shall be governed by the FAA. If a final non-appealable judgment of a court having jurisdiction over this transaction finds, for any reason, that the FAA does not apply to this transaction, then our agreement to arbitrate shall be governed by the arbitration law of the State of Nevada.

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368

Page 4 of 5

T&T NV installment loan agreement 2-04 2-14

APP 012021
ROA 010727
PMX 100 - 00012

8. This Arbitration Provision is binding upon you, your respective heirs, successors and assigns. The Arbitration Provision is binding upon and benefits us, our successors and assigns, and related third parties. The Arbitration Provision continues in full force and effect, even if your obligations have been prepaid, paid or discharged through bankruptcy. The Arbitration Provision survives any termination, amendment, expiration or performance of any transaction between you and us and continues in full force and effect unless you and we otherwise agree in writing.

9. **OPT-OUT PROCESS.** You may choose to opt-out of this Arbitration Provision but only by following the process set forth below. If you do not wish to be subject to this Arbitration Provision, then you must notify us in writing within sixty (60) calendar days of the loan date at the following address: TitleMax of Nevada, Inc. d/b/a TitleMax, Attn: Legal Dept, P.O. Box 8323, Savannah, GA 31412. Your written notice must include your name, address, Account number, the loan date, and a statement that you wish to opt out of the Arbitration Provision. If you choose to opt out, then your choice will apply only to this Loan Agreement.

Acknowledgments. This Loan Agreement contains a binding **Waiver of Jury Trial and Arbitration Provision**. By signing this Loan Agreement you acknowledge that it was filled in before you did so and that you received a completed copy of it. You agree that the information you provided before entering into this Loan Agreement is accurate. You warrant that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. You agree that the amount of the loan does not exceed the fair market value of the Motor Vehicle. You agree that you have the ability to repay this Loan Agreement, based upon your current and expected income, obligations, and employment. You acknowledge that the loan does not require a balloon payment of any kind. You further acknowledge that you have read, understand, and agree to all of the terms of this Loan Agreement, including the Waiver of Jury Trial and Arbitration Provision.

THIS DOCUMENT IS SUBJECT TO A SECURITY INTEREST IN FAVOR OF, AND PLEDGED AS COLLATERAL TO, WELLS FARGO BANK, NATIONAL ASSOCIATION, AS COLLATERAL AGENT.

TitleMax of Nevada, Inc. d/b/a TitleBucks

Gloria Whitaker
Customer's Signature

3-3-15
Date

[Signature]
Its Authorized Agent

3-3-15
Date

Gloria Whitaker
Co-Customer's Signature

3-3-15
Date

Any comments or questions may be directed to Customer Service at the following toll-free number: (800) 804-5368

Page 3 of 3

TM TR NV Installment Loan Agreement 2.10.14.11

APP 012022
ROA 010728
TMX 100 - 00013

Affidavit

STATE OF NEVADA
COUNTY OF CLARKTitle Loan Agreement No.: 12169-0153927
Date: 03/03/2015

Customer Name: DEVON WHITAKER Address: 3866 LINCOLN RD LAS VEGAS, NV 89115 Co-Borrower Name: GLORIA WHITAKER Address: 3866 LINCOLN RD LAS VEGAS, NV 89115	Licensee Name: TitleMax of Nevada, Inc. d/b/a Titlebucks Address: 4750 W. Lake Mead #102 LAS VEGAS, NV 89108
Vehicle Information: VIN: 1F-TRWU7632KA21562 License Plate State and No: 833TSP Color: Gold Year: 2002 Make: ford Model: f150	

In this Affidavit ("Affidavit"), the words "affiant," customer," "you" and "your" mean the customer who has signed it. The words "Licensee", "we", "us" and "our" mean TitleMax of Nevada, Inc. d/b/a Titlebucks, a provider of title loan services, registered, licensed, and operating in accordance with Nevada law and regulated by the Nevada Financial Institutions Division, 406 E. 2nd Street, Suite 3, Carson City, Nevada 89701-4758, Phone: (775) 684-1830, Fax: (775) 684-1845. The word "Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership issued pursuant to the laws of the State of Nevada that identifies the legal owner of a vehicle or any similar document issued pursuant to the laws of another jurisdiction.

Pursuant to N.R.S. 604A.450-1, we have evaluated the Vehicle's fair market value. Pursuant to N.R.S. 604A.450-2, we have reviewed your application information regarding current and expected income, obligations and employment.

Pursuant to N.R.S. 604A.450-3, you are required to give us an affidavit which states: (a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, employment and ownership of the vehicle; and (b) The customer has the ability to repay the title loan.

The undersigned, DEVON WHITAKER, being first duly sworn, states as follows:

1. You have provided us with true and correct information concerning your income, obligations, employment and ownership of the vehicle; and
2. You have the ability to repay the title loan.

FURTHER, AFFIANT SAYETH NOT.

Customer Signature: Devon Whitaker

Co-Borrower Signature: Gloria Whitaker

Transaction History																							
Customer																							
Customer: Whitaker, Devon					Cust Nbr: 633889					Pay Frequency: Monthly													
Co-Borrower Nbr: 627735					Collateral Type: VEHICLE					Is HitList Customer: No													
Income Amount: 1.00					Bankruptcy: N/A					Owner Ship Type: N/A													
Is Co-Borrower on the Contract: Yes					Is Co-Borrower Is an Additional Owner: Yes																		
Loan																							
Loan Nbr: 20153927					Loan Date: 03/03/2015					Due Date : 10/29/2015													
Loan Amt: 2000.00					DMV Fee : 0.00																		
Daily Interest : 0.0000					LOT Status: LOT 3					Interest Rate: 121.55													
EMLV: 0																							
Payment & Outstanding																							
Principal Paid To Date: 29.07					Interest Paid To Date: 1390.33					Penalty Fees Paid To Date: 0.00													
Principal Outstanding: 1970.93					Earned and Unpaid Interest: 0.00					Penalty Fees Due: 0.00													
Principal Balance Remaining: 1970.93																							
No. of Inst: 14					Inst Amt: 410.68					APR %: 121.55													
Amount Due Today: 1970.93																							
Other Info.																							
Key Capture: No					Title Status:					Certificate #:													
Refinance: (Y/N) N					Refinanced Loan Nbr:																		
Add-On Amount: 0					Opt-out of Arbitration (Y/N): N					Opt-out of Privacy Policy (Y/N): N													
Vehicle Information																							
Make	Model	Vin	Year	Series	BlackBook Value	Grade	Gross Income	Customer Income Information															
FORD	F150	1FTRW07632KA21562	2002	4	0	Average	0																
Transactional Events																							
Select	Loc Nbr	Loan Nbr	Trans Date	Transaction	Trans Amt	Tender type	Principal Amt	Interest	CSO	DMV	Orig	NSF	Late	Waived	Waived	Waived	Repos	Sale	Refund	Emp Name	Paid By		
	1216920153927	10/06/2015	Payment	-169.20	Cash	-1.63	-167.57	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	MARSHALL, VALSINA	Customer Paid	
	1216920153927	09/08/2015	Payment	-220.00	Cash	0.00	-220.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	Chaney, Megan	Customer Paid	
	1216920153927	08/01/2015	Payment	-210.20	Cash	0.00	-210.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	Garcia, Maria	Customer Paid	
	1216920153927	06/30/2015	Payment	-220.00	Cash	-27.44	-192.56	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	Garcia, Maria	Customer Paid	
	1216920153927	06/04/2015	Payment	-200.00	Cash	0.00	-200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	MARSHALL, VALSINA	Customer Paid	
	1216920153927	05/04/2015	Payment	-200.00	Cash	0.00	-200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	System, TLX	Customer Paid	
	1216920153927	04/06/2015	Payment	-200.00	Cash	0.00	-200.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	System, TLX	Customer Paid	
	1216920153927	03/03/2015	Advance	2000.00	Check	2000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	System, TLX		
	Receipt		Print History		DMV Form		VCR Form		Print Screen		Cancel												
Check Details																							
To	Check Number					check Amt					Reprint_Check												
Whitaker, Devon	NA					1980.00					Yes												
DMV	NA					20.00					Yes												
Installment Summary																							
Installment	Installment Date	Payment Date	Amount	Installment Status																			
1	04/02/2015	04/06/2015	199.80	PAID																			
2	05/02/2015	05/04/2015	199.80	PAID																			
3	06/01/2015	06/04/2015	199.00	PAID																			
4	07/01/2015	06/30/2015	199.00	PAID																			
5	07/31/2015	08/01/2015	199.80	PAID																			
6	08/30/2015	09/08/2015	199.80	PAID																			
7	09/29/2015	10/06/2015	199.80	PAID																			
8	10/29/2015	10/29/2015	285.71	OPEN																			
9	11/28/2015	11/28/2015	285.71	OPEN																			
10	12/28/2015	12/28/2015	285.71	OPEN																			
11	01/27/2016	01/27/2016	285.71	OPEN																			
12	02/26/2016	02/26/2016	285.71	OPEN																			
13	03/27/2016	03/27/2016	285.71	OPEN																			
14	04/26/2016	04/26/2016	285.74	OPEN																			
Other Payments 1419.4																							
Original Schedule																							
Pmt #	Pmt Date	Days	Pmt	New Interest	Matured Interest	Unpaid Interest	Principal	Balance															
1	04/02/2015	30	410.68	199.8000	199.8000	199.8000	210.88	1789.12															
2	05/02/2015	30	410.68	178.7300	178.7300	178.7300	231.95	1557.17															

APP 012024

ROA 010730

TMX 100 - 00015

3	06/01/2015	30	410.68	155.5600	155.5600	155.5600	255.12	1302.05
4	07/01/2015	30	410.68	130.0700	130.0700	130.0700	280.61	1021.44
5	07/31/2015	30	410.68	102.0400	102.0400	102.0400	308.64	712.80
6	08/30/2015	30	410.68	71.2100	71.2100	71.2100	339.47	373.33
7	09/29/2015	30	410.63	37.3000	37.3000	37.3000	373.33	0.00
Title Tracking Status								
Title Status				Transaction Date				
New Loan				2015-03-03 13:10:27.0				
Title Charge Off								
Charge Off Status				Transaction Date				
Document Information								
SNO	Document Description			Document Name		Date Created		

Customer Receipt/Repayment Plan Receipt (210 day loan)

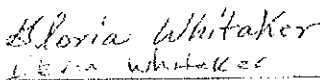
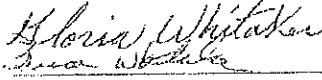
NAME AND ADDRESS OF THE LICENSEE: Tb Las Vegas Nv #1 4750 W Lake Mead, #102 Las Vegas, NV 89108	PAYMENT MADE ON BEHALF OF OR BY: Devon Whitaker
LOAN AGREEMENT IDENTIFICATION NO. 12169-0153927 LOAN AGREEMENT DATE: 3/3/2015 1 10:27 PM If you have multiple loans, this payment was applied to the loan number identified above.	DATE/TIME OF RECEIPT OF PAYMENT: 04/06/2015 06:06:11 PM
AMOUNT PAID: \$200.00	AGENT RECEIVING PAYMENT: Marisa Polit

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$0.00
INTEREST PAID:	\$200.00
CHARGES PAID:	\$0.00
FEES PAID:	\$0.00
TOTAL AMOUNT PAID TODAY:	\$200.00
BALANCE DUE ON LOAN:	\$2,026.44
NEXT SCHEDULED DUE DATE:	5/2/2015

- ☐ Account paid in full by rescission.
- ☐ Account paid in full.
- ☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you
- ☐ Repayment Plan Agreement.
- ☐ Grace Period Plan Agreement.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

 _____ Printed Name	 _____ Signature
--	---

Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: Tb Las Vegas Nv #1 4750 W. Lake Mead, #102 Las Vegas, NV 89108		PAYMENT MADE ON BEHALF OF OR BY: Devon Whitaker
LOAN AGREEMENT IDENTIFICATION NO. 12169-0153927 LOAN AGREEMENT DATE: 3/3/2015 1:10:27 PM If you have multiple loans, this payment was applied to the loan number identified above.		DATE/TIME OF RECEIPT OF PAYMENT: 05/04/2015 10:33:43 AM
AMOUNT PAID: \$200.00	AGENT RECEIVING PAYMENT: Megan Chaney	

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$0.00
INTEREST PAID:	\$200.00
CHARGES PAID:	\$0.00
FEES PAID:	\$0.00
TOTAL AMOUNT PAID TODAY:	\$200.00
BALANCE DUE ON LOAN:	\$2,012.92
NEXT SCHEDULED DUE DATE:	6/1/2015

- ☐ Account paid in full by rescission.
- ☐ Account paid in full.
- ☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
- ☐ Repayment Plan Agreement.
- ☐ Grace Period Plan Agreement.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

Devon Whitaker
Printed Name

Devon Whitaker
Signature

Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, Las Vegas, Nevada 89108.		PAYMENT MADE ON BEHALF OF OR BY: DEVON WHITAKER 3866 Lincoln Rd, Las Vegas, NV, 89115	
LOAN AGREEMENT IDENTIFICATION NO. 20153927-12169		DATE/TIME OF RECEIPT OF PAYMENT: 06/04/2015 16:00:09	
LOAN AGREEMENT DATE: 03/03/2015			
If you have multiple loans, this payment was applied to the loan number identified above.			
AMOUNT PAID: 200.00		AGENT RECEIVING PAYMENT: VALSINA MARSHALL	

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$ 0.00
INTEREST PAID:	\$ 200.00
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 200.00
UNPAID INTEREST:	\$ 19.39
BALANCE DUE ON LOAN:	\$ 2019.39
NEXT SCHEDULED DUE DATE:	07/01/2015

- ☐ Account paid in full by rescission
- ☐ Account paid in full
- ☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
- ☐ Repayment Plan Agreement
- ☐ Grace Period Plan Agreement

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

DEVON WHITAKER <small>Printed Name</small>	[Signature] <small>Signature</small>
GLORIA WHITAKER <small>Printed Name</small>	GLORIA WHITAKER <small>Signature</small>

Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, Las Vegas, Nevada 89108.		PAYMENT MADE ON BEHALF OF OR BY: DEVON WHITAKER 3866 Lincoln Rd, Las Vegas, NV, 89115
LOAN AGREEMENT IDENTIFICATION NO. 20153927-12169 LOAN AGREEMENT DATE: 03/03/2015 If you have multiple loans, this payment was applied to the loan number identified above.		DATE/TIME OF RECEIPT OF PAYMENT: 06/30/2015 12:00:26
AMOUNT PAID: 220.00	AGENT RECEIVING PAYMENT: TLX System	

TODAY'S PAYMENT ITEMIZATION	
PRINCIPAL PAID:	\$ 27.44
INTEREST PAID:	\$ 192.56
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 220.00
UNPAID INTEREST:	\$ 0.00
BALANCE DUE ON LOAN:	\$ 1970.93
NEXT SCHEDULED DUE DATE: 10/29/2015	

- ☐ Account paid in full by rescission
☐ Account paid in full
☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
☐ Repayment Plan Agreement
☐ Grace Period Plan Agreement

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

Printed Name

Signature

Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, Las Vegas, Nevada 89108.		PAYMENT MADE ON BEHALF OF OR BY: DEVON WHITAKER 3866 Lincoln Rd, Las Vegas, NV, 89115
LOAN AGREEMENT IDENTIFICATION NO. 20153927-12169 LOAN AGREEMENT DATE: 03/03/2015 If you have multiple loans, this payment was applied to the loan number identified above.		DATE/TIME OF RECEIPT OF PAYMENT: 08/01/2015 14:00:13
AMOUNT PAID: 210.20	AGENT RECEIVING PAYMENT: Maria Garcia	

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$ 0.00
INTEREST PAID:	\$ 210.20
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 210.20
UNPAID INTEREST:	\$ 0.00
BALANCE DUE ON LOAN:	\$ 1972.56
NEXT SCHEDULED DUE DATE: 08/30/2015	

- ☐ Account paid in full by rescission
- ☐ Account paid in full
- ☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
- ☐ Repayment Plan Agreement
- ☐ Grace Period Plan Agreement

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

<i>Devon Whitaker</i> Printed Name	<i>Devon Whitaker</i> Signature
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Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, Las Vegas, Nevada 89108.		PAYMENT MADE ON BEHALF OF OR BY: DEVON WHITAKER 3866 Lincoln Rd, Las Vegas, NV, 89115	
LOAN AGREEMENT IDENTIFICATION NO. 20153927-12169		DATE/TIME OF RECEIPT OF PAYMENT: 09/08/2015 12:00:11	
LOAN AGREEMENT DATE: 03/03/2015			
If you have multiple loans, this payment was applied to the loan number identified above.			
AMOUNT PAID: 220.00		AGENT RECEIVING PAYMENT: Megan Chaney	

TODAY'S PAYMENT ITEMIZATION	
PRINCIPAL PAID:	\$ 0.00
INTEREST PAID:	\$ 220.00
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 220.00
UNPAID INTEREST:	\$ 29.62
BALANCE DUE ON LOAN:	\$ 2002.18
NEXT SCHEDULED DUE DATE: 09/29/2015	

- ☐ Account paid in full by rescission
☐ Account paid in full
☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
☐ Repayment Plan Agreement
☐ Grace Period Plan Agreement

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

Devon Whitaker *Gloria Whitaker*
 Printed Name Signature

Customer Receipt/Repayment Plan Receipt (210 day loan)

NAME AND ADDRESS OF THE LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks 4750 W. Lake Mead, Las Vegas, Nevada 89108.		PAYMENT MADE ON BEHALF OF OR BY: DEVON WHITAKER 3866 Lincoln Rd, Las Vegas, NV, 89115	
LOAN AGREEMENT IDENTIFICATION NO. 20153927-12169		DATE/TIME OF RECEIPT OF PAYMENT: 10/06/2015 14:00:03	
LOAN AGREEMENT DATE: 03/03/2015		If you have multiple loans, this payment was applied to the loan number identified above.	
AMOUNT PAID: 169.20			
AGENT RECEIVING PAYMENT: VALSINA MARSHALL			

TODAY'S PAYMENT ITEMIZATION

PRINCIPAL PAID:	\$ 1.63
INTEREST PAID:	\$ 167.57
CHARGES PAID:	\$ 0.00
FEES PAID:	\$ 0.00
TOTAL AMOUNT PAID TODAY:	\$ 169.20
UNPAID INTEREST:	\$ 0.00
BALANCE DUE ON LOAN:	\$ 1970.93
NEXT SCHEDULED DUE DATE:	10/29/2015

- ☐ Account paid in full by rescission
☐ Account paid in full
☐ Title Returned Upon Payment in Full. By signing below, you acknowledge that upon repayment in full, we returned the Vehicle's Title to you.
☐ Repayment Plan Agreement
☐ Grace Period Plan Agreement

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. You further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate.

Devon Whitaker
 Printed Name: Devon Whitaker Signature: 10/06/15

GRACE PERIOD PAYMENTS DEFERMENT AGREEMENT

Account Number: 12169-0153927

Date:

Customer Name: Devon Whitaker Address: 3866 Lincoln Rd Las Vegas, NV 89115	Licensor Name: TitleMax of Nevada, Inc. d/b/a TitleBucks Address: 4750 W. Lake Mead, #102 Las Vegas, NV 89108 Vehicle Information: 2002 FORD F150 1FTRW07632KA21562
Co-Borrower Name: Gloria Whitaker Address: 5250 Stewart #2075 Las Vegas, NV 89110	

Definitions and Terms. In this Grace Period Payments Deferment Agreement, "customer," "you," and "your" mean the customer who signed it. "Licensor," "we," "us" and "our" mean TitleMax of Nevada, Inc. d/b/a TitleBucks, a title loan services provider licensed and regulated by the Nevada Financial Institutions Division, 2785 E Desert Inn Road, Suite 180, Las Vegas, Nevada 89121. Phone: (702) 486-4120, Fax: (702) 486-4563, <http://www.fid.state.nv.us/>. The word "Motor Vehicle" means the vehicle identified above. The word "Title" means a certificate of title or ownership to the Motor Vehicle.

Consideration. You acknowledge and agree that you and we entered into a Title Loan Agreement on 03/03/2015 ("Loan Agreement.") Under the Title Loan Agreement, we agreed with you that we may subsequently offer you a "Grace Period" which is a gratuitous period of payments deferment. You agree that we are offering you a "Grace Period" and you are voluntarily accepting such offer after entering into a Loan Agreement pursuant to the provisions of NRS 604A.70 and NRS 604A.210. Please note that since this is a "Grace Period" it is not an "extension" as defined in NRS 604A.065. Under the Title Loan Agreement, your obligation to pay simple interest under the Loan Agreement remains unchanged. Other than the interest and fees originally provided for in the Title Loan Agreement, we do not charge you any additional fees or interest for entering into this Grace Period Payments Deferment Agreement.

NOW THEREFORE, in consideration of the mutual promises, herein you and we agree to the payments deferment in this written and signed Grace Period Payments Deferment Agreement.

Grace Period Payments Deferment. In the Title Loan Agreement, you agreed to make your scheduled payments in the amounts and on the dates set forth in the Payment Schedule listed in the Federal Truth In Lending Disclosures at the address indicated above, or at such other address as we direct you in writing. During this Grace Period, we have agreed to amend, modify, and defer your payments as set forth below in the Grace Period Payments Deferment Schedule. Therefore, you and we agree to the amended and deferred payments and periods set forth below in the Grace Period Payments Deferment Schedule. Therefore, you agree to pay us in cash the amount owing on the dates set forth in the Grace Period Payments Deferment Schedule set forth below. If any Deferred Due Date falls on a date we are not open for business, then you agree to pay us on the next business day, and we will credit such payment, as if we received it on the appropriate Deferred Due Date. The Grace Period Payments Deferment Agreement will be consummated upon the date you sign it. Time is of the essence in this Grace Period Payments Deferment Agreement. We will not attempt to collect an amount that is greater than the amount owed. We will not attempt to collect the outstanding balance during the term of the Grace Period by process of alternative dispute resolution, by repossessing the Motor Vehicle or by exercising any other right we have under Nevada law, unless you default on the Grace Period Payments Deferment Agreement.

Any questions or questions may be directed to Customer Service at the following number: (702) 486-4120

Page 1 of 1

APP 012033
 ROA 010739 - 00024

Grace Periods Payments Deferment Schedule

Payment Number	Amount of Payment	Deferred Periodic Due Date
1	\$199.80	4/2/2015
2	\$199.80	5/2/2015
3	\$199.80	6/1/2015
4	\$199.80	7/1/2015
5	\$199.80	7/31/2015
6	\$199.80	8/30/2015
7	\$199.80	9/29/2015
8	\$285.71	10/29/2015
9	\$285.71	11/28/2015
10	\$285.71	12/28/2015
11	\$285.71	1/27/2016
12	\$285.71	2/26/2016
13	\$285.71	3/27/2016
14	\$285.74	4/26/2016
The total amount paid after making all payments under the terms of the Grace Period Payments Deferment Agreement:		\$3,398.60

BECAUSE THIS IS ONLY AN AMENDMENT AND MODIFICATION OF THE LOAN AGREEMENT IN WHICH WE ARE ONLY MODIFYING AND DEFERRING YOUR PAYMENTS UNDER THE TITLE LOAN AGREEMENT, YOU ACKNOWLEDGE AND AGREE THAT ALL OF THE TERMS AND CONDITIONS OF THE TITLE LOAN AGREEMENT, INCLUDING THE CHARGING OF SIMPLE INTEREST AND WAIVER OF JURY TRIAL AND ARBITRATION PROVISION REMAIN IN FULL FORCE AND EFFECT.

Right to Rescind. You have the right to rescind this Grace Period Payments Deferment Agreement. You may rescind on or before the close of business on the next day of business at the location where the Grace Period Payments Deferment Agreement was initiated. To rescind, you must come to the location where the Grace Period Payments Deferment Agreement was initiated and sign a Cancellation of the Grace Period Payments Deferment Agreement. If you rescind, then we will not charge you any amount for rescinding, and you will be required to make the payments as originally scheduled in the Title Loan Agreement.

Prepayment. You may also pay us in full or make prepayments at any time, without an additional charge or fee, before the final Deferred Periodic Due Date. If you pay the total amount due under the terms of the Title Loan Agreement in full, as deferred through negotiations and agreed to herein, then we shall return the Title to you. You may also make partial prepayments under this Grace Period Payments Deferment Agreement at any time without an additional charge or fee.

Repayment Plan Disclosure: If you default on the loan and this Grace Period Deferred Payments Agreement, we must offer a Repayment Plan to you before we commence any civil action or process of alternative dispute resolution, or before we repossesses the Motor Vehicle.

ALL INFORMATION IS SUBJECT TO THE TERMS AND CONDITIONS OF THE TITLE LOAN AGREEMENT.

Page 2 of 4

Default and Repayment Plan. You will be in default under Grace Period Payments Deferment Agreement if you fail to keep any promise made herein. Such default occurs on the day immediately following the date of your failure to perform as described herein. We may waive a default and reinstate your account to good status if you bring your account current or make satisfactory payment arrangements with us. You will have the opportunity to enter into a Repayment Plan with a term of at least 90 days after the Date of Default on the Grace Period Payments Deferment Agreement. Under the terms of any Repayment Plan and pursuant to Nevada law (1) you must enter into the Repayment Plan not later than 30 days after the date of default, unless we allow a longer period; (2) we will allow the period for repayment to extend at least 90 days after the date of default, unless you agree to a shorter term; and (3) we may require you to make an initial payment of not more than 20 percent of the total amount due under the Repayment Plan. If you enter into a Repayment Plan, we will honor the terms and we will not charge any other amount as an incident to or as a condition of entering into a Repayment Plan. Such an amount includes, without limitation: (a) any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the rate charged during the term of the original loan agreement; or (b) any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee. Additionally, if you enter into a Repayment, we will honor the terms of the Repayment Plan, and unless otherwise authorized by Nevada law we will not (i) accept any additional security or collateral from you to enter into the Repayment Plan; (ii) sell to you any insurance (iii) require you to purchase insurance or any other goods or services to enter into the Repayment Plan; (iv) make any other loan to you, unless you are seeking multiple loans that do not exceed the limit set forth under Nevada law; (v) attempt to collect the outstanding balance during the term of the Repayment Plan by repossessing the Vehicle unless you default on the Repayment Plan or (vi) attempt to collect an amount that is greater than the amount owed under the terms of the Repayment Plan. Therefore, if you (I) default on Grace Period Payments Deferment Agreement and do not enter into a Repayment Plan and we do not waive the default, or (II) default on Grace Period Payments Deferment Agreement, enter into a Repayment Plan, and default on the terms of the Repayment Plan, then we may pursue any remedy Nevada law allows, including seeking repossession and sale of the Motor Vehicle.

Security Interest. You have given us possession of the Title to the vehicle, and granted us a security interest in the Title. We continue to maintain our security interest and possession of the Title during this Grace Period Payments Deferment Agreement.

Acknowledgment of Simple Interest Accrual. You acknowledge that we use the simple interest method to calculate and accrue the interest owing under the Loan Agreement. Interest is not compounded under the Loan Agreement. You acknowledge that simple interest is charged on the outstanding principal balance. Payments will be applied first to accrued interest, second to outstanding charges, if any, and third to principal. We calculated and estimated the simple interest under the Loan Agreement and disclosed in the "Finance Charge" disclosure assuming you would pay each scheduled payment in the amount scheduled and on the scheduled Payment Dates. The original Payment Schedule in the Loan Agreement provided for payments which would ratably and fully amortize the entire Principal Amount and interest payable. The interest rate under the Loan Agreement remains unchanged. You acknowledge that simple interest is charged on the unpaid principal balance of this Loan Agreement at the daily rate of 0.333% from the date of this Loan Agreement until the earlier of: (i) the due date of your last payment as set forth in the original Payment Schedule; or (ii) payment in full. Now that the Payment Schedule has changed, you acknowledge that the new Payment Schedule provided for in this Grace Period Payments Deferment Agreement, if followed, will ratably and fully amortize the entire Principal Amount and interest payable over a longer period of time than the original Payment Schedule in the Loan Agreement. As such you acknowledge and agree you will continue to incur interest as provided in the Loan Agreement. You further agree that in setting the amount of the payments and dates of the payments, we have estimated the accrued interest owing to us assuming you make the payments in the amounts scheduled and on the exact dates set forth in the Grace Periods Payments Deferment Schedule above. Early payments may decrease the amount of interest you owe. Making a payment in an amount greater than scheduled above may decrease the amount of interest you owe. Late payments may increase the amount of interest you owe. The amount of this increase or decrease will be reflected in the final payment. If an early payment is less than the scheduled installment, then you must pay the difference on or before the upcoming installment due date. You may request a payoff at any time.

Governing Law and Assignment. Nevada law governs the Loan Agreement and this Grace Period Payments Deferment Agreement, except the Federal Arbitration Act ("FAA") governs the Waiver of Jury Trial and Arbitration Provision. We may assign or transfer the Loan Agreement and Grace Period Payments Deferment Agreement or any of our rights.

APP 012035 ROA 010741 - 00026

By signing this Grace Period Payments Deferment Agreement, you acknowledge that it was filled in before you did so and that you have received a completed copy of it. You agree that the information you provided to before entering into this Grace Period Payments Deferment Agreement is accurate. You represent that you are not a debtor under any proceeding in bankruptcy and have no intention to file a petition for relief under any chapter of the United States Bankruptcy Code. You acknowledge that you have read this Grace Period Payments Deferment Agreement, and agree to its terms. You further acknowledge that except as amended herein, all of the terms of the Title Loan Agreement remain enforceable including but not limited to the charging of simple interest and Waiver of Jury Trial and Arbitration Provision.

Acknowledgments. By signing below, you acknowledge that the payment information noted above is accurate. If the term of this loan is shorter than 210 days, you further represent that the information previously provided on the Covered Borrower Identification Statement is still accurate. You agree to inform the company and sign a new statement if your status as an active duty member of the Armed Forces (Army, Navy, Marine Corps, Air Force, or Coast Guard), or as a dependent or spouse of such member changes.

John Williams 6/4/15
Customer's Signature Date

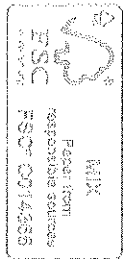
LICENSEE: TitleMax of Nevada, Inc. d/b/a TitleBucks
Shirley Smith 6/4/2015
Its Authorized Agent Date

Gloria Whitaker 6/4/15
Co-Borrower's Signature Date

Any statements or information given to the lender by the borrower or authorized representative of the borrower shall be true and correct.

Page 4 of 4

APP 012036
ROA 010742
TMX 100 - 00027



BURDECOOPER www.burdecooper.com
Los Angeles 800-421-8703 • Atlanta 800-325-7580

APP 012037
ROA 010743

COMPROMISE, RELEASE, AND SETTLEMENT AGREEMENT

This COMPROMISE, RELEASE, AND SETTLEMENT AGREEMENT made this 24th day of November, 2015, by and between DEVON WHITAKER and GLORIA WHITAKER (hereinafter "WHITAKERS") and TITLEMAX of Nevada, Inc. (hereinafter "TitleMax"), who collectively shall be referred to hereinafter as the "Parties".

WHEREAS, the Parties, and each of them, without admitting any liability, desire to fully and finally settle any and all claims which one may have against the other which have been asserted or which could have been asserted in litigation concerning the 2002 Ford F150 VIN 1FTRW07632KA21562 (hereinafter, "the Subject Vehicle") and any and all outstanding unsecured loans;

WHEREAS, the Parties, and each of them, without admitting any liability, further desire to mutually release the other from any and all claims, demands, and causes of action which one may have against the other (and all their past, present and future heirs, predecessors, successors, assigns, subsidiaries, associated companies, parent companies, partnerships, affiliates and other business entities, and each and all of their respective past, present and future associates, owners, partners, stockholders, officers, directors, administrators, employees, contractors, independent contractors, managers, executors, agents, accountants, consultants, insurers, representatives and attorneys, except as otherwise expressly provided herein) on all matters which were or could have been raised in litigation;

Now, therefore, based upon the mutual promises and covenants contained herein, the Parties agree as follows:

Recitals Incorporated. The recitals set forth above are incorporated herein by reference and are explicitly made a part of this Compromise, Release, and Settlement Agreement.

1. **Payment:** The Parties have agreed that the WHITAKERS will pay TitleMax the amount of FIVE HUNDRED EIGHTY DOLLARS AND SIXTY CENTS (\$580.60), inclusive of attorney's fees and costs, pursuant to the following terms and conditions:
 - a. WHITAKERS agree to pay TitleMax one payment of Five Hundred Eighty Dollars and Sixty cents (\$580.60) by December 15, 2015 for a total of \$580.60.
 - b. WHITAKERS will tender the payment to TitleMax via the TITLEBUCKS branch located at 4750 W. Lake Mead Blvd, Suite #102, Las Vegas, NV 89108.
2. **Title to Subject Vehicle:** Upon completion of Payment as provided for in this Compromise, Release, and Settlement Agreement, TitleMax shall deliver to WHITAKERS the title to the Subject Vehicle, with any lien released, if TitleMax has placed a lien on the title.
3. **Forgiveness of Balance:** Upon completion of Payment as provided for in this Compromise, Release, and Settlement Agreement, TitleMax will write-off any balance which WHITAKERS may have for any and all loans obtained to date.
4. **Credit Reporting:** Within 30 days of receiving the executed Settlement Agreement, TitleMax agrees to take all necessary and reasonable steps to request that the credit reporting agencies to which it reports delete the trade line for the Account, if it so reports. WHITAKERS acknowledges that TitleMax does not control the actions of the credit reporting agencies, and thus, TitleMax may only request that the credit reporting agencies delete the Account trade line.

If at any time following 60 days after the execution of this Settlement Agreement by the Parties, WHITAKERS determines that one or more of the credit reporting agencies have not complied with TitleMax's request as set forth above, WHITAKERS shall provide

prompt written notice to TitleMax and provide copies of any credit reports for which the WHITAKERS contend the trade line for the Account was not deleted. In that event, TitleMax will, within 30 days following receipt of such notice and reports, re-contact the credit reporting agencies that have not deleted the Account trade line and again request that the Account trade line be deleted. Furthermore, should the WHITAKERS ever dispute the trade line with any credit reporting agency, and the credit reporting agency notifies Plaintiff of the dispute, TitleMax will either not verify the trade line or will confirm that such trade line should be deleted. No cause of action can or will be stated by the WHITAKERS against TitleMax relating to, or arising out of, any credit reporting conduct of TitleMax so long as TitleMax complies with its obligations as set forth in this paragraph.

5. **Event of Default:** In the event that the WHITAKERS fail to fulfill the payment obligation as set forth in the "Payment" clause of this Compromise, Release, and Settlement Agreement, then TitleMax retains all rights to enforce its lien against the Subject Vehicle (including but not limited to repossession), and to pursue any available legal action to recovery and all amounts due hereunder, to which the WHITAKERS can raise any and all applicable defenses and counterclaims.
6. **Mutual Release:** Each of the Parties hereto do hereby release, acquit and forever discharge the other (and all their past, present and future heirs, predecessors, successors, assigns, subsidiaries, associated companies, parent companies, partnerships, affiliates and other business entities, and each and all of their respective past, present and future associates, owners, partners, stockholders, officers, directors, administrators, employees, contractors, independent contractors, managers, executors, agents, accountants, consultants, insurers, representatives and attorneys, except as otherwise expressly

provided herein) of and from all known and unknown claims, actions, causes of action and suits for damages, at law and in equity, that were brought or could have been brought in litigation, including loss of compensation, profits, interest, use, attorney fees, and costs, which each may have upon the payment of funds and delivery of title.

7. **No Admission of Liability:** The Parties acknowledge, understand, and agree that no party admits any liability of any sort or to any extent by entering into this Settlement Agreement and Mutual Release or by providing any consideration to any other party; but rather the Parties acknowledge, understand and agree that this Settlement Agreement and Mutual Release and the consideration furnished are made to compromise and satisfy all disputed and presently existing claims.
8. **Finality:** The Parties agree to forego making any claim against the other which concern or in any way relate to the agreement, and any claim which was or could have been made in litigation.
9. **Complete Agreement:** This Settlement Agreement and Mutual Release is the entire, complete, sole and only understanding and agreement of, by and between the undersigned pertaining to the subject matter expressed herein, and there are no independent, collateral, different, additional or other understandings or agreements, oral or written, or obligations to be performed, things to be done, or payments to be made, other than those set forth in writing herein.
10. **Implementation:** Each of the Parties agrees to perform all acts and to execute all documents necessary to implement all the terms of this Settlement Agreement and Mutual Release.

11. **Time of the Essence:** Time is of the essence to this Settlement Agreement and Mutual Release. The Parties anticipate a mutual exchange of all property, money, and completion of documents necessary to effectuate this Settlement Agreement and Mutual Release forthwith following execution and as set forth above herein.
12. **Agreement Understood; Voluntarily Executed:** By signing this Settlement Agreement and Mutual Release each of the undersigned does thereby acknowledge and warrant that this document was first carefully read in its entirety by the undersigned and was and is understood and known to be a full and final compromise, settlement, release, accord and satisfaction and discharge of all claims, actions, and causes of action and suits, as above stated, involving the Parties; that this document is signed and executed voluntarily and without reliance upon any statement or representation of or by any of the undersigned, or any representative or agent of same, concerning the nature, degree and extent of said damages, loss or injuries, or legal liability therefore; that each of the undersigned has enjoyed and in fact has taken the opportunity to consult their own independent legal counsel prior to signing this document and that such legal counsel has fully explained the nature, extent and scope of the Releases and other Agreements herein set forth.
13. **Binding Effect:** This Settlement Agreement and Mutual Release shall be binding upon the heirs, executors, administrators and assigns of the signators.
14. **Choice of Law:** This Settlement Agreement and Mutual Release shall be governed by the laws of the State of Nevada. Jurisdiction will be held by the Eighth Judicial District Court, Clark County Nevada or the Las Vegas Justice Court, whichever is applicable under the Nevada Constitution and Nevada Revised Statutes.

15. **Severability:** In the event that any provision contained in this Agreement shall be determined to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect and the remaining provisions of this Agreement shall not, at the election of the Party for whose benefit the provision exists, be in any way impaired.
16. **Interpretation:** This Agreement shall be considered to have been jointly prepared by the Parties, and shall not be construed against any Party in case of any uncertainty or any ambiguity.
17. **Execution in Counterparts:** This Settlement Agreement and Mutual Release may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument, with the same effect as if each Party had executed all counterparts.
18. **No Assignments:** The WHITAKERS hereby represent and warrant that there has been no assignment or transfer whatsoever of any of the claims released herein. The WHITAKERS AGREE TO DEFEND AND INDEMNIFY TITLEMAX AND OTHER PERSONS AND ENTITIES RELEASED HEREIN AGAINST ANY CLAIM BASED UPON, ARISING OUT OF, OR IN CONNECTION WITH ANY SUCH ASSIGNMENT OR TRANSFER.
19. **Notices:** All notices and other communications hereunder shall be in writing to:

Devon Whitaker
Gloria Whitaker
c/o Venicia G. Considine, Esq.
Legal Aid Center of Southern Nevada, Inc.
725 East Charleston Boulevard
Las Vegas, Nevada 89104

TitleMax of Nevada, Inc.

TitleMax of Georgia, Inc.

15 Bull Street, Suite 200

Savannah, GA 31401

ATTN: Legal Department

I have read and fully understand the foregoing Compromise, Settlement and Release Agreement this the 21 day of November, 2015, and have had full opportunity to discuss the same with my attorney.

Devon Whitaker
DEVON WHITAKER

Date: 11/24/15

Gloria Whitaker
GLORIA WHITAKER

Date: 11/24/15

BY TITLEMAX OF NEVADA, INC.: I have read and fully understand the foregoing Compromise, Settlement and Release Agreement this the 25 day of November, 2015.

Maria Danello
Authorized Representative of
TITLEMAX

Date: 11/25/15

Maria Danello, Litigation Counsel
Printed Name of Authorized Representative



December 9, 2015

VIA EMAIL (dsmckay@business.nv.gov) AND U.S. MAIL

Denise McKay, Esq.
Administrative Law Judge
555 East Washington Avenue, Suite 4900
Las Vegas, Nevada 89101

***Re: In re TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax State of Nevada
Administrative Complaint***

Administrative Law Judge McKay:

I am writing on behalf of Respondent TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax ("TitleMax") in connection with the above-referenced administrative complaint.

As set forth in the Procedural Order dated October 29, 2015, Claimant, the Financial Institutions Division of the Nevada Department of Business & Industry (the "FID") was to provide to TitleMax copies of all proposed exhibits by November 13, 2015. The FID personally delivered a collection of documents on that date. However, none of the documents were marked for identification (i.e., Exhibit 1, 2, 3, etc.). On November 16, 2015, the FID personally served a late supplement to the proposed exhibits. These documents were similarly unmarked.

More troubling, however, is that since the November 13 deadline has passed, the FID decided to begin yet another examination of TitleMax. In the past, prior to its examination, the FID has requested a certain subset of information from TitleMax. This time, however, the FID requested documentation far afield from information requested in the past, and instead demanded documentation at the heart of the issue before this tribunal. In an email to TitleMax on November 17, 2015, the FID requested that such documentation be provided within three (3) days. When TitleMax questioned the purpose of these requests, explained such information had never before been requested, and questioned whether the information was sought for the instant proceeding, the FID refused to commit that such information would not be used in this proceeding. Rather, the Supervisory Examiner stated only:

[The] Commissioner has authority to investigate the business of any licensee at any time for purposes of discovering violations. NRS 604A.710. Further, if the FID determines that the results of the investigation show more violations, then the Commissioner may take any action and seek any remedies allowed by law.

Holland & Hart LLP

Phone (702) 669-4600 Fax (702) 669-4650 www.hollandhart.com

9555 Hillwood Drive 2nd Floor Las Vegas, NV 89134

Aspen Boulder Carson City Colorado Springs Denver Denver Tech Center Billings Boise Cheyenne Jackson Idaho Las Vegas Reno Salt Lake City San Francisco Washington, D.C.

APP 012045
ROA 010751

December 9, 2015

Page 2

Given the FID's refusal to commit that these information requests are purely for investigation purposes and not for this proceeding, it is apparent that the FID is seeking to obtain new information to be used in this matter. Accordingly, TitleMax is writing to express its objection and seeks to preclude the untimely disclosure of additional evidence.

The FID routinely examines a licensee but *once* per year. The FID has conducted examinations of TitleMax on three occasions in the last year. As discussed above, a new examination began on November 17, 2015 and continues to date, and the FID examiners continue to seek an exhaustive list of information, with many of the requests focused on the exact issues of this proceeding and information never sought before by the FID. Attached hereto as **Exhibit 1** is a true and correct copy of the request. Not coincidentally, the FID demanded that TitleMax provide said information within just a few days, just prior to the Thanksgiving holiday.

And just yesterday, the FID issued yet another voluminous document request, demanding that the FID provide said information on approximately 860 loans with only six (6) days' notice. Notably, the FID has demanded that TitleMax provide responsive information just four (4) days before your deadline for the parties to submit the joint evidentiary packet and their respective legal briefs to you. A copy of this demand is attached hereto as **Exhibit 2**.

This is matter is and should be solely a dispute over the interpretation over the meaning of a statute and a regulation. Yet, the FID has resisted efforts to obtain an interpretation of these laws from a court, and is seeking to impose significant administrative penalties based solely upon a disagreement over the interpretation of these laws and, notably, without first engaging in the kind of rulemaking required under NRS Chapter 233B for it to enforce such an interpretation.

Based upon the FID's actions, it is apparent the FID was not satisfied with the evidence it submitted and is now using its enforcement powers to gather additional evidence after your November 13 deadline has already passed. This was essentially confirmed when the FID resisted a requested extension and provided that the Commissioner had authority to "take any action and seek any remedies allowed by law" and further refused to commit that information provided in response to its information request would not be used in this enforcement proceeding.

In sum, this letter requests an order *in limine* precluding the FID from introducing into evidence any evidence that was not disclosed by November 13, 2015. Allowing otherwise would violate TitleMax's rights of due process, which guarantee fundamental fairness in administrative proceedings. See, e.g., Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy, 124 Nev. 702, 711, 191 P.3d 1159, 1166 (2008).

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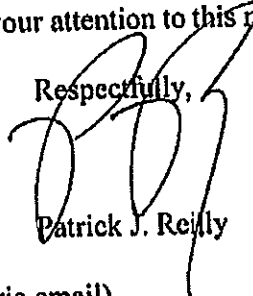
APP 012046
ROA 010752

December 9, 2015

Page 3

Thank you in advance for your attention to this matter.

Respectfully,

A handwritten signature in black ink, appearing to be 'P. Reilly', written over the word 'Respectfully,'.

Patrick J. Reilly

cc: Christopher Eccles, Esq. (via email)
David Pope, Esq. (via email)

8289170_1

APP 012047
ROA 010753

EXHIBIT “A”

APP 012048
ROA 010754

Patrick Reilly

From: Patrick Reilly
Sent: Wednesday, December 09, 2015 1:13 PM
To: Patrick Reilly
Subject: FW: TITLEMAX-ANNUAL EXAMINATION
Attachments: 6820 W FLAMINGO ROAD.zip

From: Ma Theresa Dihiansan [<mailto:mt dihiansan@fid.state.nv.us>]
Sent: Tuesday, November 17, 2015 2:11 PM
To: Victoria Newman
Cc: Kelvin Lam; Christian Yanez; Melissa Woodard
Subject: TITLEMAX-ANNUAL EXAMINATION

Victoria,

In connection with the ongoing examination of your company, please fill out all the attached Manager's Questionnaires and please provide the following:

- a. List of all active loans as of November 17, 2015
- b. List of all delinquent loans as of November 17, 2015
- c. List of all delinquent accounts in repossession as of November 17, 2015
- d. List of all declined loans as of November 17, 2015
- e. For PAID OFF LOANS- we will be choosing the folders.
- f. List of all delinquent accounts in repayment plan as of November 17, 2015
- g. Total number of delinquent title loans since prior examination date-06-17-2015 with grand total broken down per store location
- h. Total number of repossessions since prior examination date-06-17-2015 with grand total broken down per store location
- i. Total number of Grace Period Deferment Agreements entered into since TitleMax's started offering this product with grand total broken down per store location
- j. Total number of Grace Period Deferment Agreements in closed status, i.e., where the customer has paid off the loan, as of the date of the re-examination with grand total broken down per store location
- k. Total number of Grace Period Deferment Agreements in open status, i.e., where the customer is still making payments, as of the date of the re-examination with grand total broken down per store location.
- l. Total amount of money collected pursuant to all Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
- m. Total amount of money due pursuant to open Grace Period Deferment Agreements as of the date of the re-examination with grand total broken down per store location
- n. Total number of accounts in Grace Period Deferment Agreement in default status with grand total broken down per store location
- o. Total number of Grace Period Deferment Agreements in repossession with grand total broken down per store location

In providing the list from letter A through F, aside from the all the information you include i.e. borrower's name, loan number, loan amount, finance charge, total amount, etc...please include the date when the loan was underwritten and the last payment date.

Please provide the requested inventory on or before Friday, November 20, 2015. We will be going back to 4077 W Charleston to choose our samples once the inventory is available. Please have the print outs ready for review at 4077 W. Charleston location.

We need the inventories from items A through F on or before November 20, 2015 and the rest can be provided on or before November 25, 2015.

Ma. Theresa Dihiansan, CAMLS
Senior Examiner
Financial Institutions Division
Department of Business & Industry
2785 E. Desert Inn Rd., Ste 180
Las Vegas, Nevada 89121
Phone: 702-486-4120
Fax: 702-486-4563
mtdihiansan@fid.state.nv.us

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by e-mail at mtdihiansan@fid.state.nv.us and delete the message and attachments from your computer and network. Thank you.

NOTE: This e-mail, any attachments, and the information contained therein are confidential. The information contained in this email and/or any attachments is intended only for use by the intended recipient(s) and may contain trade secret or otherwise proprietary information of TMX Finance LLC and/or its affiliates and subsidiaries (collectively, "TitleMax"). If you are not the intended recipient of this e-mail, any use, dissemination, distribution or copying of this e-mail, any attachments, or the information contained therein, is strictly prohibited. If you received this e-mail and you are not an intended recipient, please immediately notify TitleMax e-mail administrator at: abuse@titlemax.biz and permanently delete the original and any copy of this e-mail, any attachments, and/or any printouts thereof.

EXHIBIT “B”

APP 012051
ROA 010757

Patrick Reilly

From: Patrick Reilly
Sent: Wednesday, December 09, 2015 1:11 PM
To: Patrick Reilly
Subject: FW: TITLEMAX LOAN ACCOUNTS FOR REVIEW
Attachments: 1995 E WILLIAMS 14269.zip; ATT00001.htm

Begin forwarded message:

From: Ma Theresa Dihiansan <mt dihiansan@fid.state.nv.us<<mailto:mt dihiansan@fid.state.nv.us>>>
Date: December 8, 2015 at 2:56:58 PM EST
To: Melissa Woodard <Melissa.Woodard@titlemax.biz<<mailto:Melissa.Woodard@titlemax.biz>>>, Victoria Newman <Victoria.Newman@titlemax.com<<mailto:Victoria.Newman@titlemax.com>>>
Cc: Anthony Valdivia <Anthony.Valdivia@titlemax.com<<mailto:Anthony.Valdivia@titlemax.com>>>, Harveen Sekhon <Hsekhon@fid.state.nv.us<<mailto:Hsekhon@fid.state.nv.us>>>, Kelvin Lam <klam@fid.state.nv.us<<mailto:klam@fid.state.nv.us>>>, Christian Yanez <cyanez@fid.state.nv.us<<mailto:cyanez@fid.state.nv.us>>>
Subject: TITLEMAX LOAN ACCOUNTS FOR REVIEW

Ms. Woodard/Ms. Newman,

Please see the attached list of loan accounts chosen for review (THOSE WITH ASTERISK/HIGHLIGHTED ONES ONLY) . These are for active and delinquent loans only. Please note that we will be choosing our samples for paid loans and declined loans when we do our onsite visits for Southern Nevada locations.

I sent a separate request for Northern NV locations regarding PAID off loans and DECLINED loans. Based on the attached list of accounts, please request your branches to photocopy the documents listed below:

DOCUMENTS NEEDED FOR ACTIVE LOANS

1. LOAN APPLICATION
 2. LOAN DISCLOSURE AGREEMENTS INCLUDING DISCLOSURES ON EXTENSIONS (IF APPLICABLE)
 3. GRACE PERIOD PAYMENTS DEFERMENT AGREEMENT
 4. AFFIDAVIT ON ABILITY TO REPAY
 5. COPY OF TITLE
 6. COPY OF BLUE BOOK CALCULATION ON FAIR MARKET VALUE
 7. PAYMENT HISTORIES
 8. PAYMENT RECEIPTS
- DOCUMENTS NEEDED FOR DELINQUENT LOANS

1. LOAN APPLICATION

2. LOAN DISCLOSURE AGREEMENTS INCLUDING DISCLOSURES ON EXTENSIONS (IF APPLICABLE)
3. GRACE PERIOD PAYMENTS DEFERMENT AGREEMENT
4. AFFIDAVIT ON ABILITY TO REPAY
5. COPY OF TITLE
6. COPY OF BLUE BOOK CALCULATION ON FAIR MARKET VALUE
7. PAYMENT HISTORIES
8. PAYMENT RECEIPTS
9. REPAYMENT PLAN OFFER AND PROOF OF MAILING
10. COLLECTOR'S NOTES

11. TEN DAY LETTER IF REPOSSESSED

We picked at least 18-21 loan samples for each location and majority of them were 20 accounts.

We will start reviewing loan accounts onsite on Monday, December 14, 2015 and we will be visiting the locations at random so please advise your branches to have the photocopies ready for review and we will be taking the copies with us. Also, please advise them to set aside the files just in case we still need to look at the original files during the review process.

For Northern Nevada branch locations, please advise them to mail the photocopies at 4077 W Charleston. These loans will be reviewed onsite at this location including the paid off loans and declined loans per my separate email which I sent a while ago to Mr. Timothy Henry. The list of accounts for Northern Nevada is included in the first batch.

I will be sending the attachments in three separate emails. Each attachment contains 14 locations. The total number of accounts for review are written on the first page.

Please let me know if you have any questions regarding this request. Thank you.

Ma. Theresa Dihiansan, CAMLS
Senior Examiner
Financial Institutions Division
Department of Business & Industry
2785 E. Desert Inn Rd., Ste 180
Las Vegas, Nevada 89121
Phone: 702-486-4120
Fax: 702-486-4563
mt dihiansan@fid.state.nv.us<<mailto:mt dihiansan@fid.state.nv.us>>

This message and attachments are intended only for the addressee(s) and may contain information that is privileged and confidential. If the reader of the message is not the intended recipient or an authorized representative of the intended recipient, I did not intend to waive and do not waive any privileges or the confidentiality of the messages and attachments, and you are hereby notified that any dissemination of this communication is strictly prohibited. If you receive this communication in error, please notify me immediately by e-mail at

mt dihiansan@fid.state.nv.us<<mailto:mt dihiansan@fid.state.nv.us>> and delete the message and attachments from your computer and network. Thank you.

"NOTE: This e-mail, any attachments, and the information contained therein are confidential. The information contained in this email and/or any attachments is intended only for use by the intended recipient(s) and may contain trade secret or otherwise proprietary information of TMX Finance LLC and/or its affiliates and subsidiaries (collectively, "TitleMax"). If you are not the intended recipient of this e-mail, any use, dissemination, distribution or copying of this e-mail, any attachments, or the information contained therein, is strictly prohibited. If you received this e-mail and you are not an intended recipient, please immediately notify TitleMax e-mail administrator at: abuse@titlemax.biz and permanently delete the original and any copy of this e-mail, any attachments, and/or any printouts thereof."

Susann Thompson

From: Susann Thompson
Sent: Wednesday, December 09, 2015 2:53 PM
To: 'dsmckay@business.nv.gov'
Cc: Patrick Reilly
Subject: TitleMax of Nevada/Administrative Complaint - Letter
Attachments: 2015-12-09 Letter to Denise MdKay re copies of proposed exhibits

Please see attached letter.

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



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BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY
LAS VEGAS, NEVADA

IN THE MATTER OF:

FINANCIAL INSTITUTIONS DIVISION,

Claimants,

v.

TITLEMAX OF NEVADA, INC. AND
TITLEBUCKS D/B/A TITLEMAX,

Respondents.

**ORDER GRANTING 30-DAY
CONTINUANCE**

On December 9, 2015, Claimant, the Financial Institutions Division of the Nevada Department of Business & Industry (FID), requested a 30-day continuance of the December 18, 2015, deadline for the parties' submission of a joint evidentiary packet. The basis for the continuance request was the departure of its assigned attorney from the employment of the Nevada Attorney General's Office.

Also on December 9, 2015, Respondent, TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax (TitleMax), requested for the issuance of an order *in limine* "precluding the FID from introducing into evidence any evidence that was not disclosed by November 13, 2015."

I hereby grant FID's request for a 30-day continuance. The parties shall submit a joint evidentiary packet as set forth in my Procedural Order dated October 29, 2015, by **January 18, 2016**. The deadline for the parties' optional submission of briefs in support of their respective legal positions shall also be continued to **January 18, 2016**. This Court shall set a new hearing date upon receipt of the joint evidentiary packet.

1 I grant FID an opportunity to respond to TitleMax's motion by December 30,
2 2015.

3 Dated this 11th day of December, 2015.
4

5 /s/ Denise S. McKay
6 Denise S. McKay
7 Administrative Law Judge
8 State of Nevada
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CERTIFICATE OF MAILING

I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing Procedural Order to the following:

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

certified# 7012 1010 0000 1166 1786
email: preilly@hollandhart.com
jgwent@hollandhart.com

Corporation Trust Company of Nevada
701 S. Carson St. Ste. 200
Carson City, NV 89701

certified# 7012 1010 0000 1166 1793

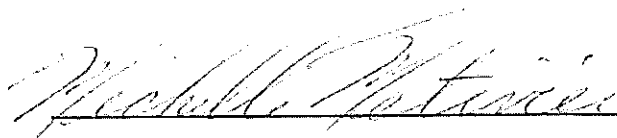
Victoria Newman, Esq.
15 Bull St., Ste. 200
Savannah, GA 31401

certified# 7012 1010 0000 1166 1809

David Pope, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

certified# 7012 1010 0000 1166 1816
email: DPope@ag.nv.gov

Dated this 11th day of December, 2015.



4681
NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE DIRECTOR
555 E. Washington, Suite 4900
Las Vegas, Nevada 89101

RETURN RECEIPT
REQUESTED

David Pope, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

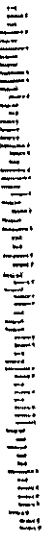
7012 1010 0000 1166 1816



CERTIFIED MAIL™

Hasler
12/14/2015
USPS®
\$06.73
ZIP 89101
010012002059

89101106875



APP 012059
ROA 010765

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

APP 012060
ROA 010766



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89119

ADAM PAUL LAXALT
Attorney General

WESLEY K. DUNCAN
Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

December 22, 2015

Via E-Mail
dsmckay@business.nv.gov

Denise McKay, Esq.
Administrative Law Judge
555 E. Washington Ave., Suite 4900
Las Vegas, NV 89101

Re: *In re TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax State
Administrative Complaint*

Administrative Law Judge McKay:

The purpose of this correspondence is to respectfully request a continuance of the December 30, 2015 date for the FID to respond to TitleMax's December 9, 2015 correspondence. Sorry for the late request, but we recently received the correspondence.

At the present time, the parties are waiting for a decision from the District Court on a matter that will impact the matter presently before you. The District Court was to issue the Order this past Monday, December 14, 2015. At this time, an order still has not been issued.


The parties have conferred, and agree that a continuance may benefit both parties so that we can continue to work together to prepare the joint exhibits.

December 22, 2015
Page 2

I thank you for your consideration of this request, and if you have any questions or concerns, please do not hesitate to contact me.

Respectfully,

ADAM PAUL LAXALT
Attorney General



Vivienne Rakowsky, Esq.
Deputy Attorney General

cc: Patrick J. Reilly, Esq. – via e-mail
Holland & Hart, LLP

APP 012062
ROA 010768

1 **BEFORE THE DEPARTMENT OF BUSINESS & INDUSTRY**
2 **LAS VEGAS, NEVADA**

3
4 IN THE MATTER OF:
5 FINANCIAL INSTITUTIONS DIVISION,
6 Claimants,
7 v.
8 TITLEMAX OF NEVADA, INC. AND
9 TITLEBUCKS D/B/A TITLEMAX,
10 Respondents.

ORDER GRANTING 45-DAY
CONTINUANCE

11
12 Claimant FID is hereby granted a 45-day continuance of the December 30, 2015,
13 deadline for its opposition to Respondent TitleMax's request for the issuance of an order
14 *in limine* "precluding the FID from introducing into evidence any evidence that was not
15 disclosed by November 13, 2015." FID's deadline to oppose TitleMax's request is now
16 February 16, 2016.

17 Dated this 29th day of December, 2015.

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19
20 /s/ Denise S. McKay
21 Denise S. McKay
22 Administrative Law Judge
23 State of Nevada
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CERTIFICATE OF MAILING

I, Michelle Metivier, do hereby certify that I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing Procedural Order to the following:

Patrick J. Reilly, Esq.
Joseph G. Went, Esq.
Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

certified# 7012 1010 0000 1166 1830
email: preilly@hollandhart.com
jgwent@hollandhart.com

Corporation Trust Company of Nevada
701 S. Carson St. Ste. 200
Carson City, NV 89701

certified# 7012 1010 0000 1166 1847

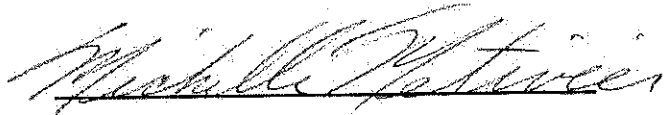
Victoria Newman, Esq.
15 Bull St., Ste. 200
Savannah, GA 31401

certified# 7012 1010 0000 1166 1854

David Pope, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

certified# 7012 1010 0000 1166 1861
email: DPope@ag.nv.gov

Dated this 29th day of December, 2015.



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ORDER GRANTING CONTINUANCE

Pursuant to the parties' request for a continuance, the parties shall submit a joint evidentiary packet as set forth in my Procedural Order dated October 29, 2015, by **February 12, 2016**. The deadline for the parties' optional submission of briefs in support of their respective legal positions shall also be continued to **February 12, 2016**. This Court shall set a new hearing date upon receipt of the joint evidentiary packet.

Claimant FID's deadline to oppose Respondent TitleMax's request for the issuance of an order *in limine* is still **February 16, 2016**.

Dated this 15th day of January, 2016.

/s/ Denise S. McKay
Denise S. McKay
Administrative Law Judge
State of Nevada

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certified# 7012 1010 0000 1166 2004
email: preilly@hollandhart.com
jgwent@hollandhart.com

Corporation Trust Company of Nevada
701 S. Carson St. Ste. 200
Carson City, NV 89701

certified# 7012 1010 0000 1166 1991

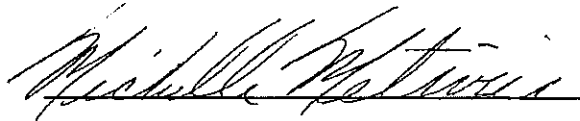
Victoria Newman, Esq.
15 Bull St., Ste. 200
Savannah, GA 31401

certified# 7012 1010 0000 1166 1984

David Pope, Esq.
555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101

certified# 7012 1010 0000 1166 1977
email: DPope@ag.nv.gov

Dated this 19th day of January, 2016.





STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

ADAM PAUL LAXALT
Attorney General

WESLEY K. DUNCAN
Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

February 11, 2016

VIA HAND DELIVERY AND E-MAIL: DMcKay@ag.nv.gov
Denise S. McKay, Esq.
Administrative Law Judge
2501 E. Sahara Avenue
Las Vegas, Nevada 89104

Re: *In the Matter of: Financial Institutions Division v. TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax*

Opposition to Motion in Limine

Dear Administrative Law Judge McKay:

TitleMax of Nevada, Inc. and TitleBucks d/b/a TitleMax (hereinafter "TitleMax") filed a Motion in Limine ("MIL") seeking an order preventing the Financial Institutions Division ("FID") from using additional relevant and material information. In the MIL, TitleMax is seeking an "order precluding the FID from introducing into evidence any evidence that was not provided by November 13, 2015." *Id.* at 2. The additional information is actually made up of TitleMax's own records. What TitleMax is really doing is trying to prevent the FID from performing its statutory duty to examine the records of its licensee. NRS 604A.710, NRS 604A.730.

As will be shown below, the MIL should not be granted because: (1) There is no due process violation; (2) The Procedural Order issued on October 29, 2015 does not prohibit the introduction of the additional evidence; (3) The FID does not intend to use the additional information to increase the number of fines; (4) The requested additional information is material in the sense that it will also show that TitleMax willfully entered into the Grace Period Payments Deferment Agreements in violation of Chapter 604A, similar to those agreements already in the record; and (5) The requests for the information at issue were made pursuant to statute and in the ordinary course of business of the FID and were not requested for any burdensome purpose or ulterior motive.

1. There is no due process violation

TitleMax argues that allowing this information would violate TitleMax's right to due process. TitleMax's argument is misguided because FID's use of the additional information will not affect TitleMax's ability to get a fair hearing. In this administrative hearing, due process is governed by NRS Chapter 233B. NRS 233B.121 states, in part:

1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.
2. The notice must include:
 - (a) A statement of the time, place and nature of the hearing.
 - (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - (c) A reference to the particular sections of the statutes and regulations involved.
 - (d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
3. Any party is entitled to be represented by counsel.
4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement for mileage to witnesses in the same amounts and under the same conditions as for witnesses in the courts of this state.

NRS 233B.121(1-4).¹ (emphasis added).

Subsection 4 of NRS 233B.121 provides that all parties are afforded the right to respond and present evidence and argument on all issues involved. Looking at the requests for information made by FID, set forth in Exhibits A and B of the MIL, it becomes obvious that the FID is not expanding the issues involved in this case and are just gathering evidence with respect to TitleMax's practice of providing a product known as a "Grace Period Payments Deferment Agreement." TitleMax is aware of the issue and the evidence and will have the opportunity to present evidence and argument. TitleMax is not being denied due process.

Like TitleMax, FID has the statutory right to present evidence and argument on the issues. Granting the MIL will deprive FID of this right. Whereas, denying the MIL will harm neither party.

¹ But for the notice of the hearing date, which will be issued, all sections of NRS 233B.121 have been, and will be, complied with.