

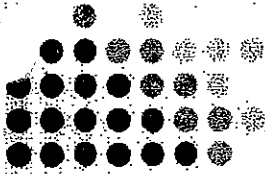


New provisions in A.B. 384

Section 73 imposes a penalty on any licensee who: enters into a loan agreement for any amount of interest or other charge or fee that violates the provisions of this chapter or demands, collects or receives any amount of interest or other charge or fee that violates the provisions of this chapter. If such a violation is committed, the loan is void and the licensee may not collect, receive or retain any principal, interest or other charge or fee.

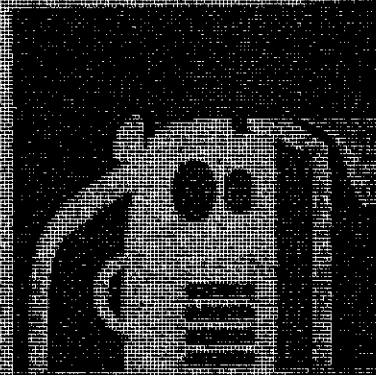
Section 74 authorizes a customer to bring a civil action against a licensee for certain violations of this chapter for actual damages, consequential damages, statutory damages or punitive damages. It also authorizes a customer to bring a civil action against a licensee for certain violations of this chapter for actual damages, consequential damages, statutory damages or punitive damages. It also authorizes a customer to bring a civil action against a licensee for certain violations of this chapter for actual damages, consequential damages, statutory damages or punitive damages.

APP 014933
ROA 010256



Auto Title Loans

- Loan term of 30 days
- May extend or rollover loan for 6 months
- Upon default, may only charge prime plus ten percent interest
- Must enter into a repayment plan before repossession
- May repossess vehicle without court order
- Cannot sue for any deficiency after repossession



APP 014934
ROA 010257

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 384
FIRST REPRINT

PREPARED FOR ASSEMBLYWOMAN BARBARA E. BUCKLEY
MAY 6, 2005

PREPARED BY THE RESEARCH 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:

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

4 Sec. 2. *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 21, inclusive, of*
6 *this act have the meanings ascribed to them in those sections.*

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

9 Sec. 4. 1. "Check" means:

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

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

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

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

1 Sec. 6. "Commissioner" means the Commissioner of Financial
2 Institutions.

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

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

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

Delete reference to
"repayment plan." Same
change is made in Section 44.

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

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

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

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

24 Sec. 9. "Deferred deposit loan" means a transaction in which,
25 pursuant to a written agreement:

26 1. A customer tenders to another person:

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

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

30 2. The other person:

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

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

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

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

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

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

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

9 Sec. 14. "Licensee" means any person who has been issued one or
10 more licenses to operate a check-cashing service, deferred deposit loan
11 service, short-term loan service or title loan service pursuant to the
12 provisions of this chapter.

13 Sec. 15. "Loan" means any deferred deposit loan, short-term loan
14 or title loan, or any extension or repayment plan relating to such a loan,
15 made at any location or through any method, including, without
16 limitation, at a kiosk, through the Internet, through any telephone,
17 facsimile machine or other telecommunication device or through any
18 other machine, network, system, device or means.

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

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

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

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

27 2. The term does not include:

28 (a) A deferred deposit loan; or

29 (b) A title loan.

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

33 Sec. 19. 1. "Title loan" means a loan made to a customer who
34 secures the loan with the title to a motor vehicle and who gives
35 possession of the title to the person making the loan or to any agent,
36 affiliate or subsidiary of the person.

37 2. ~~The term does not include a loan which creates a purchase~~
38 ~~money security interest in a motor vehicle or the refinance of any such~~
39 ~~loan. The term does not include a loan which is secured by a lien or~~
40 ~~other security interest that attaches to a motor vehicle or appears on its~~
41 ~~title, including, without limitation, a loan to finance the purchase of the~~
42 ~~motor vehicle, if the person making the loan, or any agent, affiliate or~~
43 ~~subsidiary of the person, does not take possession of the title~~

Revise the definition of
a "short-term loan."

Revise the definition of a
"title loan."

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 issued by the Department of Motor Vehicles that identifies the legal
6 owner of a motor vehicle or any similar document issued pursuant to the
7 laws of another jurisdiction.

8
9 **NEW SECTION**

10 Unless otherwise specifically provided herein, the terms "annual
11 percentage rate," "finance charge," "amount financed," "total of
12 payments," and "payment schedule" have the meanings given to the
13 under the federal Truth in Lending Act, 15 U.S.C. §§1601 et seq., and
14 Regulation Z, 12 C.F.R. 226, and proper calculation of the annual
15 percentage rate, finance charge, and amount financed shall be in
16 accordance therewith.

Add a new section to clarify
the meaning of certain
terms under the act.

17
18 Sec. 22. The provisions of this chapter apply to any person who
19 seeks to evade its application by any device, subterfuge or pretense,
20 including, without limitation, calling a loan by any other name or using
21 any agents, affiliates or subsidiaries in an attempt to avoid the
22 application of the provisions of this chapter.

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

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

Clarification of reference to
fees or interest.

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

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

36 Sec. 25. This chapter or any part thereof may be modified,
37 amended or repealed by the Legislature so as to effect a cancellation or
38 alteration of any license or right of a licensee under this chapter,
39 provided that such cancellation or alteration shall not impair or affect
40 the obligation of any preexisting lawful loan agreement between any
41 licensee and any customer.

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

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

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

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

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

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

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

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

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

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

22 7. A pawnbroker, unless the pawnbroker operates a check-cashing
23 service, deferred deposit loan service, short-term loan service or title loan
24 service.

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

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

28 10. 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 11. 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 12. Any firm or corporation:

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

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

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

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

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

43 Sec. 28. 1. The Commissioner shall adopt by regulation a
44 definition of the term "motor vehicle" as that term is used in the
45 definition of "title loan" for the purposes of this chapter.

1 2. The Commissioner may establish by regulation the fees that a
2 licensee who provides check-cashing services may impose for cashing
3 checks.

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

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

11 2. A person must have a license regardless of the location or method
12 that the person uses to operate such a service, including, without
13 limitation, at a kiosk, through the Internet, through any telephone,
14 facsimile machine or other telecommunication device or through any
15 other machine, network, system, device or means.

16 Sec. 30. 1. A licensee shall post in a conspicuous place in every
17 location at which he conducts business under his license, a notice that
18 states the fees he charges for providing check-cashing services, deferred
19 deposit loan services, short-term loan services or title loan services.

20 2. If a licensee offers loans to customers at a kiosk, through the
21 Internet, through any telephone, facsimile machine or other
22 telecommunication device or through any other machine, network,
23 system, device or means, the licensee shall, as appropriate to the location
24 or method for making the loan, post in a conspicuous place where
25 customers will see it before they enter into a loan, or disclose in an open
26 and obvious manner to customers before they enter into a loan, a notice
27 that states:

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

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

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

37 Sec. 31. 1. Before making any loan to a customer, a licensee shall
38 provide to the customer a written loan agreement which may be kept by
39 the customer and which must be written in:

40 (a) English, if the transaction is conducted in English; or

41 (b) Spanish, if the transaction is conducted in Spanish.

42 2. The loan agreement must include, without limitation, the
43 following information:

44 (a) The name and address of the licensee and the customer;

45 (b) The date of the loan;

- 1 (c) The nature of the security for the loan, if any;
2 (d) The amount of the loan obligation, including, without limitation,
3 an itemization of the interest, charges and fees the customer must pay if
4 the licensee makes a loan to the customer;
5 (e) The description or schedule of payments on the loan;
6 (f) A disclosure of the right of the customer to rescind a loan
7 pursuant to the provisions of this chapter;
8 (g) A disclosure of the right of the customer to pay his loan in full or
9 in part with no additional charge pursuant to the provisions of this
10 chapter;
11 (h) Disclosures required for a similar transaction by the federal
12 Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and
13 (i) Disclosures required under any other applicable state statute or
14 regulation.
15 (j) A disclosure that the customer has the opportunity to enter into a
16 repayment plan of at least four (4) equal monthly installments within 30
17 days of defaulting before any civil action or alternative dispute resolution
18 process may be commenced.

Adds an additional disclosure
requirement to be included in the
loan agreement.

19 Sec. 32. 1. If a customer defaults on a loan, the licensee may
20 collect the debt owed to the licensee only in a professional, fair and
21 lawful manner. When collecting such a debt, the licensee must act in
22 accordance with and must not violate sections 803 to 812, inclusive, of
23 the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692a to
24 1692j, inclusive, even if the licensee is not otherwise subject to the
25 provisions of that Act.

26 2. If a licensee initiates a civil action against a customer to collect a
27 debt, the court may award:

- 28 (a) Court costs;
29 (b) Costs of service of process, except that the costs must not exceed
30 the amount of the fees charged by the sheriff or constable for service of
31 process in the county where the action was brought or, if the customer is
32 not served in that county, in the county where the customer was served;
33 and
34 (c) Reasonable attorney's fees. In determining the amount of the
35 attorney's fees and whether they are reasonable, the court shall consider
36 the complexity of the case, the amount of the debt and whether the
37 licensee could have used less costly means to collect the debt.

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

- 40 (a) Defer for the duration of the active duty all collection activity
41 against the customer and his property, including, without limitation, any
42 community property in which the customer has an interest; and
43 (b) Honor the terms of any repayment plan between the licensee and
44 customer, including, without limitation, any repayment plan negotiated
45 through military counselors or third-party credit counselors.

2. When collecting any defaulted loan, a licensee shall not:
(a) Garnish or threaten to garnish any wages or salary paid to a customer for active service in the military; or

(b) Contact or threaten to 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 deferred deposit or short term loan in which the terms of repayment require a payment or payments that exceeds exceed 25 percent of the expected gross monthly income of the customer when the loan is made. 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 repayment terms do ~~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 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 in which repayment terms together ~~that~~ do not exceed the limit set forth in subsection 1;

(b) The licensee charges the same rate ~~or a lower annual percentage 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

Includes threats under the prohibited acts.

Revises Section 34 to limit its application to deferred deposit or short term loans (not title loans), and to provide that the monthly payment, rather than the loan amount, cannot exceed 25 percent of the borrower's expected gross monthly income when the loan is taken out.

1 amount of total payments set forth in the disclosure statement required
2 by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is
3 provided to the customer.

4 2. Take any note or promise to pay which does not disclose the date
5 and amount of the loan, an annual percentage rate, a finance charge, an
6 amount finance, a total of payments, a payment schedule, late fees, and
7 any other fee not required to be included in the finance charge under the
8 a schedule or description of the payments to be made thereon and the
9 rate or aggregate amount of the interest, charges and fees negotiated and
10 agreed to by the licensee and customer. Compliance with the federal
11 Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z,
12 12 C.F.R. 226. Compliance with the federal Truth in Lending Act,
13 15 U.S.C. §§ 1601 et seq., and Regulation Z, 12 C.F.R. 226, constitutes
14 compliance with this subsection.

Clarifying language with
regard to disclosures.

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

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

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

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

26 7. Charge a pre-default late fee which is void as a penalty under
27 common law.

Prohibits the licensee from
charging a pre-default late fee
that is void as a penalty under
common law.

28 Sec. 36. A licensee shall not:

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

32 2. Commence a civil action before the expiration of the original
33 term of a loan agreement or before the expiration of any repayment plan,
34 extension or grace period negotiated and agreed to by the licensee and
35 customer, unless otherwise authorized pursuant to this chapter.

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

39 4. Include in any written agreement:

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

41 (b) A confession of judgment by the customer;

42 (c) An assignment or order for payment of wages or other
43 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.

NEW SECTION (Relates only to title loans)

1. The original term of a title loan shall not exceed the greater of either 30 days or one month. The title loan can be renewed for up to, but not exceeding, six (6) additional such periods provided that:

(a) No interest or charges from prior loan or renewal periods are capitalized or added to the principal amount in any renewal;

(b) The annual percentage rate of interest associated with the title loan is not increased from that charged in previous periods; 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 fee, are charged in connection with any renewal.

New section regarding the terms of title loans.

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 vehicle ownership~~; 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:

Adds "vehicle ownership" to the list of items concerning which the customer must sign an affidavit stating he has provided true and correct information.

Language regarding commencing a legal action is deleted.

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

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

Language providing that making necessary repairs to the motor vehicles is not "deemed waste" is deleted.

11 3. A licensee shall make available to a customer any personal
12 property contained in a motor vehicle that is repossessed by the licensee
13 upon default of the borrower on a title loan. In the event a licensee uses
14 a third party repossession company to effect repossession, the licensee
15 shall instruct such repossession company to make the customer's
16 personal property reasonably available to the customer. After
17 repossession and sale of the motor vehicle securing the title loan, the
18 licensee shall return to the customer any proceeds from the sale of the
19 motor vehicle which exceed the amount owed on the title loan.

Revised procedure for making available to the customer his personal property contained in a repossessed motor vehicle.

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

Language to clarify actions involving customer fraud.

24 (a) The amount of the loan obligation, including, without limitation,
25 the aggregate amount of the interest, charges and fees negotiated and
26 agreed to by the licensee and customer which are permitted by this Act,
27 less any repayments;

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

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

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

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

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

43 (b) The original check, if any, which the licensee gave to the
44 customer pursuant to the loan. Upon receipt of the original check, the
45 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 as permitted under this Act, 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:

Clarifies the charges and fees that may be negotiated and agreed to.

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

11 Sec. 42. 1. Prior to commencing civil action or any alternative
12 dispute resolution process to collect a loan, the licensee shall

13 (a) Offer the customer the opportunity to enter into a repayment plan
14 within 30 days of default or the end of any grace period, whichever
15 occurs later, that is at least four (4) equal monthly installments.

16 (b) Provide the customer with written notice of the opportunity which
17 must:

18 (1) Be in English, if the initial transaction was conducted in
19 English, or in Spanish, if the initial transaction was conducted in
20 Spanish;

21 (2) State that the customer has 30 days from the date the notice is
22 postmarked to enter into the repayment plan and make his first payment;

23 (3) State that the customer can repay the amount owed in at least
24 4 equal monthly installments; and

25 (4) State:

26 (i) The original amount owed less all payments made before
27 and after default;

28 (ii) Any charges permitted by this chapter; and

29 (iii) The total due and owing.

30 The licensee and customer may enter into a repayment plan if:

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

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

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

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

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

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

Revises language
regarding repayment plans.

~~(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. 2. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall, if:~~

~~(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. 3. 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 or any alternative dispute resolution process against the customer during the term of the repayment plan.~~

~~6. 4. 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;~~

Adds option of alternative dispute resolution.

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

3 (c) The date of the payment;

4 (d) The amount paid;

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

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

10 Sec. 43. If a customer agrees to establish or extend the period for
11 the repayment, renewal, refinancing or consolidation of an outstanding
12 loan by using the proceeds of a new deferred deposit or short-term loan
13 to pay the balance of the outstanding loan, the licensee shall not
14 establish or extend such a period beyond ~~8 weeks~~ 2 months after the
15 expiration of the initial loan period. This section does not apply to a
16 licensee who lends according to all of the following criteria:

17 1. The licensee makes a loan with an annual percentage rate of less
18 than 200 percent, to be repaid on a monthly basis in not less than
19 5 months, and interest does not continue to accrue at the contract rate
20 after the date of maturity if not paid in full;

21 3. A credit check is performed with a major consumer reporting
22 agency prior to initiating the loan;

23 4. Loan experience information is reported to a major consumer
24 reporting agency;

25 5. The customer is provided a 5-day right to rescind a loan without
26 charge;

27 6. The licensee participates in good faith with a counseling agency
28 that is accredited by the Council on Accreditation for Services for
29 Families and Children, Inc.;

30 7. The licensee is a member of the National Foundation for Credit
31 Counseling; and

32 8. The licensee does not initiate litigation or an alternative dispute
33 resolution process on a defaulted loan, extension, or repayment plan.

34 Sec. 44. 1. If a customer defaults on a loan or on any extension
35 or repayment plan relating to the loan, whichever is later, the licensee
36 may collect only the following amounts from the customer:

37 (a) The principal amount of the loan, less all payments made before
38 and after default.

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

Revises Section 43 to limit its application to deferred deposit or short-term loans, specify a period of 2 months (instead of 8 weeks), and provide an exemption for certain licensees.

Clarifies amounts a licensee may collect when a customer defaults, and deletes a reference to "repayment plan" under subsection 1(a).

Adds an exception for
Section 43 and its new
provisions.

1 expiration of the initial loan period, unless otherwise allowed by
2 section 43.

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

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

15 2. Except for the interest and fees permitted pursuant to subsection
16 1, the licensee shall not charge any other amount to a customer,
17 including, without limitation, any amount or charge payable directly or
18 indirectly by the customer and imposed directly or indirectly by the
19 licensee as an incident to or as a condition of the extension of the period
20 for the payment of the loan or the extension of credit. Such an amount
21 includes, without limitation:

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

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

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

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

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

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

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

42 1. The name and address of the licensee;

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

45 3. The date of the payment;

1 4. The amount paid;

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

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

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

10 2. The provisions of this section do not apply to the agent or
11 assistant to a state or federally chartered bank, thrift company, savings
12 and loan association or industrial loan company if the state or federally
13 chartered bank, thrift company, savings and loan association or
14 industrial loan company:

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

16 (b) Does not sell, assign or transfer a preponderant economic interest
17 in the loan to the agent or assistant or an affiliate or subsidiary of the
18 state or federally chartered bank, thrift company, savings and loan
19 association or industrial loan company, unless selling, assigning or
20 transferring a preponderant economic interest is expressly permitted by
21 the primary regulator of the state or federally chartered bank, thrift
22 company, savings and loan association or industrial loan company.

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

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

32 (a) If the applicant is a natural person, the name and address of the
33 applicant.

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

36 (1) Partner;

37 (2) Officer;

38 (3) Director;

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

40 (5) Registered agent,

41 of the business entity.

42 (c) Such other information, as the Commissioner determines
43 necessary, concerning the financial responsibility, background,
44 experience and activities of the applicant and its:

45 (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:

(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.

1 5. The liability of the surety on the bond to a creditor or claimant is
2 not affected by any misrepresentation, breach of warranty, failure to pay
3 a premium or other act or omission of the licensee, or by any insolvency
4 or bankruptcy of the licensee.

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

8 (a) The death of the licensee or the dissolution or liquidation of his
9 business; or

10 (b) The termination of the bond,
11 ↳ whichever event occurs first.

12 7. A licensee or his surety shall not cancel or alter a bond except
13 after notice to the Commissioner by certified mail. The cancellation or
14 alteration is not effective until 10 days after
15 receipt of the notice by the Commissioner. A cancellation or alteration
16 does not affect any liability incurred or accrued on the bond before the
17 expiration of the 30-day period designated in subsection 6.

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

23 (a) Interest-bearing stocks;

24 (b) Bills, bonds, notes, debentures or other obligations of the United
25 States or any agency or instrumentality thereof, or guaranteed by the
26 United States; or

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

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

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

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

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

1 *this State to the Commissioner or a representative of the Commissioner;*
2 *or*

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

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

9 *2. This section applies, without limitation, to any office or other*
10 *place of business located outside this State from which the applicant will*
11 *conduct business in this State at a kiosk, through the Internet, through*
12 *any telephone, facsimile machine or other telecommunication device or*
13 *through any other machine, network, system, device or means.*

14 *Sec. 52. 1. Upon the filing of the application and the payment of*
15 *the fees required pursuant to section 48 of this act,*
16 *the Commissioner shall investigate the facts concerning the application*
17 *and the requirements provided for in section 54 of this act.*

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

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

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

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

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

37 *Sec. 54. 1. The Commissioner shall enter an order granting an*
38 *application if he finds that the financial responsibility, experience,*
39 *character and general fitness of the applicant are such as to command*
40 *the confidence of the public and to warrant belief that the business will*
41 *be operated lawfully, honestly, fairly and efficiently.*

42 *2. If the Commissioner grants an application, the Commissioner*
43 *shall:*

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

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

4 3. Each licensee shall prominently display his license at the location
5 where he does business. The Commissioner may issue additional licenses
6 to the same licensee for each branch location at which the licensee is
7 authorized to operate under the license, including, without limitation,
8 each branch location where the licensee is authorized to operate at a
9 kiosk, through the Internet, through any telephone, facsimile machine or
10 other telecommunication device or through any other machine, network,
11 system, device or means. Nothing in this subsection requires a license for
12 any place of business devoted to accounting, recordkeeping or
13 administrative purposes only.

14 4. Each license shall:

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

16 (b) State fully:

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

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

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

22 5. A license is not transferable or assignable.

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

27 (a) A renewal fee; and

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

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

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

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

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

38 2. A person who acquires stock, partnership or member interests
39 resulting in a change of control of the licensee shall apply to the
40 Commissioner for approval of the transfer. The application must contain
41 information which shows that the requirements for obtaining a license
42 pursuant to the provisions of this chapter will be satisfied after the
43 change of control. If the Commissioner determines that those
44 requirements will not be satisfied, he may deny the application and
45 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:

(I) 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:

(I) 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.

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

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

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

11 4. This section applies, without limitation, to any office or other
12 place of business at which the licensee intends to operate a kiosk,
13 through the Internet, through any telephone, facsimile machine or other
14 telecommunication device or through any other machine, network,
15 system, device or means.

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

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

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

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

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

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

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

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

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

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

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

4 (c) Be indebted to any licensee;

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

6 or

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

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

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

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

21 Sec. 62. 1. For the purpose of discovering violations of this
22 chapter or of securing information lawfully required under this chapter,
23 the Commissioner or his duly authorized representatives may at any time
24 investigate the business and examine the books, accounts, papers and
25 records used therein of:

26 (a) Any licensee;

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

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

34 2. For the purpose of examination, the Commissioner or his
35 authorized representatives shall have and be given free access to the
36 offices and places of business, and the files, safes and vaults of such
37 persons.

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

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

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

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

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

6 Sec. 64. At least once each year, the Commissioner or his
7 authorized representatives shall make an examination of the place of
8 business of each licensee and of the loans, transactions, books, accounts,
9 papers and records of the licensee so far as they pertain to the business
10 for which he is licensed pursuant to the provisions of this chapter. If the
11 Commissioner or his authorized representatives conclude, that after
12 auditing one or more branches of a licensee, that the loans, computer
13 processes, disclosures, loan practices, filing systems, and records are
14 identical at each location, then the Commissioner has the authority to
15 only review those branches that are deemed necessary.

Adds new language
regarding review of branches
when documents are
identical at each location.

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

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

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

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

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

42 2. The Attorney General or the Commissioner may bring an action
43 to enjoin a person from engaging in or continuing a violation or from
44 doing any act or acts in furtherance thereof. In any such action, an

1 order or judgment may be entered awarding a preliminary or final
2 injunction as may be deemed proper.

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

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

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

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

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

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

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

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

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

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

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

39 (e) The licensee:

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

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

1 4. Any revocation or suspension applies only to the license granted
2 to a person for the particular office for which grounds for revocation or
3 suspension exist.

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

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

11 Sec. 70. A revocation, suspension, expiration or surrender of any
12 license does not impair or affect the obligation of any preexisting lawful
13 loan agreement between the licensee and any customer. Such a loan
14 agreement and all lawful charges thereon may be collected by the
15 licensee, its successors or assigns.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Sec. 74. In addition to any other remedy or penalty, if a licensee
15 violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58
16 of this act or any regulation adopted pursuant thereto, the customer may
17 bring a civil action against the licensee for any or all of the following
18 relief:

19 1. Actual and consequential damages;

20 2. An additional amount, as statutory damages, which is equal to
21 \$1,000 for each violation;

22 3. Punitive damages, which are subject to the provisions of NRS
23 42.005;

24 4. Reasonable attorney's fees and costs; and

25 5. Any other legal or equitable relief that the court deems
26 appropriate.

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

28 598D.130 A mortgage, deed of trust or other instrument that
29 encumbers home property as security for repayment of a home loan must
30 expressly indicate in writing in a size equal to at least 14-point bold type
31 on the front page of the mortgage, deed of trust or other instrument that
32 the home loan is a home loan as defined in NRS 598D.040 and is
33 subject to the provisions of § 152 of the Home Ownership and Equity
34 Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations
35 adopted by the Board of Governors of the Federal Reserve System
36 pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

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

38 232.545 1. An Investigative Account for Financial Institutions is
39 hereby created in the State General Fund. The Account consists of money
40 which is:

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

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

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

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

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

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

10 3. As used in this section, "financial institution" means an institution
11 for which licensing or registration is required by the provisions of titles 55
12 and 56 ~~and chapters 604 and 649~~ of NRS ~~1~~, *chapter 649 of NRS and*
13 *sections 2 to 74, inclusive, of this act.*

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

15 363A.050 1. Except as otherwise provided in subsection 2,
16 "financial institution" means:

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

22 (b) Any person primarily engaged in:

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

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

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

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

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

34 (6) Furnishing services to holders of or brokers or dealers in
35 securities or commodities;

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

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

42 (9) Issuing shares, other than unit investment trusts and face-
43 amount certificate companies, whose shares contain a provision requiring
44 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 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;*

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

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

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

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

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

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

13 (h) Savings and loan association that is supervised pursuant to chapter
14 673 of NRS;

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

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

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

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

22 2. The Commissioner shall determine the total amount of all
23 assessments to be collected from the entities identified in subsection 1, but
24 that amount must not exceed the amount necessary to recover the cost of
25 legal services provided by the Attorney General to the Commissioner and
26 to the Division of Financial Institutions. The total amount of all
27 assessments collected must be reduced by any amounts collected by the
28 Commissioner from an entity for the recovery of the costs of legal services
29 provided by the Attorney General in a specific case.

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

32 (a) A portion of the total amount of all assessments as determined
33 pursuant to subsection 2, such that the assessment collected from an entity
34 identified in subsection 1 shall bear the same relation to the total amount of
35 all assessments as the total assets of that entity bear to the total of all assets
36 of all entities identified in subsection 1; or

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

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

41 5. Money collected by the Commissioner pursuant to this section
42 must be deposited in the State Treasury pursuant to the provisions of NRS
43 658.091.

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

45 675.040 This chapter does not apply to:

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

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

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

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

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

13 6. Except as otherwise provided in this subsection, any firm or
14 corporation:

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

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

19 (c) Approved by the Department of Housing and Urban Development
20 and the Department of Veterans Affairs.

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

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

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

27 10. *A person licensed to do business pursuant to sections 2 to 74,*
28 *inclusive, of this act.*

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

30 675.060 1. No person may engage in the business of lending in this
31 State without first having obtained a license from the Commissioner
32 *pursuant to this chapter* for each office or other place of business at which
33 the person engages in such business ~~[-]~~, *except that if a person intends to*
34 *engage in the business of lending in this State as a deferred deposit loan*
35 *service, short-term loan service or title loan service, as those terms are*
36 *defined in sections 2 to 74, inclusive, of this act, the person must obtain a*
37 *license from the Commissioner pursuant to sections 2 to 74, inclusive, of*
38 *this act before the person may engage in any such business.*

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

41 (a) Solicits loans in this State or makes loans to persons in this State,
42 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.

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

**ASSEMBLY BILL 384
PROPOSED AMENDMENTS
Assemblywoman Barbara E. Buckley**

**Senate Committee on Commerce and Labor
May 6, 2005**

Following is a summary of the sections amended in the mock-up of Assembly Bill 384 (first reprint):

1. Sections on Definitions

- **Section 8** – Clarifies definition of “default” to eliminate a reference to “repayment plan.”
- **Section 17** – Clarifies definition of a “short-term loan.”
- **Section 19** – Clarifies definition of a “title loan,” and in particular, what is not included in that term.
- **New Section** – Clarifies certain terms have the meanings given to them under federal law. (Inserted for purposes of the mock-up after Section 21.)

2. Section 23 (Grace Periods) – Clarifies that a licensee cannot charge additional fees or interest on the outstanding loan during the grace period.

3. Section 31 (Written Agreements) – Adds an additional disclosure requirement regarding the opportunity to enter into a repayment plan before a civil action or alternative dispute resolution may be commenced.

4. Section 33 (Protections for Customers Called to Active Duty in Military) – Includes threats to garnish wages or to contact the military in the acts that are specifically prohibited.

5. Section 34 (Prohibitions on Certain Types of Loans) - Limits the section to deferred deposit or short term loans (not title loans), and provides that the monthly payment (rather than the loan amount) cannot exceed 25 percent of the borrower's expected gross monthly income when the loan is taken out.

6. Section 35 (Prohibitions on Certain Acts by Licensees) – Clarifies language with regard to the prohibition on taking a note or promise to pay which does not make certain disclosures. Also adds language prohibiting a licensee from charging a pre-default late fee that is void as a penalty under common law.

7. New Section – Adds language regarding the terms of a title loan and the authorization to renew the loan under certain conditions. (Inserted for the purposes of the mock-up between Sections 36 & 37)

8. Section 37 (Prohibitions on Certain Acts by Licensees) – Adds “vehicle ownership” to the list of items concerning which the customer must sign an affidavit stating he has provided true and correct information.

9. **Section 38 (Application of the Uniform Commercial Code and Remedies on Default of Title Loan):**

- Provides that the sole remedy upon default on a title loan or an extension or repayment plan is to seek repossession and sale of the motor vehicle. Language requiring the commencement of a legal action to seek the repossession and sale is deleted.
- Deletes language specifying that making necessary repairs to the motor vehicle is not "deemed waste."
- Revises procedures for making available to the customer his personal property contained in a repossessed motor vehicle.
- Allows a civil action for fraud also to be brought against a customer who wrongfully transfers any interest in the motor vehicle to a third party before the loan is repaid.

10. **Section 40 (Authorization to Pay Loan in Full without Additional Fees) -** Adds language to clarify the charges and fees that may be negotiated and agreed to by the parties.

11. **Section 42 (Repayment Plans) -** Revises the language regarding repayment plans the licensee must offer prior to commencing a civil action or any alternative dispute resolution.

12. **Section 43 (Limitation on Period for Repayment) -** Limits the section to deferred deposit or short-term loans; specifies a 2-month limitation on the period for repayment (instead of 8 weeks); and provides an exemption to this section for certain licensees.

13. **Section 44 (Amounts that May be Collected on Default of Loan)**

- Clarifies the licensee may collect the principal amount of the loan less all payments made before and after default.
- Deletes a reference to "repayment plan" and adds a reference to section 43 (as amended) under subsection 1(b), which relates to the interest the licensee may collect if there is an extension relating to the loan.

14. **Section 64 (Annual Examination of Licensee's Business by Commissioner) -** Provides that if Commissioner concludes, after auditing one of more branches of a licensee, that the specified documents are identical at each location, the Commissioner has the authority to review only those branches that are deemed necessary.



Nevada Fair Housing Center, Inc.
paving the way to a world of resources

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TESTIMONY BEFORE
THE SENATE
COMMERCE AND LABOR COMMITTEE
AB 384 – PAYDAY LENDING BILL

May 6, 2005

Nevada Fair Housing Center appreciates the opportunity to present this statement to the Nevada State Senate Committee on Commerce and Labor. We offer this testimony in strong support of A.B. 384, which increases consumer protections for borrowers of short-term, high interest loans.

Nevada Fair Housing Center, Inc. enforces the Fair Housing Act, protects consumers from predatory mortgage lending and administers financial literacy and first-time home-buyer programs. Through programs that promote equal access to capital and credit, NFHC supports neighborhood revitalization and community economic development.

As part of our efforts to ensure that low-income neighborhoods can access capital and credit on fair terms, we conducted a study of payday lenders and other short-term, high interest cash lenders in Nevada. Our findings can help craft legislation that includes appropriate consumer protections.

Short-term, high interest lenders make money in two ways: on the front-end of the transaction in the form of finance charges and interest and on the back-end of the transaction in the form of late fees and rollovers. We are mainly concerned with abusive practices on the back end.

Abusive Debt Collection Practices

When a short-term, high interest loan goes unpaid, some lenders file debt collection suits with the Las Vegas Justice Court. Lenders are certainly entitled to recoup the amount of money they originally lent. Our study, however, documents a number of abusive debt collection practices that lenders use to collect sums well in excess of the original loan amount.

We investigated the debt collection practices of 9 short-term, high interest installment lenders. Some lenders add exorbitant late charges to their debt collection suits. Others sue their customers for treble damages under NRS 41.620.

NRS 41.620 enables merchants to collect three times the amount of a check returned for insufficient funds, up to \$500. It is intended to deter check-fraud. It is not intended to allow unscrupulous lenders to pile damages on to their debt collection suits. In July of 2002, the Commissioner of Nevada Financial Institutions Division issued a memo explicitly prohibiting the use of NRS 41.620 by payday lenders (Walsahw 2002).

Despite this prohibition, our study found that some lenders¹ regularly sue for treble damages under NRS 41.620. Moreover, they require borrowers to write multiple checks for a single transaction, allowing them to circumvent the \$500 limit.

For example, in one case we examined (no. 04C-003038), the customer borrowed \$300. He wrote three checks, each for \$130 (there was a finance charge of \$90). When all three checks were returned for insufficient funds, the lender² sued for treble damages on each check, or for \$1170 (\$390+\$390+\$390=\$1170). Had the customer written one check for \$300, the lender would have been able to sue for only \$500 in damages. In this case, the court ordered the borrower to pay \$1832, including court costs and attorney's fees. He had repaid \$1728 at the time of our examination. The court had issued a writ of execution garnishing his wages for the remainder.

Our findings suggest that such examples are not rare. For the most abusive lenders in our study,³ the typical borrowers ended up paying a sum more than five or six times the original loan amount.

A.B. 384 takes important steps to reign in these abusive debt collection practices. Specifically, it:

- Clearly states what fees and rate of interest can be charged on delinquent accounts;
- Explicitly prohibits the use of NRS 41.620 by deferred-deposit and payday lenders;
- Prohibits lenders from making multiple loans to one customer at a single time; and
- Prohibits lenders from requiring borrowers to write multiple checks for a single loan.

The issue of rollovers

The second issue we're concerned with is rollovers. The term "rollover" refers to paying just the interest or finance charge on a short-term loan to extend it for another term—usually 2 weeks. Some customers pay to rollover their loans many times but never reduce the loan principal.

¹ Rapid Cash, Easy Cash and Cool Cash

² Cool Cash

³ The typical Budget Loans customer ended up paying 6.60 times the original loan amount; the typical Cool Cash customer ended up paying 5.28 times the original loan amount.

Consumer advocates argue that payday loans are structured to encourage such cycles of repeat borrowing. Payday lenders, on the other hand, insist that only a very small percentage of customers get stuck on the debt treadmill.

Although we lack data specific to Nevada on borrowing frequency, we reviewed a number of studies conducted by regulators in other states. State regulators in Illinois, Indiana and Wisconsin found that the typical customer took out between 10 and 12 payday loans a year. The North Carolina Commissioner of Banks and the Washington State Financial Institutions Division found that a significant minority of customers in each state took out more than 20 loans in a single year: over 7 percent (32,718 customers) did so in North Carolina and over 8 percent (16,034 customers) did so in Washington.

A study based on data collected by the North Carolina Commissioner of Banks found that payday lenders have a strong economic incentive to encourage recurrent borrowing. A smaller number of repeat customers generated far more revenue for payday lenders than a larger number of occasional borrowers.⁴

These studies show that recurrent borrowing is a problem that warrants the attention of policymakers. AB 384 would help address this problem by:

- Prohibiting rollovers and requiring a repayment plan upon default;
- Prohibiting loans greater than $\frac{1}{4}$ of a borrower's expected monthly gross income;
- Prohibiting lenders from making loans to customers with loans already outstanding;
- Prohibiting back-to-back transactions;
- Requiring lenders to accept partial payments in any amount at no charge; and
- Requiring lenders to provide customers with copies of the loan agreement and the repayment schedule.

The issues of rollovers, late charges, and treble damages are highly contentious ones. The lenders will argue that prohibiting rollovers and limiting late charges and damages will remove the economic incentive for borrowers to repay on time. They're really trying to protect their own economic incentive to encourage cycles of repeat borrowing and charge abusive late fees.

It is possible to preserve the borrower's incentive to repay while putting a stop to serial rollovers and abusive late fees. AB 384 does just that.

⁴ The 38 percent of all customers who took out between 1 and 3 loans in a year generated 12 percent of total industry revenues, or \$15 million. The 18 percent of customers who took out 12 or more loans in a single year generated 40 percent of total industry revenues, or \$49 million. From Skillern, Peter "Small Loans, Big Bucks: An Analysis of the Payday Lending Industry in North Carolina." Community Reinvestment Association of North Carolina, available at: <http://www.cra-nc.org/small%20loans%20big%20bucks.pdf>.

Our study documented abusive practices in the Nevada payday loan industry. Increasing consumer protections is prudent public policy. If comprehensive consumer protections are not adopted in Nevada, the abuses documented in our study will only continue.

May 6, 2005

Good morning, my name is Michele Johnson. I am President/CEO of Consumer Credit Counseling Service, a not-for-profit United Way HUD certified organization serving residents of Nevada for over 30 years. CCCS provides basic financial and asset building services including down-payment assistance, IDA accounts, establishment of checking and savings accounts, income tax preparation, financial literacy, financial counseling, mortgage default/delinquency counseling and debt management and repayment. We provide financial counseling, face-to-face, to over 650 individuals and families each month and in circumstances specific to these clients and the disturbing trends being experienced I would like to briefly address today.

As you are aware, the payday lending and small loan industry has grown exponentially the past few years and we see the effects on a daily basis with consumers seeking solutions (other than bankruptcy) for their indebtedness. Obligations to payday and/or small loan companies added to an already overburdened consumer result in a downward financial spiral. It also seems evident that marketing by the industry is directed to minorities, low to moderate-income individuals and seniors. Spanish speaking consumers sign documents in English, knowing only what they are told, which may very well not be the same as the written word.

In March 2005 our agency, on a statewide basis, provided financial counseling to 660 unduplicated individuals/families who were seeking options and resources to meet their financial obligations while still paying rent and utilities, buying food and paying child care expenses. Of those, **17.4% owed one or more payday loans and/or small loan companies.** These consumers were obligated to from one to seventeen different financial obligations and, in over 95% of the clients, this debt was in addition to other consumer debt (credit card, retail, etc.). In addition, of those providing the information, over **83% were ethnic groups and/or seniors.**

I spoke earlier of seniors and will provide an example which is, unfortunately, not rare. A 71-year-old gentleman came in for assistance. His total net monthly income is \$1,000.25 from social security. He owed 15 payday and four small loan companies – **19 creditors with monthly payments totaling \$3,627.**

This started with one loan of \$100.00. His social security check arrives on the 3rd of each month. On the 16th he borrowed \$100, to be repaid on the 30th. Unfortunately, he had no income until the 3rd so when the loan became due he borrowed from another payday company to pay the interest on the first loan ... and on and on and on, resulting in almost \$4,000 in debt. Moreover, this amount did not reflect costs with the legal action that was being processed.

A Spanish-speaking client enlisted our assistance to repay his six payday loans. On January 25, 2005 one of the companies responded in writing to our agency, accepting the proposed payment of \$67 on a **\$400 balance.** On February 26,

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2005 a lawsuit was filed for treble damages, resulting in a demand for **\$1,978.08** plus 15% interest per two weeks. All this for a \$400 debt the company agreed to accept payments on and had, in fact, already received two payments as agreed.

The examples could continue, as we see them daily. Consumers are being exploited. Being indebted to 19 creditors (four of these loans to one company) as a 71-year old with no possible way to repay is exploitation. Owing \$400 and liquidating the debt as agreed upon by the payday loan company only to be sued for almost \$2,000 is exploitation. I am asking you consider the proposed legislation to provide protection for your constituents, the residents of Nevada.

Thank you for allowing me to speak.

**TESTIMONY
AB384
SENATE COMMERCE & LABOR COMMITTEE
5/6/05**

**GOOD MORNING MR. CHAIRMAN AND COMMITTEE
MEMBERS. FOR THE RECORD DEBBIE SMITH
REPRESENTING ASSEMBLY DISTRICT 30. I WAS
CONTACTED BY A CONSTITUENT, ROBBIN NOVELLO
WHO WANTED TO BE HERE TODAY TO PROVIDE
TESTIMONY ON THIS BILL BUT WAS UNABLE TO
TAKE TIME OFF WORK. SHE REQUESTED THAT I
READ HER TESTIMONY FOR THE RECORD:**

I was watching the news and saw a story regarding payday loans centers and noticed the 73rd Legislation was introducing a bill to "rein in" these places due to the high interest rates they charge consumers. I have a story of my own and was wondering how I could go about making my story known. I obtained a loan from a local payday loan center due to numerous job layoffs on my husband's part, and mounting financial difficulties that resulted from that. I had twins in high school at the time and the expenses that are part of school costs, sports, and eventually graduation only added to our problems financially. To try to put it in a nutshell, the payments they required me to make on a weekly basis were exorbitant, and unless I was able to pay more than the payment they required, the monies never went toward the actual loan amount. After months of paying them and not seeming to get anywhere, my husband again was laid off, making it extremely difficult for me to continue paying them at the pace I was. I requested on several occasions to work out some sort of payment arrangement and was denied each time. I eventually fell behind, which resulted in fines and penalties that only kept adding to the amount I originally owed. After some time, I received notice I was being taken to court, but even though the loan was obtained at a Sun Valley Loan store, I was taken to court in Las Vegas, Naturally I could not take time off of work to go in the middle of the week so of course, was "defaulted". What started out as a \$750.00 loan ended up being just under \$4,000.00. Not only were my wages garnished, but they also went into my husband's bank account and took every penny he had in there which was just over \$2,300.00. I tried to contact the Loan Center, but got no response. I also tried to contact the Collection Bureau, and received less than polite responses. I also wrote to the FID in Nevada that handles consumer issues, but have not yet heard back from

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them. This whole experience has put a great strain on our already precarious financial situation, as well as our personal relationship. It has also done great damage in my relationship with my superiors at my job because of the amount of the garnishment. I have had other experiences as well, one other being with a Title Loan company in which I obtained a loan in order to not only pay the other loan center its weekly payments but also to try to keep up with the bills on the homefront. It seems to only be a vicious circle of owing everybody, and paying back five times what you originally borrow! Sincerely, Robbin Novello, 5550 Gentle Drive, Sun Valley, Nevada, 89433...(775) 674-1967.



Thank you Chairman Townsend and Senators for the opportunity to speak on behalf of Security Finance with regard to our industry and our views with respect to AB 324.

My name is Phillip Holt and I am the Vice President of Government Relations for Security Finance of Spartanburg, S.C. Security Finance is small consumer loan company with over 900 retail locations throughout the United States and Mexico. Security Finance currently has 14 locations in Nevada and with nearly 10,000 customers in the state.

The small installment loan industry provides consumers with a lending option for short-term, small consumer loans. There is a large and growing consumer demand for short-term, small consumer loans, but the current market provides only limited options for these consumers.

Security Finance is among the nation's leaders in short-term, small consumer loans, with operations in 19 states across the country with over 50 years of experience. As a leader in the industry, Security Finance is committed to highest level of standards, and is a active member of the American Financial Services Association. I have provided to each of you today a copy of the Code of Ethics which as a member of AFSA, we are determined to adhere to.

I have also taken the liberty to provide you with a "Member Company Fact Sheet", simply for reference purposes.

Unlike other competitors servicing similar customers, small installment loan companies, like Security Finance, offer several advantages to consumers:

- * Test the ability to repay the loan by working out a budget with borrowers
- * Allow the borrower to reduce the principal each month through monthly installments
- * Participate and invest in Financial Literacy programs such as Jump\$tart and MoneySKILL, sponsored by the American Financial Services Association
- * Report good and bad credit experience to Credit Bureaus, helping consumers establish a stronger credit record
- * Provide competitive, economic rates
- * Do not require post-dated checks
- * Do not take possession or title to any collateral
- * Do not use credit scoring
- * Do not inflict prepayment penalties

The short-term, small installment loan market is growing rapidly. The typical consumer is not able to obtain a short-term, small loan from a traditional bank or make use of credit cards. They desire or need a longer term than provided by a payday loan and may not have a car with clear title on which to obtain a car title loan.

More importantly, they are attracted to the relatively favorable terms of the Security Finance product, which can be much less expensive than the options currently available in the marketplace.

Short-term, small installment loans are growing rapidly in number. In each of the 19 states where Security Finance currently conducts business, they make thousands of consumer loans each year. The typical loan is for a few months, and the average loan is for just a few hundred dollars.

Consumers obtain short-term, small loans for the purposes you would expect: car and home repairs, medical bills and prescriptions, emergency travel, school supplies, children's clothes, and Christmas gifts are all typical examples.

The financial services market in the United States is changing rapidly. Most of the changes we hear about, insurance products with multiple options, security and real estate services from traditional banks, and low interest mortgage rates are designed for the middle class or those well-to-do. But not all consumers fit that profile. That is why it is necessary to provide to the consumer, a safe, affordable, regulated product that is completely transparent with all the cost associated with the loan.

I thank you for the opportunity to speak to your committee today and answer any questions from the committee.



Member Company Fact Sheet

The American Financial Services Association (AFSA) is the national trade association for finance companies and other consumer and commercial lenders that raise funds in the capital markets. These market funded lenders then "recycle" these funds by providing financial services at the community level to individuals and small businesses.

Founded in 1916, AFSA has a broad membership, ranging from large national financial services firms to single office, independently owned consumer finance companies. Although it is diverse, AFSA's membership is united by its main goal of serving the credit needs of consumers and businesses.

AFSA MEMBERS – PRODUCTS AND SERVICES

Current membership is nearly 400 active (consumer finance), associate (industry suppliers), affiliate (state associations) and commercial finance and foreign member companies with over 10,000 offices. Members include:

- **Diversified Financial Services Companies** – Companies that offer a broad range of financial products and services to middle-income consumers through offices nationwide. Credit products include: personal loans, first and second mortgages, home equity line of credit, credit cards and private label cards, sales financing and credit insurance. Many also offer consumer deposit products through banks or savings and loans owned or affiliated with them. Some AFSA members that are diversified financial services companies include: American General Finance, Inc.; The CIT Group, Inc., GE Consumer Finance – U.S. & Canada, Wells Fargo Financial, Inc. and Household Finance Corporation.

- **Automotive Finance Companies** – In addition to the captive companies, these companies operate on a regional and national basis providing indirect financing to automotive dealers of new and pre-owned vehicle customers. Companies include: AmeriCredit Financial Services, Ameristar Financial Company, Reliable Credit Association, Inc., Mission Financial Services, TICO Credit Company and Wells Fargo Financial Acceptance Corporation, among others.

- **Captive Finance Companies** – These companies, often owned by a manufacturer of hard durable goods, provide financing for customers who purchase their products. In addition to offering financing and leasing options on products manufactured by the parent, the companies or their parents have formed or acquired other financial entities that include: credit card affiliates, mortgage companies, savings and loans, and consumer finance affiliates. Finance subsidiaries of manufacturers include: DaimlerChrysler, GMAC Financial Services, Ford Motor Credit Company, Harley-Davidson Financial Services, Inc., Hyundai Motor Acceptance Corporation, Nissan Motor Acceptance Corporation, Saab Financial Services Corp. and Toyota Motor Credit Corporation.

● **Consumer Finance Companies** – Consumer loan companies' core business includes: unsecured personal loans, home equity loans and sales financing (providing credit for retailers' customers.) This group includes multi-billion dollar companies with nationwide offices, regional companies, and independently owned firms that have one branch office or branches in several states. Consumer finance companies include: American General Finance Corporation, CitiFinancial, Washington Mutual Finance, Wells Fargo Financial, Inc. and independently owned firms such as 1st Franklin Corporation, First Tower Corp, Heights Finance Corporation, Pioneer Credit Company, Reliable Credit Association, Security Finance Corporation of Spartanburg, United Finance Co. and World Acceptance Corporation.

Many independently owned companies specialize in one type of lending, for example such as specialty auto financing.

● **Mortgage Lenders** – Companies that provide home equity loans/second mortgages, manufactured housing loans and other loans secured by a borrower's residence. Companies in this category include Ameriquest Mortgage Company; Consec Finance Corp., Countrywide Home Loans, Equity One; CitiFinancial, Household Finance Corp; Key Consumer Real Estate; Washington Mutual Finance and Wells Fargo Financial, Inc.

● **Commercial Finance Companies** – Companies that offer commercial finance and leasing services include: Boeing Capital Corporation, Financial Federal Credit, Inc., GATX Capital Corporation, International Lease Finance Corporation, John Deere Credit Corporation, and Textron Financial Corporation.

● **Credit Card Issuers** – Companies that offer bank cards, charge cards, credit cards, or private label cards. Several AFSA member companies are among the largest credit card issuers in the United States including: Capital One, GE Consumer Finance – U.S. & Canada; GMAC Financial Services, Household International, MBNA, Metris Companies Inc., Morgan Stanley (Discover).

● **Financial Services, Retail Trade** – Companies that are general merchandise or department store retailers, but have substantial volumes of captive financing business plus other financial services such as securitization, third-party servicing, etc. AFSA member includes: Sears Roebuck & Co.

For more information about AFSA, please visit its Website at www.afsaonline.org

Updated November 13, 2002



The American Financial Services Association's (AFSA) Code of Ethics

A guide to self-regulatory initiatives followed by AFSA members



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AMERICAN FINANCIAL SERVICES ASSOCIATION

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CODE OF ETHICS

Code of Ethics

The members of the American Financial Services Association believe that the interest of the public, member companies, and industry employees can best be served by conducting business in a way which builds and fosters public trust and confidence in the consumer financial services industry through the continued commitment to ethical business practices. Voluntary standards and statements of industry values or best practices will be adopted from time to time by the Board of Directors of the Association. Each AFSA member is expected to review these standards and statements of value or best practices and, absent compelling reasons which would prevent their implementation, establish and enforce corporate policies to carry out the letter and the spirit of these voluntary standards and Association statements of values or best practices.

Implicit in this Code of Ethics is the presumption that all Members will comply fully with all federal, state, and local laws governing the conduct of their businesses. Members of AFSA therefore agree to subscribe to and conduct their businesses in accordance with the following minimum ethical guidelines:

1. Members will disclose fully to customers the cost, terms, and contractual obligations of credit and lease transactions. Written instruments will be written to be simple, plain, and unambiguous to the extent permitted by federal and state law.
2. The customer's ability to repay the credit obligation out of known current or expected resources within the defined term shall be the paramount consideration in the decision to extend credit.
3. Any offering of optional insurance or other optional products must be done in a clear and informative manner. Any purchase of such a product must reflect a voluntary choice by the consumer and must never be a condition to the extension of credit.
4. Members will abide by the AFSA Collection Code.
5. The advertising of financial services products shall be done in a clear and non-deceptive manner.
6. Electronic or telephonic monitoring of a Member's employees will not be conducted without the employee's general knowledge that such monitoring may be utilized for the purposes of ensuring compliance with any relevant consumer protection, upholding the Member's standards for professionalism and courtesy, or any other purpose consistent with the security, integrity, and efficiency of the business.
7. Each member will exercise reasonable diligence to ensure that third parties with which it deals conduct business in a lawful and ethical manner. Members shall be reasonably vigilant as to the third party's credentials, reputation, practices and adherence to ethical standards.

AMERICAN FINANCIAL SERVICES ASSOCIATION

Collection Code

Preamble

Believing that the responsibility of this industry to serve the credit needs of the consumer is a public trust, we, the members of the American Financial Services Association, hereby proclaim and agree to follow this Collection Code.

Purpose

It will be our purpose as an industry to exhibit the same care and concern for a customer's past due account as was demonstrated when the original transaction occurred. The goal is to keep customers in good standing and to assist them should they experience difficulties in repayment.

Communicating with Third Parties for the Purpose of Locating the Customer

A creditor who communicates with any person other than the customer for the purpose of acquiring location information (the customer's home address, phone number, and place of employment) shall:

1. identify himself, state that he is confirming or correcting location information regarding the customer, and, only if expressly requested, identify his employer;
2. not state that the customer owes any debt;
3. not communicate with any such person more than once unless requested to do so by such person or unless the creditor reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has current or complete location information;
4. not use a post card, nor use any language or symbol on any envelope or other type of communication which can be seen or read by the public which indicates that the creditor collects debts, or that the communication relates to the collection of a debt;
5. only communicate with the customer's attorney if the creditor knows the customer is represented and can obtain the attorney's name and address, unless the attorney does not respond within a reasonable time.

Communicating with the Customer for the Purpose of Collecting a Debt

All communication with a customer regarding a debt shall:

1. be at reasonable hours (normally between 8:00 a.m. and 9:00 p.m.)
2. not be at the customer's place of employment if the creditor knows or has reason to know that the customer's employer prohibits the customer from receiving such communication;
3. be through the customer's attorney if the creditor knows the customer is represented and can obtain the attorney's name and address, unless the attorney does not respond within a reasonable time or the customer or his attorney consents to direct contact with the creditor.

For purposes of this section, the term "customer" includes the customer's spouse or parent (if the customer is a minor).

Communicating with Third Persons for the Purpose of Collecting a Debt

Except when attempting to locate a customer, a creditor shall not communicate, without the prior consent of the customer given directly to the creditor, or the express permission of a court of competent jurisdiction or as reasonably necessary to effectuate a postjudgment judicial remedy, in connection with the collection of any debt, with any person other than the customer, his attorney, a consumer reporting agency if otherwise permitted by law, or the attorney for the creditor.

For purposes of this section, the term "customer" includes the customer's spouse or parent (if the customer is a minor).

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Ceasing Communication with the Customer and his Spouse with Respect to a Debt

If the customer notifies the creditor in writing that he refuses to pay the debt or that he wishes the creditor to cease further communication, then no further contact shall be made with the customer regarding the debt. However, the creditor may still notify the customer that certain legal remedies will be invoked if that is the case, and may still communicate with the customer's attorney.

Collection Practices

A creditor shall not engage in any conduct the natural consequences of which are to harass, oppress, or abuse any person in connection with the collection of any debt. Examples of harassment or abuse are contained in Section 806 of the Federal Fair Debt Collection Practices Act (15 U.S.C. 1692(e)).

A creditor shall not use any false, deceptive, or misleading representation or means in connection with the collection of any debt; nor shall the creditor design, compile, furnish, or use any form which creates the false belief in a customer that some other party is participating in the collection of a debt when in fact such party is not so participating. Examples of false or misleading representations are contained in Section 807 of the Federal Fair Debt Collection Practices Act (15 U.S.C. 1692(e)).

A creditor shall not use unfair or unconscionable means to collect or attempt to collect any debt. Examples of unfair practices are contained in Section 808 of the Federal Fair Debt Collection Practices Act (15 U.S.C. 1692(f)).

Validation of Debts

If a customer disputes a debt, the creditor shall take reasonable and responsible action to verify the existence of the debt and to resolve the complaint.

Multiple Debts

If a customer has more than one account with the creditor, all payments made shall be applied to such accounts as directed by the customer.

Legal Actions

If legal action is instituted by a creditor, suit shall be brought in the jurisdiction where the contract was made or where the customer resides, or in the case of any action to enforce an interest in real property securing the customer's obligation, where real property is located.

Existing Collection Laws

The purpose of this Code is to establish uniform rules of conduct for creditors to follow when collecting their debts. It is recognized that some jurisdictions have existing laws providing similar or greater protection for the customer and this Code shall not affect those laws or alter any creditor's obligation to comply with such laws in addition to the Collection Code.

The American Financial Services Association Collection Code is based on the principles contained in the Federal Fair Debt Collection Practices Act.

AMERICAN FINANCIAL SERVICES ASSOCIATION

Consumer Mortgage Lending

The American Financial Services Association (AFSA) has examined the market environment for mortgage lending as defined in the Home Ownership Equity Protection Act (HOEPA) and has adopted the following voluntary standards, effective upon its release, for the conduct of lenders in this market.

AFSA rejects abusive practices, and uniformly condemns violations of law, fraud and unfair and deceptive practices by anyone in the marketplace. In furtherance of this position members will ensure that their employees are appropriately trained and that their customers have access to effective complaint resolution channels.

HOEPA Standards. Uniform standards and triggers embodied in HOEPA represent a level playing field for these mortgage transactions in the United States. Adoption of differing standards and triggers in state legislation are not recommended and could reduce the availability of credit to consumers who need it.

Ability to Repay. The ability of the customer to repay the loan obligation should be the primary focus of underwriting standards. AFSA members will not extend credit to any customer who does not demonstrate the ability to pay when the application is made. Underwriting may be done on a manual basis or with a system that is empirically derived (statistical), and these underwriting decisions consider many factors. However, the amount of equity in the mortgaged property should not take precedent over the borrowers ability to repay the loan.

Credit Insurance Products. Credit life, credit disability, and credit IUI insurance represents a high value to consumers in mortgage lending. Consumers have recognized this value to retire debt or to provide payment continuity in the case of death, disability, or unemployment. Providers of credit insurance must make full and accurate disclosure of credit insurance terms in accordance with state or federal law as the foundation for the customer making an informed decision. Finally, existing law regarding the *optional* nature of credit insurance provides effective protection to consumers.

The AFSA Code of Ethics provides that the offering of any insurance must be done in a clear and informative manner. The purchase of such products must reflect a voluntary choice by the consumer and must never be a condition to the extension of credit. To further strengthen this position, AFSA member companies will offer customers who choose to buy credit insurance the choice of single premium or monthly premium insurance products on mortgage loans as state law and data processing systems enhancements will allow for such choices in the future. AFSA members will provide a full refund of single premium insurance charges within 30 days of the loan closing, for those customers who choose to cancel their insurance, thereby providing a 30-day "free look." AFSA members will refund the unused portion of any single premium credit insurance premium upon cancellation.

Prepayment Penalties. Costly administration of higher risk mortgages often demands that multiple components be included in the risk based pricing of mortgage loans. Prepayment penalties should not be assessed if a loan is to be refinanced by the same lender. If the borrower repays the loan through other sources, the original lender may recover costs through application of a prepayment penalty.

The AFSA standard is a maximum of 5 years for the duration of a prepayment penalty clause in a mortgage loan agreement.

Balloon Loans. AFSA recognizes that balloon loans may be beneficial for some borrowers, provided that either the balloon date is at least 7 years from the date of loan origination or the borrower has provided information in connection with the application indicating that the borrower's financial plans anticipate the need for the loan for only a period shorter than the length of the balloon (e.g. the borrower expects to be transferred within three years and wants a three year balloon). Each AFSA member will agree with its customers that it will refinance a balloon loan at maturity, upon request of the borrower, at its then-available rate, fees and terms, provided that (a) the member still

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owns the loan, (b) the member still has products that can be offered to the customer, (c) neither governmental nor market forces have restricted the ability of the member to require the rate, fees, and terms it deems necessary and appropriate to the credit involved, (d) the customer has performed well on the balloon loan, and (e) neither the customer's financial situation nor the value of the property has deteriorated.

Call Provisions. AFSA members do not support the introduction of call provisions into consumer mortgage loan contracts.

Refinancing. In the event an AFSA member refinances its loan (or the loan of an affiliate) within 12 months of the refinanced loan's origination, it will either refund pro rata the points on the old loan, or it will charge points only on the new money in the new loan. "New money" is the amount by which the new principal exceeds the payoff amount of the old loan. As a matter of principle, AFSA members will only refinance an existing loan if there is a reasonably anticipated present or potential benefit to the customer of the refinance.

AFSA members support prohibition of the refinancing at higher rates of unique, non-conventional, below market-rate loans that are characterized as publicly assisted, non-profit, or government subsidized. If such a transaction is identified in a member portfolio, the AFSA member creditor will cure the finance charge differential, regardless of the origin of the transaction.

Foreclosures. Foreclosure is a remedy of last resort in consumer transactions. It is not the intention of AFSA members to derive profit from the unfortunate circumstances involved in the foreclosure process.

In the unlikely event of a foreclosure on property securing a loan, lenders should return to the consumer any net surplus inclusive of transaction, carry, and direct costs, derived from the sale, upon final sale of the property by the AFSA member company from its inventory of real estate held as assets.

Home Improvement Lending. Members support the current AFSA voluntary standard on home improvement contracts.

Brokers. AFSA recognizes that many lenders use brokers in originating real estate loans. Broker honesty and skill are important elements in the smooth functioning of the real estate lending market. These principles are embedded in the AFSA Code of Ethics.

At the present time real estate mortgage brokers are often not licensed. AFSA supports the licensing and regulation of mortgage brokers. Mortgage brokers are expected to comply with the AFSA voluntary standards.

Consumer Counseling and Education. AFSA actively supports consumer education through the AFSA Education Foundation. AFSA fully supports the availability of voluntary independent credit counseling as one of the many tools available to help consumers understand responsible use of credit. AFSA recommends that lenders take steps to support initiatives for consumer education to improve the financial decisions that consumers make, and to ensure effective use of information.

Credit Reporting. AFSA supports the current voluntary standard on credit reporting.

Default Advice. AFSA believes any practice of encouraging consumers to withhold mortgage payments or to default while awaiting a refinance is irresponsible and unethical.

AMERICAN FINANCIAL SERVICES ASSOCIATION

Home Improvement Dealer Loans (Retail Installment Contracts)

The following Guidelines are promulgated by the undersigned lending associations as a voluntary standard of practice for member creditors regarding home improvement retail installment contracts:

1. Lenders shall assure that contractors from whom they purchase retail installment contracts for all home improvements have provided the consumer with the disclosure entitled: **"THINGS YOU SHOULD KNOW IF YOUR CONTRACTOR IS FINANCING YOUR HOME IMPROVEMENTS."** This disclosure (shown below) shall be provided by the contractor before initiating any work.
2. Lenders buying retail installment contracts for home improvements shall ensure that the seller/contractor meets minimum state law requirements with respect to licensing and bonding.
3. Lenders shall require a completion certificate signed by both the seller (contractor) and the borrower before the retail installment contract is purchased. Lenders who determine that false certifications of completion have been made by either the contractor or the borrower shall be referred to the appropriate enforcement agencies.
4. If the lender (or subsequent holder) of a retail installment contract directly solicits a borrower for a refinance of the retail installment contract, or otherwise offers the borrower funds in addition to the amount necessary for the payoff of the retail installment contract, the lender (or subsequent holder) shall continue to be subject to the customer's original claims and defenses under the FTC's holder rule for that portion of the principal balance of the new loan that is related to the original retail installment contract.
5. A minimum contract amount of \$5000 shall apply to any retail installment contract which is secured by a lien on the borrower's principal residence. (This guideline is subject to approval by the Federal Trade Commission and the Department of Justice).
6. Lenders shall respond to written inquiries from borrowers under a retail installment contract regarding problems they may have with the contractor or the quality of the goods and services provided by the contractor, within 20 business days. Within 60 business days of receipt, lender shall investigate the complaint and notify borrower in writing of the lender's findings regarding the borrower's inquiries.
7. Lenders will aid law enforcement agencies in an investigation or prosecution of the perpetrator of any fraudulent acts in connection with any home improvement project.

THINGS YOU SHOULD KNOW IF YOUR CONTRACTOR IS FINANCING YOUR HOME IMPROVEMENTS

- This loan is secured by a mortgage on your home. If you fail to make your payments on time, you could lose your home.
- You have 3 business days after signing this contract to change your mind and rescind this agreement.
- Upon notice that the home improvement contractor has completed the work, you are strongly advised to seek the services of an independent home inspector to certify whether the home improvement was properly completed in a professional and workmanlike manner.
- You will be asked to sign a completion certificate when the job is done. If the work has not been completed according to the terms of your work agreement, do not sign the certificate and notify the lender immediately.
- If after completion of the project you experience problems with materials or the workmanship of the home improvements, you should contact the contractor immediately. If the contractor does not respond or is unwilling to remedy the problem, you should contact your creditor regarding the problem. Your lender may be able to assist you in efforts to compel the contractor to correct the problems if they were a direct result of the home improvement project for which the contractor was engaged.

CODE OF ETHICS

Alternative Dispute Resolution

In the event that a member adopts an Alternative Dispute Resolution (ADR) process, the following principles¹ shall apply:

PRINCIPLE 1. FUNDAMENTALLY FAIR PROCESS

All reasonable efforts shall be made to ensure that all parties are subject to a fundamentally fair ADR process. As embodiments of fundamental fairness, these Principles should be observed in structuring ADR Programs.

PRINCIPLE 2. ACCESS TO INFORMATION REGARDING ADR PROGRAM

Providers of goods or services should undertake reasonable measures to provide consumers with full and accurate information regarding Consumer ADR Programs. At the time the consumer contracts for goods or services, such measures should include (1) clear and adequate notice regarding the ADR provisions, including a statement indicating whether participation in the ADR Program is mandatory or optional, and (2) reasonable means by which consumers may obtain additional information regarding the ADR Program. After a dispute arises, consumers should have access to all information necessary for effective participation in ADR.

PRINCIPLE 3. INDEPENDENT AND IMPARTIAL NEUTRAL; INDEPENDENT ADMINISTRATION

1. Independent and Impartial Neutral. Independent and impartial neutrals shall be used in an ADR proceeding.
2. Independent Administration. If participation in mediation or arbitration is mandatory, the procedure should be administered by an Independent ADR Institution. Administrative services should include the maintenance of a panel of prospective Neutrals, facilitation of Neutral selection, collection and distribution of Neutral's fees and expenses, oversight and implementation of ADR rules and procedures, and monitoring of Neutral qualifications, performance, and adherence to pertinent rules, procedures and ethical standards.
3. Standards for Neutrals. The Independent ADR Institution should make reasonable efforts to ensure that Neutrals understand and conform to pertinent ADR rules, procedures and ethical standards.
4. Disclosure and Disqualification. Beginning at the time of appointment, Neutrals should be required to disclose to the Independent ADR Institution any circumstance likely to affect impartiality, including any bias or financial or personal interest which might affect the result of the ADR proceeding, or any past or present relationship or experience with the parties or their representatives. The Independent ADR Institution should communicate any such information to the parties and other Neutrals, if any. Upon objection of a party to continued service of the Neutral, the Independent ADR Institution should determine whether the Neutral should be disqualified and should inform the parties of its decision. The disclosure obligation of the Neutral and procedure for disqualification should continue throughout the period of appointment.

PRINCIPLE 4. QUALITY AND COMPETENCE OF NEUTRALS

Competent, qualified Neutrals shall be used in an ADR proceeding. Independent ADR Institutions are responsible for establishing and maintaining standards for Neutrals in ADR Programs they administer.

¹ These principles are intended to serve as minimum standards for ADR programs. AFSA members using ADR programs are encouraged to develop and implement processes which further the goal of ensuring fundamental fairness to all parties.

AMERICAN FINANCIAL SERVICES ASSOCIATION

PRINCIPLE 5. REASONABLE COST

1. Reasonable Cost. Providers of goods and services should develop ADR programs which entail reasonable cost to consumers based on the circumstances of the dispute, including, among other things, the size and nature of the claim and the nature of goods or services provided. In some cases, this may require the provider to subsidize the process.
2. Handling of Payment. In the interest of ensuring fair and independent Neutrals, the making of fee arrangements and the payment of fees should be administered on a rational, equitable and consistent basis by the Independent ADR Institution.

PRINCIPLE 6. REASONABLY CONVENIENT LOCATION

In the case of face-to-face proceedings, the proceedings should be conducted at a location which is reasonably convenient to both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination should be made by the Independent ADR Institution or by the Neutral.

PRINCIPLE 7. REASONABLE TIME LIMITS

ADR proceedings should occur within a reasonable time, without undue delay. The rules governing ADR should establish specific reasonable time periods for each step in the ADR process.

PRINCIPLE 8. RIGHT TO REPRESENTATION

All parties participating in processes in ADR Programs have the option, at their own expense, to be represented by a spokesperson of their own choosing. The ADR rules and procedures should so specify.

PRINCIPLE 9. MEDIATION

The use of mediation is strongly encouraged as an informal means of assisting parties in resolving their own disputes.

SPECIAL PROVISIONS RELATING TO BINDING ARBITRATION

PRINCIPLE 10. AGREEMENTS TO ARBITRATE

Consumers should be given:

1. Clear and adequate notice of the arbitration provision and its consequences, including a statement of its mandatory or optional character;
2. Reasonable access to information regarding the arbitration process, including related costs and assistance as to where they may obtain more complete information regarding arbitration procedures; and,
3. A clear statement of the means by which the consumer may exercise the option (if any) to submit disputes to arbitration.

PRINCIPLE 11. ARBITRATION HEARINGS

1. Fundamentally Fair Hearing. All parties are entitled to a fundamentally fair arbitration hearing. This requires adequate notice of hearings and an opportunity to be heard and to present relevant evidence to impartial decision-makers. In some cases, such as some smaller claims, the requirement of fundamental fairness may be met by hearings conducted by electronic or telephonic means or by a submission of documents. However, the Neutral should have discretionary authority to require a face-to-face hearing upon the request of a party.

CODE OF ETHICS

2. Confidentiality in Arbitration. Consistent with general expectations of privacy in arbitration hearings, the arbitrator should make reasonable efforts to maintain the privacy of the hearing to the extent permitted by applicable law. The arbitrator should also carefully consider claims of privilege and confidentiality when addressing evidentiary issues.

PRINCIPLE 12. ACCESS TO INFORMATION

Consumer ADR agreements which provide for binding arbitration should establish procedures for arbitrator-supervised exchange of information prior to arbitration, bearing in mind the expedited nature of arbitration.

PRINCIPLE 13. ARBITRAL REMEDIES

The arbitrator should be empowered to grant whatever relief would be available under applicable law.

PRINCIPLE 14. ARBITRATION AWARDS

1. Final and Binding Award; Limited Scope of Review. If provided in the agreement to arbitrate, the arbitrator's award should be final and binding, but subject to review in accordance with applicable statutes governing arbitration awards.
2. Standards to Guide Arbitrator Decision-Making. In making the award, the arbitrator should apply any identified, pertinent contract terms, statutes and legal precedents.

AMERICAN FINANCIAL SERVICES ASSOCIATION

Reporting Credit Information to Credit Bureaus

In support of integrity in credit reporting, AFSA members shall not selectively report credit information on certain customers and withhold credit information on other customers for the purpose of preventing data on customers from becoming available to other lenders.

Live Checks

The following Guidelines are promulgated by the American Financial Services Association as a voluntary standard of practice for member creditors using pre-approved loan offers which includes a live check or other negotiable instrument made payable to the consumer in a specific amount.

1. Live check loans by mail refers to the use of a negotiable check, money order, draft or other instrument which may be used by a consumer to activate a new loan.
2. The instrument, regardless of its form, will not be negotiable after six (6) months from receipt. Printed material accompanying the instrument must advise the consumer to void and destroy the instrument if it is not going to be negotiated; and would contain the following disclosure:

"THIS IS A SOLICITATION FOR A LOAN—READ THE ENCLOSED DISCLOSURES BEFORE SIGNING AND CASHING THIS CHECK"

3. Notification of the Loan Agreement must be on the back of each instrument so that the consumer is advised that by signing the back of the instrument he or she will have activated a loan transaction. Following is an example of a triggering notification which may appear on the back of the instrument:

"By endorsing this instrument, you agree to repay this loan according to the terms of the Loan Agreement, which you acknowledge receiving and which provides you with the contract terms in connection with this loan transaction."

4. Opt-out provisions of the Fair Credit Reporting Act Amendments effective in October 1997 are incorporated by reference.
5. Live check loan solicitations should be mailed in envelopes with no indication that a negotiable instrument is contained in the mailing. Marketing imperatives to encourage the consumer to open the item are permissible. Envelopes must be marked with instructions to the postal service to indicate that the item is not to be forwarded if the intended addressee is no longer at the location.
6. The creditor who receives a negotiated instrument must execute the following steps consistent with the structure of that business:
 - Insure the instrument is placed in the consumers loan folder, record or other filing procedure consistent with the creditors business which will enable recovery of the item, or an exact facsimile of the original document.
 - A coupon book or billing statement or other medium consistent with the creditor's business practice will be provided to the consumer as confirmation of the activation of the loan.
7. In the event an instrument is stolen or incorrectly received by someone other than the intended payee, and the instrument is fraudulently cashed, the following safeguards for the consumer will be triggered;

CODE OF ETHICS

The creditor, upon receipt of notification that the consumer did not negotiate the live check, will provide, and the consumer will complete a statement confirming that the consumer did not deposit or cash the live check.

Completion of the confirmation statement will be facilitated by the creditor by providing the consumer the opportunity to fill it out at a local location of the creditor by mail or both and by providing an explanation that the consumer is relieved from any liability on the loan. The creditor will also provide the consumer with a contact person to provide assistance if required.

The consumer who was the intended payee will have no liability for the loan obligation. Further, the creditor will insure that all references to the transaction (if reported) are removed from the credit report of the intended payee.

8. The creditor will cooperate with law enforcement agencies in an investigation or prosecution of the perpetrator of the fraudulent act.
9. State Law Requirements. Creditor will accommodate these guidelines within any existing State law requirements.
10. Exclusion. These guidelines are not intended to reference any live check form provided by a creditor for the purpose of accessing an existing line of credit with the creditor.



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APP 014999
ROA 010322
TMX 89 - 00130

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Sandra Perry

**PROPOSED LEGISLATION REGARDING THE PAYDAY LOAN INDUSTRY Re: AB 340 & AB 384
Comments from Money Express Catalog Sales, Inc/ Cash Express Points of Concern (page 2)**

AB 384 Sec 8 - Sec 23 Sec 42 2A & 3A

Question

Concerning default, is it possible that you have overlooked the subsequent problems arising from this proposed legislation?

Problem

Example - John Doe has a loan due on Friday in the amount of 130.00 which will be 28 days from the loan origination date. He has called our office and said that he wishes to extend his loan for an additional two weeks, but because he has to work late on Friday and Saturday he will be unable to make it in until Monday. He does not want his check deposited. Now under your proposed legislation we will be forced to deposit his check on Saturday in hopes of avoiding having our money out for a term of over 18 weeks (4 months + 15 days from date of notice of default), while we receive little if any compensation. By depositing his check there is a strong possibility that our check or others that he has written will be returned NSF. Of course that will at least give us an additional 25.00 to add to his fees , in the event our check is returned. John Doe may then be faced with numerous returned bank charges that could possibly end up costing him 175.00 or more for a small 100.00 loan. In the end we will have an unhappy customer who now will have their bank account overdrawn and checks bouncing due to this proposed legislation.

Possible Solution

It seems only fair that this definition of Default under Sect 8 - 1 be extended to read that .."Default shall begin 15 days from the original due date or last extension due date of the loan" and that Sec 23 have in the beginning inserted " After 15 day from the original due date of last extension thereof the provisions of this chapter ".... etc.

AB 384 Sec. 39

Question

Why are you singling our industry when a consumer does not have the right to go to any other financial institution and walk out the door with cash in hand and use their money for a period of up to four full days without interest? **Problem**

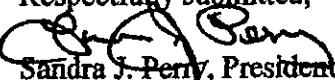
Customers will now be aware that they can pick up a loan on Friday morning, use our money

Friday, Saturday, Sunday and Monday and then come back Monday night and return the principal saying he didn't need the loan and has changed his mind? It seems it would be futile to give out loans on Friday or Saturday with this legislation in place. Who could afford to operate a loan business under these dire conditions?

Solution

Elimination of AB Sec 39 as written

Respectfully submitted,


Sandra J. Perry, President
Money Express Catalog Sales, Inc

D. C. Younger

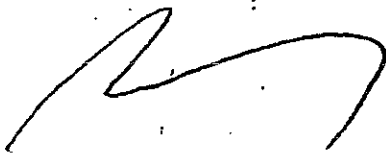
4792 Lana Drive Las Vegas, Nevada 89121 702-460-7896

To: Senate Commerce and Labor

Re: Concerns Regarding AB 340 & AB 384

I am presently an employee of Cash Express. At one time I was a customer of this same Cash Express and was helped when no bank would come to my rescue. I am getting ready to utilize their insurance for a much needed hernia operation. Am I now supposed to think that my pending medical procedure will be cancelled? I've also mortgaged my home to invest in this same Cash Express. Now you want to impact their lending procedures to such an extent that less people will qualify and the profit margin will shrink them into nonexistence. Is this Democracy in action? Is this the free market place in action? Or is this another a nail in the coffin of free enterprise? Do you really think that you are serving the average man on the street by making the loan procedure so belabored and less cost effective that it will only make it more difficult for him to qualify and utilize these needed services and thus less able to survive between paychecks? These stricter rules WILL make less and less people qualify. Even now, as banks continue to charge more and higher fees for every possible service and continue to deny the poorer segment of our population the benefits of their services, the need for such places as the Payday Loan store is more important than ever before. Handicapping this revenue source will be a deterrent to commerce and place a hardship on the less affluent people in our society. The Bill 384, Sec 8 #1 & #2 & Sec 23 touts the choice of permitting, for example, a two week due loan to be paid out in installments over 16 weeks at a rate not worth redeeming or choosing to deposit the check, knowing it will bounce and impact the customer in the negative. How does this help the customer? This is surely a bill against and not for the average man. It only serves to strengthen the grip that the large corporate banks maintains on society as a whole. This is NOT the free market place that Nevada has been recognized and celebrated for. It is another way to strangle free enterprise in the guise of being a solace to the borrower. With all the talk of free trade between countries and as more and more jobs are dissolving in America as a whole, don't you think it's time to question the motives of a bill that destroys a business that has flourished for years for the average man who needed the solace of such lending institutions after being denied access to the loftier palaces of lucre?

D. C. Younger



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

**Seventy-third Session
May 9, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 10:06 a.m. on Monday, May 9, 2005, in Room 2135 of the Legislative Building, Carson City, 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

STAFF MEMBERS PRESENT:

Kevin Powers, Committee Counsel
Jane Tetherton, Committee Secretary
Scott Young, Committee Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Jim Marchesi, President/Chief Executive Officer, Check City
Mark Thomson, Nevada Financial Services Association; Community Financial
Services Association of America
Keith Lee, Consumer Lending Alliance
Kim Koster, Koster Finance
Noel Sheckells, Budget Loans
John M. Vergiels, Nevada Financial Services Association

APP 015002
ROA 010325
TMX 89 - 00133

Senate Committee on Commerce and Labor
May 9, 2005
Page 2

CHAIR TOWNSEND:

I will open the hearing on Assembly Bill (A.B.) 384.

ASSEMBLY BILL 384 (1st Reprint) Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

I met with representatives from the industry to develop proposed amendments (Exhibit C). This is based on the mock-up of the bill used at Friday's meeting of the Committee (Exhibit D). I will review the proposed amendments.

In section 19, subsection 1 of the bill, the definition of "title loan" is changed.

In section 34, subsection 1, we deleted the phrase: "in which the terms of repayment require a payment or payments." This is a technical change.

In section 34, subsection 2, paragraph (c), in addition to the language noted in Exhibit C, I would like to add the phrase "not to exceed \$50" after the words "reasonable documentary fee."

In section 49, the language is rewritten to clarify the bonding amounts.

In section 74, a new subsection 2 is added to make it clear that the damages section does not apply to honest or technical mistakes that do not cause harm. This is the language used in the federal Truth In Lending Act of 1968. This will allow us to catch those ignoring the law without penalizing those who simply make a typographical error.

The final amendment adds language stipulating that a licensee cannot sue in a venue other than where the loan was made. This is in response to a suggestion made at the Committee meeting on May 6, 2005.

Section 42 is rewritten in its entirety, as shown on the second page of Exhibit C. This has to do with the repayment provision. It requires that before proceeding with civil action, repossession or any other resolution of nonpayment, the licensee offer the customer the opportunity to enter a

Senate Committee on Commerce and Labor
May 9, 2005
Page 3

repayment plan. If the customer defaults on the repayment plan, the licensee can then proceed to civil action or repossession to resolve the balance.

SENATOR HECK:

In Exhibit D, a "short-term loan" is defined as one required to be repaid in 18 months rather than 12 months. What is the reasoning behind this?

ASSEMBLYWOMAN BUCKLEY:

This was requested by lenders. I have not heard from any lender who will be adversely affected by this change.

SENATOR HECK:

I commend the protections for members of the armed forces in section 33. Are these types of loans subject to the Soldiers' and Sailors' Civil Relief Act of 1940, which caps loans at 6-percent interest?

ASSEMBLYWOMAN BUCKLEY:

Yes.

SCOTT YOUNG (Committee Policy Analyst):

We have received written testimony from Cynthia Fedelleck (Exhibit E), Sandra Perry (Exhibit F) and Charles Brennan (Exhibit G).

JIM MARCHESI (President/Chief Executive Officer, Check City):

We have an amendment to offer (Exhibit H) which makes two additions to the bill.

In section 32, we have added a new subsection 2 allowing the licensee to charge a onetime late fee of \$25 if a customer defaults on a short-term loan. As the bill is currently written, there is no penalty for defaulting on a payment. This late fee would give the customer some incentive to make payments on time.

SENATOR CARLTON:

If someone is already in debt, digging the hole a little deeper is not going to act as an incentive to pay off the debt.

MR. MARCHESI:

This is a request of lenders who do unsecured loans. They have no other late payments. I believe this is a reasonable request.

APP 015004
ROA 010327
TMX 89 - 00135

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In section 44, we have deleted the final sentence of subsection 1, paragraph (c). This eliminates the limit of 12 weeks on the time the licensee may charge the prime rate plus 10 percent.

SENATOR CARLTON:

I have some concerns about this. The purpose of a repayment provision is to resolve the matter. You are proposing to make it open-ended. Why would you not want to have this thing done?

MR. MARCHESI:

The repayment plan currently requires the lender to provide a free extension of credit to the customer for 90 days. We are asking for a minimal continuation, and nothing that is not allowed for any other lender. If the customer defaults on the repayment plan, the bill as written would allow the lender to charge interest at the prime rate plus 10 percent for 12 weeks. Collecting on a defaulted loan can take six months or more. We would therefore like to remove the 12-week limit on the amount of time the lender can charge prime plus 10 percent.

SENATOR CARLTON:

My concern is that the money has been paid back many times over, but just not to the satisfaction of the lender at the triple-digit interest rates being charged. I will respectfully disagree with you on the fairness of the request.

SENATOR LEE:

In section 28 of Exhibit H, why are you deleting subsection 2?

MR. MARCHESI:

Subsection 2 was deleted to simplify the language. The provision has never been used and serves no purpose. We have no objection to leaving it in.

SENATOR HECK:

What was the rationale for changing the definition of "short-term loan" from 12 months to 18 months? I would have thought it would be to your advantage to have fewer loans coming under these guidelines.

MR. MARCHESI:

This was not our suggestion.

Senate Committee on Commerce and Labor
May 9, 2005
Page 5

MARK THOMSON (Nevada Financial Services Association; Community Financial Services Association of America):

We support the amendments offered in Exhibit C. We are neutral on any other amendments.

KIM KOSTER (Koster Finance):

This bill will drive me out of business. If the repayment period is an interest-free period, a lender making an unsecured loan has no recourse in case of default. None of my customers will be stupid enough to pay me when they can be one day late on a payment and automatically have an interest-free loan with no late fees and no penalties. The unsecured-loan industry will go out of business in Nevada.

KEITH LEE (Consumer Lending Alliance):

There seems to be a misunderstanding about the provision regarding the repayment plan. The repayment plan is not an interest-free period. Additional interest cannot be charged, but the original contract interest rate still applies.

ASSEMBLYWOMAN BUCKLEY:

It was our intention that the original contract be in effect and unchanged during the repayment period. If the customer defaults on the repayment plan, the lender may go to court.

MR. LEE:

Will the originally-contracted interest continue to accrue during the repayment period?

ASSEMBLYWOMAN BUCKLEY:

The intention was that it would not.

Ms. KOSTER:

I misunderstood the repayment provision. I withdraw my objection.

NOEL SHECKELLS (Budget Loans):

I had the same objection as Ms. Koster and will likewise withdraw my objection.

JOHN M. VERGIELS (Nevada Financial Services Association):

With that clarification, we will withdraw the two changes suggested in Exhibit H.

APP 015006
ROA 010329
TMX 89 - 00137

Senate Committee on Commerce and Labor
May 9, 2005
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CHAIR TOWNSEND:

I will close the hearing on A.B. 384. If staff will produce a new mock-up with the agreed-upon changes by Wednesday, we will discuss the bill again in the Committee meeting on Thursday.

Is there any further comment? Hearing none, I will adjourn this meeting at 11:02 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____

APP 015007
ROA 010330
TMX 89 - 00138

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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.

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).

Electronically Filed
Apr 19 2018 11:56 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Case No. 74335

District Court No. A-16-743134-J

APPELLANT'S APPENDIX

VOLUME 63 of 75

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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

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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
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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

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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

COPY

Justice Court, Las Vegas Township CLARK COUNTY, NEVADA

FILED

The Loan Depot, Inc.
4815 W. Russell Rd. # 11-K
Las Vegas, Nevada 89118

Plaintiff,

-VS-

Defendant.

CASE NO. [REDACTED]

WRIT OF EXECUTION

2004 AUG -5 A 9:13

☒ EARNINGS ☐ OTHER PROPERTY

☐ EARNINGS, ORDER OF SUPPORT

COURT
CLARK COUNTY, NEVADA

DEPUTY

THE STATE OF NEVADA, TO THE CONSTABLE/SHERIFF, LAS VEGAS TOWNSHIP, GREETINGS:

On July 26, 2004 a Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor The Loan Depot, Inc. as Judgment Creditor and against [REDACTED] as Judgement Debtor, Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs leaving the following net balance which sum bears interest at 14 % per annum, \$43 per day from issuance of this Writ to date of levy and to which sum must be added all commissions and costs of executing this Writ.

JUDGMENT BALANCE

Principal	1140.00
Pre Judgment Interest	16.34
Attorney's Fee	285.00
Costs	98.00
JUDGMENT TOTAL	1539.34
Accrued Costs	
Accrued interest	
Less Satisfaction	
NET BALANCE	1539.34

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	1539.34
Fee this Writ	6.00
Garnishment Fee	5.00
Mileage	12-
Levy Fee	18-
Advertising	
Storage	
Interest from Date of Issuance	
SUB-TOTAL	1580.34
Commission	31.61
TOTAL LEVY	1611.95

NOW, THEREFORE, you are commanded to satisfy the Judgement for the amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described personal property:

(SEE REVERSE SIDE FOR EXEMPTIONS THAT MAY APPLY)

JC-1

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APP 014764
ROA 010087

TX 38 - 00066

Attachment 12
APP 014765
ROA 010088-00067

CONSUMER / **FIXED RATE NOTE AND DISCLOSURE STATEMENT**

DATE: October 16, 2003

LOAN #: [REDACTED]

BORROWER: [REDACTED]

SSN: [REDACTED]

CO-BORROWER:

SSN:

In this Consumer Fixed Rate Note and Disclosure (sometimes referred to as "Agreement"), the words I, Me, and My refer to the borrower(s). The words You, Your and Lender refer to The Loan Depot, Inc. 4815 W. Russell Suite 11-K Las Vegas, NV 89118 (702) 252-8383

FEDERAL DISCLOSURES

ANNUAL PERCENTAGE RATE <small>The cost of my credit as a yearly rate.</small>	FINANCE CHARGE <small>The dollar amount the credit will cost me:</small>	AMOUNT FINANCED <small>The amount of credit provided to me or on my behalf</small>	TOTAL OF PAYMENTS <small>The amount I will have paid after I have made all payments as scheduled:</small>
<u>260%</u>	<u>\$67.50</u>	<u>\$1350.00</u>	<u>\$1417.50</u>

I have the right to receive at this time an itemization of the Amount financed. ☐ I want an itemization ☒ I do not want an itemization

PAYMENT SCHEDULE: One (1) payment(s) in the amount of \$1417.50 due on: October 23, 2003

DEMAND: This obligation is payable on demand.

LATE CHARGE: If any payment is not paid on due date I will pay a late charge of 3% of the principal balance per day.

PREPAYMENT: I may prepay all or any portion of my debt under this Agreement at any time without penalty.

SECURITY: This loan may be secured by Lender's security interest in checks I give to Lender or this signed note.

ORIGINATION FEE: There is no origination fee for this Agreement.

ADDITIONAL INFORMATION: See the remainder of this Agreement and any related contract documents for more information about nonpayment, default of any required repayment in full before the scheduled date, and prepayment in full before the scheduled date, and prepayment funds and penalties, if any.

PROMISSORY NOTE

I promise to pay to the order of Lender on demand, or if no demand is made then on October 23, 2003 the sum of One Thousand-Three-Hundred & Fifty Dollars (\$1350.00) (the principal) plus interest thereon at the rate of 5% per one week (260%) APR until principal and interest are paid in full. I will repay the principal plus interest as follows: In one payment of \$1417.50 on October 23, 2003.

ALL PAYMENTS ARE TO BE MADE BY CASH OR MONEY ORDER. A PENALTY OF \$10.00 IS ASSESSED FOR ANY RETURNED CHECK, IF ACCEPTED.

REPAYMENT OPTIONS UPON ORIGINAL AND EACH EXTENDED MATURITY DATES:

Upon the original and each extended maturity date of the note Borrower will have the following repayment options:

- Pay only interest owing at the time of maturity and extend the loan for an additional one (1) week term.
- Pay interest and part of the principal balance owing at the time of maturity and extend the loan for an additional one (1) week term, thus reducing the amount of interest payable during the extended one (1) week term.

The interest rate for this Note shall be calculated on the basis of the actual number of days elapsed over a 365/366-day year. Interest for each successive one (1) week term shall be based upon the previous one (1) week term ending principal balance.

REPAYMENT: I have the right to repay this Note in full at any time without penalty.

DEFAULT: Should the indebtedness represented by this Note default and have to be referred to an outside collection agency for collections, there will be a thirty (30) % Collection Fee added to the borrower's total balance (principal, interest and late fees).

BORROWER: [REDACTED]

CO-BORROWER: [REDACTED]

33

APP 014766
ROA 010089 - 00068

COPY

Justice Court, Las Vegas Township CLARK COUNTY, NEVADA

FILED

2004 DEC 27 P 1:07

The Loan Depot, Inc.
4815 W. Russell Rd. # 11-K
Las Vegas, Nevada 89118

Plaintiff,

-vs.-

Defendant.

CASE NO. [REDACTED]

WRIT OF EXECUTION

☒ EARNINGS ☐ OTHER PROPERTY

☐ EARNINGS, ORDER OF SUPPORT

MODERT
LAS VEGAS NEVADA
BY MO
DEPUTY

THE STATE OF NEVADA, TO THE CONSTABLE/SHERIFF, LAS VEGAS TOWNSHIP, GREETINGS:

On December 3, 2004 a Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of The Loan Depot, Inc. as Judgment Creditor and against [REDACTED] as Judgment Debtor, Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs leaving the following net balance which sum bears interest at 10 % per annum, \$1.12 per day from issuance of this Writ to date of levy and to which sum must be added all commissions and costs of executing this Writ.

JUDGMENT BALANCE

Principal	<u>4103.55</u>
Pre Judgment Interest	<u>61.60</u>
Attorney's Fee	<u>1026.00</u>
Costs	<u>148.00</u>
JUDGMENT TOTAL	<u>5339.15</u>
Accrued Costs	<u> </u>
Accrued interest	<u> </u>
Less Satisfaction	<u> </u>
NET BALANCE	<u>5339.15</u>

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	<u>5339.15</u>
Fee this Writ	<u>6.00</u>
Garnishment Fee	<u>5.00</u>
Mileage	<u> </u>
Levy Fee	<u> </u>
Advertising	<u> </u>
Storage	<u> </u>
Interest from Date of Issuance	<u> </u>
SUB-TOTAL	<u> </u>
Commission	<u> </u>
TOTAL LEVY	<u> </u>

NOW, THEREFORE, you are commanded to satisfy the Judgment for the amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described personal property:

The wages, tips and/or toles, bonuses, commissions and vacation pay of defendant [REDACTED]

(SEE REVERSE SIDE FOR EXEMPTIONS THAT MAY APPLY)

JC-1

34
APP 014767
ROA 010080-00069

Attachment 13
APP 014768
ROA 010091 - 00070

LOAN DEPOT COVER SHEET

Last Name

First Name

Principal:

\$ 1332.35

Interest/ week:

5%

Amount Late:

\$ 532.88

Interest/ 2 weeks:

10%

Late Penalty:

\$ 2238.32

Filing Fee Amt:

\$ 113.00

Sue for Amount:

\$ 4103.55

EXPLANATION

8

weeks late

=

56

days late

\$

1332.35

X

.03

=

\$

39.97

per day late penalty

56

days

X

\$

39.97

=

\$

2238.32

Original Contract Date:

October 16, 2003

Original Amount:

\$

1350.00

35

APP 014769

ROA 010082 00071

Attachment 14

APP 014770

TMX 88 - 00072
ROA 010093

Return to the referring page.

Las Vegas SUN

March 08, 2005

Editorial: Preying on borrowers

LAS VEGAS SUN

In 1984 the Nevada Legislature got rid of the state law that limited finance charges for consumer loans. Gov. Richard Bryan pushed for the change so that Citicorp would come to Las Vegas and open a credit-card processing center, bringing with it several hundred good-paying jobs. There was, however, a downside -- and one that often doesn't get the attention it deserves. Not only did changing this law enable Citicorp to charge higher interest rates for consumers across the nation, but the change also paved the way for the later growth of payday loan companies. Today, there are more than 300 payday loan stores in Nevada, all of which are virtually unregulated by the state.

Payday loan companies, which readily provide cash to customers, have become controversial because of the stratospheric interest rates they charge. As the Las Vegas Sun's Steve Kanigher reported Sunday, customers of payday loan companies can get caught in a vicious circle, ending up paying much more in finance charges than the original amount borrowed. In one instance cited by the Sun, the finance charges assessed one Las Vegas woman were equivalent to an annualized interest rate of 390 percent -- about 20 times more than that offered by credit card companies.

The owners of payday loan companies dismiss the characterization of their operations as "legalized loan sharks," saying that they offer help to those who couldn't find it elsewhere. But Nevada's lack of regulation is pathetic and invites companies to take advantage of customers. Consider: Of the 36 states that permit payday loans, Nevada is one of just 10 that don't set a limit on the amount of finance charges these lenders can levy. We're glad to see that the Nevada Legislature, led by Assembly Majority Leader Barbara Buckley, D-Las Vegas, is considering regulation of payday loan companies. Buckley, as executive director of Clark County Legal Services, has fought to reduce the judgments of those who owe money to payday loan companies. She is proposing significant reforms, such as restricting loans to no more than 25 percent of an individual's gross monthly income.

Other ideas that have worked on behalf of consumers outside of Nevada include setting a cap on finance charges, imposing a cooling-off period between loans, and creating a database to keep track of payday loans statewide. We hope the Legislature will consider the full range of measures needed to bring this problem under control.

Predatory lending in Nevada must be stopped. If anything, it's a disgrace that it has taken Nevada more than 20 years to get this far.

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Las Vegas SUN main page

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Las Vegas SUN

March 04, 2005

Payday lenders use law to seek more damages

By Steve Kanigher

<steve@lasvegassun.com>

LAS VEGAS SUN

WEEKEND EDITION

March 5 - 6, 2005

A 56-year-old Las Vegas card dealer had bad credit and a gambling problem. Medical bills were piling up. Going to one payday lender wasn't enough.

He wound up getting loans from seven different companies, paying \$700 a month in interest.

"It got to the point where I couldn't live like that so I stopped paying them," he said.

The man, who requested anonymity, sought credit counseling, but one company refused to negotiate his \$959 debt. When the company sued him in Las Vegas Justice Court the amount it sought in damages was \$2,861, nearly three times what he owed.

"They did treble damages," he said. "I never heard of that before."

Chapter 604 of the Nevada Revised Statutes allows payday lenders to collect up to \$50 in penalties from customers for checks that cannot be cashed because of insufficient funds. Lenders also may collect the prime rate plus 10 percent in interest on defaulted loans.

But many payday lenders who have sued customers also seek treble damages under another state law that allows Nevada merchants to recoup triple the amount of a check returned for insufficient funds, up to \$500 per check.

Assembly Majority Leader Barbara Buckley, D-Las Vegas, said the lenders are using the bad check law illegally.

Check City owner Jim Marchesi, who is also president of the payday lenders trade

group Nevada Financial Services Association, agreed with Buckley, as does Paul Ashworth, a supervisory examiner with the Nevada Financial Institutions Division.

But Las Vegas attorney Sean Hillin, who has filed many of those lawsuits on behalf of payday lenders, defended the use of the bad check law. Hillin does not believe that the Chapter 604 provision that restricts lenders to a maximum of \$50 in fees for returned checks prevents them from also seeking treble damages, especially in cases where the customer knows he won't be able to pay back the loan.

Without the ability to sue for treble damages, Hillin predicted that most of the smaller lenders would go out of business.

Still, the financial institutions division issued a memo to payday lenders in July 2002 that reminded them that they shouldn't be using the bad check law to sue customers.

The Nevada Assembly attempted clarification in 2003 when it unanimously approved Assembly Bill 433, which would have prevented payday lenders from using the bad check law. But the bill died in the Senate, something Hillin says confirms his belief on treble damages.

Buckley, who as executive director of Clark County Legal Services has helped borrowers fight such damages, is attempting to change the law.

Under her proposal, lenders could not sue for triple damages under the state's bad check law. And lenders would be liable to the customer for actual and punitive damages as well as state penalties of \$1,000 for each violation of the law.

"The penalties," she said, "would give them the financial disincentive not to violate the law."

[Las Vegas SUN main page](#)

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Return to the referring page.

Photos: JJ and David Cowles | A letter from a payday loan company | Maureen Coulter displays documents | Cash Cow | Jim Marchesi talks about the growth of the payday loan industry

Las Vegas SUN

March 04, 2005

Borrowers beware

Payday loans are criticized, lauded in how they affect Nevadans

By Steve Kanigher

<steve@lasvegassun.com>

LAS VEGAS SUN

Las Vegas resident Annika Gonzales, a 33-year-old prison-crew supervisor, needed money fast after falling behind on a power bill just before Christmas in 2003.

So she went to a payday lender, where she borrowed \$150 with a promise that she would pay it back plus a \$15 finance charge within two weeks.

When Gonzales could pay only the \$15 finance charge but none of the principal after two weeks, she kept rolling the loan over with a new \$15 finance charge each time. After five rollovers that lasted 10 additional weeks, she had paid \$90 total in finance charges without reducing any of the \$150 principal.

Eventually, the lender sued her last year for \$1,500, an amount that included attorney's fees, court costs and interest. After the lender began garnishing her wages, she went to Clark County Legal Services and had the judgment reduced to \$220. She now thinks of payday loans as "rip-offs."

"I probably should have contacted Nevada Power sooner to make a payment arrangement or managed my money more carefully," Gonzales said.

Protective measures for consumers

These are steps the Nevada Legislature could approve that would better protect Nevada consumers who use payday loans:

- A cap on finance charges.
- A mandatory cooling-off period between loans.
- A restriction on the number of simultaneous loans to an individual.
- A statewide database to keep track of payday loans.

The payday lending industry is enjoying rapid growth in Nevada, and encounters such as those experienced by Gonzales -- what critics call the "debt treadmill" -- are becoming more common.

Payday loans are easy to obtain. No credit checks are necessary. All one needs is proof of a job or receiving Social Security and an active checking account. The borrower typically writes a post-dated check and repays the loan either with cash or by having the lender cash the check when the loan is due.

Critics refer to payday lenders as "legalized loan sharks." The amount Gonzales was charged equates to an annualized interest rate of 390 percent, about 20 times that of a credit card.

Critics also say that enough alternatives are available that consumers who feel they have no place else to turn do not have to get stuck with high-interest payday loans that can make their debt problems even worse.

But that hasn't stopped many people, especially those who see the loans as a last chance. With the convenience and speed with which people can get money, the business is booming.

Nevada is the perfect environment for a payday lender. The law allows lenders to operate with few regulations, and there's a ready-made clientele of service industry workers, many of whom live paycheck to paycheck.

Nevada is one of only 10 states that doesn't cap the amount of finance charges a payday lender can charge, according to the Consumer Federation of America, a Washington consumer watchdog.

In the other 26 states where payday lending is legal, there are finance charge caps that range from \$11.87 per \$100 loaned in Texas (an annualized rate of 309 percent) to \$75 per \$100 loaned in Missouri (an annualized rate of 1,980 percent), both based on a two-week loan.

Most other states do not allow the principal of a loan to exceed \$500. In Nevada, it is possible to borrow much more per loan as long as the loan does not exceed one-third of the borrower's expected monthly income.

- Monetary penalties for violation of state law.
- Restrict loans to no more than 25 percent of an individual's gross monthly income.
- Permit borrowers to make periodic repayment of loans without added finance charges.
- Prohibit lenders from using state bad check law to sue borrowers for triple damages.
- Prohibit lenders from garnishing wages of military servicemen.
- Prohibit lenders from using one company name when registering with the state and another name when obtaining a city or county business license.

Florida and Oklahoma have payday loan databases to limit the number of loans people can have at one time and have a mandatory cooling-off period between loans. Consumers in Nevada can carry as many loans as they like from different lenders. There is no cooling-off period.

The Nevada Legislature is expected to try to address the issue of payday loans this session. There are at least three proposals -- two from assemblymen and one from the Nevada Financial Institutions Division -- that are aimed at better regulating the payday lending industry.

Critics, including Assembly Majority Leader Barbara Buckley, D-Las Vegas, say the industry preys on the poor and the least likely to be able to pay off the loans.

"They make most of their money off of people whose financial situations are desperate," said Buckley, who, as the head of Clark County Legal Services, has battled the industry over judgments and finance charges. "They can't pay the loans back, and the companies know it. It becomes a predatory way of creating a debt treadmill for the working class who have nobody else to fall back on.

"We have all of these service-industry jobs and all of these people without a safety net, without relatives to loan them the money. So the payday loan companies prey on these folks."

Industry representatives, however, say that most of their customers are middle class and gainfully employed. The lenders say their services are easy to use, and that customers come to them because they have found it increasingly difficult to get short-term loans from banks.

"Calling us legalized loan sharks is such a mischaracterization," said Jim Marchesi, owner of the Check City payday loan chain and president of the Nevada Financial Services Association, a lobby group for payday lenders.

"We provide a loan product that consumers choose to use. There is huge demand for the product. We've become the bridge lender for people who want to borrow money for a short time.

"The APR (annual percentage rate) is a terrible yardstick to use because no one keeps these loans out for a whole year."

Payday loans became popular in the early 1990s and have mushroomed in Nevada since the late 1990s. There are now more than 300 state-registered payday lending stores in Nevada, and one owner believes 125,000 Nevadans at any one time take out payday loans.

Lenders justify the high finance charges by pointing to the risk and cost of making the loans. And they say they're no worse than banks that charge for bounced checks, with an annual interest rate that can exceed what a payday lender charges.

Most importantly, payday lenders say, if they closed shop, they'd be replaced by illegal loan sharks.

But consumer groups say there's little difference, especially in Nevada, which has among the nation's loosest regulations.

"It's bad for the community as a whole if a significant number of consumers are struggling to pay off these loans instead of paying other bills, diverting all that money to payday lenders instead of putting food on the table," said Jean Ann Fox, director of consumer protection for the Consumer Federation of America in Washington.

"This industry is doing just fine in other states that have a lot more restrictions than Nevada. The argument that putting more restrictions on them will put them out of business is untrue."

And some critics say that consumers can survive without payday loans, pointing to the 14 states where payday lending is either outlawed or severely restricted.

No payday lenders have bothered to get a license in Massachusetts because of that state's 23 percent cap on annualized interest rates on loans of up to \$6,000.

Instead, the Massachusetts Office of Consumer Affairs and Business Regulation has advised consumers who need short-term emergency loans in that state to look to other sources.

The office suggests that a consumer: borrow money from friends or relatives; obtain cash advances on credit cards; get short-term loans from banks or credit unions; arrange for cash advances from employers; see if they can delay paying a noninterest bill; make pay arrangements with utility providers; ask creditors for more time to pay bills; or contact an accredited consumer credit-counseling agency for help in getting out of debt.

"Getting involved in payday loans will only worsen things for people," Chris Goetcheus, spokesman for the Massachusetts agency, said. "The rollovers are how these people make money."

"The consumers in the most desperate situation should sit down with an accredited counselor. They look at cutting down your expenses so that you can save money. The goal is to minimize your expenses to meet your income."

Finance charges

Nevada once had a usury law that limited finance charges for consumer loans. But that law was eliminated by the Legislature in 1984 to induce Citicorp to open a credit-card processing center in Las Vegas. To bring a new industry and the corresponding jobs to Nevada, lawmakers granted Citicorp's wish by lifting the ceiling on finance-charge interest rates.

Former Nevada Gov. and U.S. Sen. Richard Bryan, who governed the state then and met with Citicorp executives in New York, said eliminating the usury law was the "quid pro quo" Citicorp demanded to move to Nevada.

"They wanted the flexibility with consumer loans in case market conditions changed," Bryan said.

But without a usury law Nevada payday loan customers are worse off than consumers elsewhere, Fox said.

"They end up paying more in Nevada than consumers in the same situation who live in another state," Fox said.

Assemblywoman Chris Giunchigliani, D-Las Vegas, would like to revive the usury law, setting it at the prime rate (now 5.5 percent) plus 2 percent for consumer loans, including payday loans. She said that rate is similar to Nevada's former law.

"They shouldn't be able to profit on the backs of the middle class and poor people who cannot afford to pay," Giunchigliani said.

She can expect a stiff battle from both payday lenders and big financial institutions such as credit-card companies. Credit-card companies regularly charge an 18 percent to 25 percent annual interest rate. Payday lenders say a usury law would drive them out of business.

Because of stiff competition, Marchesi said local payday lenders have kept finance charges lower than in many states where the cap on finance charges is higher than Nevada's market rate.

"I believe the market should determine what the rate is," he said. "A cap makes no sense at all."

But the AARP, responding to the growing number of seniors who use payday loans, urges all states to implement laws that limit annualized interest rates on small loans to 36 percent.

"We need to have payday loans for people who don't have credit, but there should not be abusive practices," said Barry Gold, AARP Nevada's associate state director for advocacy. "The predatory practices of some payday lenders are intended to get people in debt.

"Two weeks to pay off a loan is not enough time for most people, and there needs to be more disclosure of the fees."

A study of short-term, high-interest lenders that was released in January by the nonprofit Nevada Fair Housing Center found that the median payday loan finance charge in Nevada is \$17 for every \$100 borrowed, an annualized interest rate of 443.2 percent.

But the center, which provides housing services and financial programs for lower-income clients, also found that some lenders in Nevada have finance charges of as much as \$50 per \$100 loan, which translates to an annualized interest rate of 1,303.6 percent.

"The way the loans are structured it sets up a situation where a person makes interest payments without reducing the principal," Jason Jarniven, a researcher for the housing center, said. "It sets up chronic repeat borrowing."

Money needs

He would get no argument from retired beauty salon owner and manager Maureen Coulter, who once managed salons on the Strip. After falling ill four years ago and draining her savings, Coulter ended up on Social Security disability. She got her first payday loan in 2003.

"I had some bills due, and I needed to buy Christmas gifts so I needed money," Coulter said. "I figured the banks wouldn't loan me money and I saw ads on TV for these lenders. You see two or three on every block.

"All I needed was my driver's license, a check and proof of my income, which was a printout from Social Security. They were more than happy to give me money."

Coulter, 61, went to three payday lenders. She borrowed \$340 per month, with \$60 in finance charges, from one lender. After four months of rollovers she had paid \$240 in interest without reducing the principal.

From two other lenders she borrowed \$250 each plus a \$50 finance charge per month, but after four months of rollovers she had paid \$250 each to both lenders in finance charges without reducing any of the principal. She was told she was paying an

annualized interest rate of 235.5 percent.

One of the lenders from whom she had borrowed \$250 a month wound up suing her for \$487 for defaulting on the loan. But she was able to get that reduced to \$200 when she went to Las Vegas Justice Court, accompanied by a senior advocate that she knows. When the lender appealed the judge's ruling, Coulter went to Clark County Legal Services for help and the lender dropped the appeal.

Coulter vows never to use another lender.

"They're horrible," she said. "Yes, it was my fault for dealing with them. But you're better off going to an illegal loan shark because at least you know you're dealing with a shark.

"The banks won't give people like me loans because we're not working and have no assets. But if I have to, I will just do without. You just learn to live without certain things."

Some payday loan customers report more positive experiences.

Las Vegas resident Victor Laird, a 47-year-old operations manager for a delivery service, first became a customer of Cash Cow Corp. in 1998 when his father was dying of cancer and bills were piling up.

"The most I had to borrow was \$600 when I had to take my family to the funeral in San Francisco," Laird said.

Living from paycheck to paycheck, he is a repeat customer.

"I'm lucky they are there," Laird said. "If I had to pick the things I like most about them I would say the convenience and the ease with which I can go in without being bogged down with multiple credit checks.

"I use it for emergencies like paying utility bills, especially during the summertime when the bills are a lot higher. If it's Monday and a bill is due and you don't get paid until Friday, what can you do?"

But Michele Johnson sees the financial problems payday lending can cause borrowers in her capacity as president and chief executive of Consumer Credit Counseling Services of Southern Nevada. The counseling service helps individuals with mounting debt.

"The speed with which you can get \$300 is much quicker than applying for a new credit card," Johnson said of payday lenders. "But it's very short-sighted borrowing.

"We're not doing a good job educating consumers and they have to take more responsibility for their own actions."

Payday growth

"Fringe banking" became popular in the 1960s when loan companies began sprouting around military bases. By the 1980s check-cashing services were on the Strip and in lower-income neighborhoods. They cash checks for roughly 1 percent to 10 percent of the face value of the check. Many customers are unemployed, don't have checking accounts or don't trust banks.

In the 1990s payday lenders came to Nevada, seeking to satisfy the growing demand for convenient short-term loans from consumers who had jobs or Social Security and bank accounts, but also had poor credit.

In many cases the check cashers that were already here added payday loans to their arsenal, giving them a broader base of customers to serve.

What payday lenders offer is speed and convenience. The lines at the teller windows are usually short and the customer has his cash within minutes.

Frank (not his real name) and his wife, regular customers of Check City in Las Vegas and parents of two small children, take out 20 loans a year. They borrow \$300 to \$500 at a time and usually pay off the loans in two weeks.

"We use the cash mainly for incidentals," Frank, a business consultant, said. "I'm out of town a lot, and my wife doesn't always have access to credit. My wife was in a situation once where she needed money for formula."

But there is also a stigma attached to payday loans, so much so that many customers don't want their employers to know that they frequent payday lenders. Other customers don't want their spouses to know.

Karen (not her real name) is an example of a borrower who doesn't want her employer to know about her payday lending. The 38-year-old Las Vegas pharmacy technician didn't have the money to pay for the alternator that needed to be replaced in her car.

So she went to a payday lender and borrowed \$500 plus \$150 in finance charges, which she was to repay in two weeks. After rolling over the loan five times for a total of 10 weeks beyond the expiration of her initial loan, Karen had paid \$900 in finance charges without paying off any of the principal.

"I was so angry with myself," Karen said. "I wondered how I was going to get myself out of this. I know a nurse who makes \$50 an hour and I was surprised to see her in

the same payday loan place I was in."

Karen went to Consumer Credit Counseling Services for help rearranging her debt. The payment plan enabled her to repay the lender \$80 per pay period over nine months. Her advice to individuals contemplating a payday loan: "Just don't do it. It is the worst rip-off."

"Try to talk to the people you owe and make arrangements with them," she said. "I learned to work overtime so I don't live from paycheck to paycheck now."

Popular practice

Payday lending has become so popular in Nevada, according to the housing center study, that the state has far more state-registered payday lending and check-cashing stores per 10,000 residents, 1.91, than neighboring Utah (0.56), California (0.68) Oregon (0.72) and Arizona (1.41).

The housing center found that more than 60 percent of the high-interest stores in Nevada are in neighborhoods with below-average household income. In Clark County the median household income is \$44,616.

Cash Cow Corp. President David Cowles said his clientele isn't the working poor. He said he has more customers in their 30s and in the \$2,000 to \$2,199 net monthly income bracket than in any other age and income category.

In a 2001 analysis of 4,593 loans his company processed, Cowles said he found that 3,244, or 70.6 percent, were paid off within the initial loan period. An additional 646 loans, or 14.1 percent, were paid back after one extension. The remaining 15.3 percent required at least two extensions to be paid off.

Cowles believes anecdotally that most of his customers find payday loans to be "convenient and cost effective." He estimated that less than 10 percent are "desperate people who don't know how to manage finances."

"They often have gambling, drug or other problems and will take out multiple loans from numerous lenders until their house of cards crumbles," he said. "Those are the people used as examples by so-called consumer protection groups. They shouldn't be borrowing money in the first place."

And he also estimated that a small percentage of borrowers are "crooks."

"They'll lie on their loan application," he said. "They'll get a loan and then the next day they'll stop payment on the check or close their checking account."

Payday lenders insist that their clientele is mostly middle class. A 2002 study commissioned by the Community Financial Services Association of America -- an Alexandria, Va., payday loan trade group, found that the median income of a borrower was \$34,764 and that the average age was 38.

That study found that 56 percent of the borrowers renewed their loans at least once, but that 68 percent of the renewals did not extend beyond four weeks of the expiration of the original loan.

"We don't encourage rollovers at all," Steven Schlein, a spokesman for the trade association, said. "Most of our customers pay us back on time. It's also very transitional. Most people use it only for a short period in their life."

Critics dispute the numbers and say that the industry has stretched the definition of middle class.

A December 2003 survey by the Center for Responsible Lending of Durham, N.C., a nonprofit critic of predatory lending, found that 5 million American payday loan borrowers are caught in a "debt trap" each year.

That study also found that 31 percent of the borrowers take out at least 12 loans annually, and that only 1 percent of the loans are for emergencies.

"People with long-term financial problems need to meet with a credit counselor," Fox said. "If you take out a payday loan, what are you going to do in two weeks when you aren't making any more money and need to pay the loan back?"

"Payday loans don't solve your problem. They add up to whopping finance charges. The best thing is to deal directly with whatever is causing the financial crisis. You can ask creditors for more time or ask utilities to negotiate a payment plan."

Payday lenders in Southern Nevada are a mix of nationwide chain stores and mom-and-pop businesses.

A Web site run by Trihouse Enterprises Inc. of Las Vegas on behalf of payday lenders states that investors in payday loan companies can earn returns of 2.5 percent a month.

The payday lending business has become so lucrative, with 22,000 stores now operating nationwide, that some of the largest chains are listed on the New York Stock Exchange or on Nasdaq. Many of the nation's largest banks have also financed the debt of payday lenders.

One chain with stores in Southern Nevada, ACE Cash Express Inc. of Irving, Texas,

has 1,301 stores nationwide and is listed on Nasdaq. For the first half of fiscal 2005 the company earned \$10.9 million, up from \$6.7 million in the first half of fiscal 2004. Its debt has been financed by Bank of America, Wells Fargo Bank, U.S. Bank and J.P. Morgan Chase & Co.

Loose regulations

In 1997 the Nevada Legislature first tried to corral check cashers and payday lenders by requiring them to register with the financial institutions division. But the law is toothless, according to state regulators, lawmakers and payday lenders.

Cowles of Cash Cow has been one of the law's biggest critics, and even produced a detailed report on why he thought the law was so bad.

"The language is ambiguous," Cowles said. "It talks about what if a customer defaults but it doesn't define 'default.' There is a \$50,000 surety bond required. For what? And (the law, Nevada Revised Statutes Chapter) 604 is not protecting consumers in any way. Some of the things are written so poorly that companies simply disregard them."

The law does not apply to numerous payday lenders, including pawnbrokers and a person who "does not hold himself out as a check-cashing service," even if they advertise the loans.

To address that situation Buckley is proposing a new law covering all short-term lenders, including those with Web sites, that charge annualized interest of more than 40 percent on loans of less than one year.

They would not be allowed in most cases to make a loan that exceeds 25 percent of the borrower's gross income, must accept partial payments at any time without additional charges, and must allow customers in default to repay debts over two months with at least three payments.

Lenders also could not garnish wages of individuals in the armed forces or sue for triple damages under the state's bad check law. And lenders would be liable to the customer for actual and punitive damages as well as state penalties of \$1,000 for each violation of the law.

"The way it is right now in Nevada it is so bad we'd be better off having payday loans banned," Buckley said. "If it was cleaned up, I still wouldn't be its biggest fan but I wouldn't be its loudest critic either if these abuses were stopped."

Carol Tidd, commissioner of the financial institutions division, which oversees short-term lenders, is proposing even tougher penalties -- \$10,000 -- for violations.

Marchesi's association, which will represent many of Nevada's payday lenders this

legislative session, supports Tidd's proposed penalty because he said legitimate lenders would follow the law.

One of the toughest problems to address has to do with inconsistencies in the way payday lenders are licensed by a city or county and registered with the state. The purpose of licensing and registration is to hold companies accountable to consumers and to government regulators. But the industry has grown so rapidly that it has been difficult for the regulators to do their jobs. The county, Las Vegas, Henderson and North Las Vegas have business licenses for a combined 112 companies operating 255 check-cashing/ payday loan branches.

Some payday lenders licensed with a city or county are not registered with the financial institutions division, and vice versa. There are payday lenders with active business licenses that state records show to be closed. And there are payday lenders who go by one name at the state level and another name in the city or county.

Tidd proposes tightening that up and making companies register under one name, and she wants to coordinate efforts with city and county licensing departments.

Amended law

The Legislature amended the law in 1999 by restricting loans to one-third of the borrower's expected monthly net income. Lawmakers also agreed that a loan should not extend more than 10 weeks beyond its original expiration date.

But the rollover provision is full of loopholes. It does not prevent a consumer from obtaining multiple loans from different lenders as was the case with Richard Scutti, a 57-year-old Las Vegas security guard who said he got behind on bills because of a gambling problem and health issues.

At one point he owed seven lenders \$4,500, more than half of which was interest, court costs and attorneys' fees after he got sued.

"It was a friend who got me into it," Scutti said. "He showed me how easy it was. I used to pay them off right away at first. But every time I lost money gambling I'd go back to them. I figured if I could borrow from one, I could go to another one. I'd start with two or three loans at a time.

"They would be on the phone all the time. They would say, 'Why don't you hock your TV or VCR or bicycle.' They would say, 'If you don't come down and make a payment, we will sue you.' "

After he was sued, \$3,200 of his wages were garnished. He got that amount reduced to \$2,600 after going to Clark County Legal Services, climbed out of debt by working

extra shifts and began to control his gambling problem. Scutti said he no longer needs payday loans.

"If someone gambles, I would advise that they borrow money from friends or family but not loan companies because the interest is so high," Scutti said.

Another loophole in the rollover provision is that it can start anew every few weeks if the lender simply has the customer rip up the original check and write a new one. That's what happened with former customer Coulter.

Her first loan was for \$250 plus a \$50 finance charge, which she was to pay back within a month. She could only pay the finance charge when the loan came due so for five months straight she paid a \$50 finance charge but not the principal. In five months she accumulated \$250 in finance charges, equal to the initial loan amount.

"After the first month they would shred the check and then I would write another check for \$300," Coulter said. "So it looks like you're getting another loan but you're not."

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Major players

Many of the nation's biggest players in payday loans have set up shop in Southern Nevada. They include:

- ACE Cash Express Inc. of Irving, Texas, which has 1,301 stores nationwide and trades its stock on Nasdaq. For the first half of its fiscal 2005, the company earned \$10.9 million, up from \$6.7 million earned in the first half of fiscal 2004. Its debt has been financed by Bank of America, Wells Fargo Bank, US Bank and JP Morgan Chase Bank, offering proof that large mainstream banks have been willing to back payday lenders.

- Advance America Cash Advance Centers of Nevada Inc., whose parent -- based in Spartanburg, S.C. -- is the nation's largest payday lender with 2,290 stores in 34 states. A recent addition to the New York Stock Exchange, Advance America posted \$351.4 million in revenue for the first nine months of 2004, a 13 percent increase over the first three quarters of 2003, but its earnings dropped 7 percent to \$68.8 million. Bloomberg reported in November that

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Advance America received \$140 million in revolving credit and loans from Wells Fargo Bank.

- Cash America Inc. of Nevada, whose parent company, Cash America of Fort Worth, Texas, is traded on the New York Stock Exchange and runs more than 750 stores nationwide. The parent company earned a record \$56.8 million last year, almost doubling the \$30 million it earned in 2003. The company last fall also purchased Las Vegas-based SuperPawn and its 41 stores.
- Check City, which is based in Las Vegas and has 40 stores, including branches in Utah, Virginia and Maryland. Owner Jim Marchesi is also president of the Nevada Financial Services Association, a state lobbyist for payday lenders.
- Check 'n' Go of Nevada Inc., affiliated with parent CNG Financial of Mason, Ohio, which operates more than 900 branches in 30 states. CNG Financial has received financial backing from National City Corp. bank.
- EMG Acquisition Co. of Nevada LLC, which is affiliated with the Easy Money store chain that also has done business in California, Utah, New Mexico and in the South. EMG's limited liability company is listed in default by the Nevada Secretary of State's office.
- Moneytree Inc. of Seattle, the largest payday lender based in the West. With more than 100 branches, Moneytree operates in California, Colorado, Idaho, Washington and Nevada.

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Las Vegas SUN

March 04, 2005

Florida, Oklahoma databases reduce loans per customer

By Steve Kanigher

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LAS VEGAS SUN

WEEKEND EDITION

March 5 - 6, 2005

To discourage their residents from taking out more payday loans than they can handle, Florida and Oklahoma have developed databases that track each loan.

While Nevadans may take out as many payday loans as they desire, Florida residents may take out only one payday loan at a time, and Oklahomans are restricted to two loans at once.

The databases have done such a good job of tracking individual loans that consumers are using payday lenders less frequently than in the past, officials of both states said.

Nevada is not considering a database, though Assemblywoman Chris Giunchigliani, D-Las Vegas, said she would like the Nevada Legislature to consider a mandatory cooling-off period that payday loan customers must endure between loans. That would help consumers avoid mounting high-interest debt, she said.

"I don't think you'll see the Legislature put them (payday lenders) out of business but the bad ones need to be cleaned up," she said.

Commissioner Carol Tidd of the Nevada Financial Institutions Division said her department, which regulates payday lenders, does not have the money to operate a database that could help track cooling-off periods.

But money is no problem in Florida and Oklahoma because their databases are financed by transaction fees that are charged to the borrowers when they get their loans. It works out to \$1 per transaction in Florida and 46 cents per transaction in Oklahoma. Both states use the same company, Veritec Solutions LLC of Jacksonville,

Fla., to design the computer software and operate the databases.

The databases can be accessed by all payday lenders in both states so that they can determine whether an individual seeking a loan already has one that hasn't been paid off.

In the three years that the database has been operating in Florida, the number of loans taken out by the average borrower has dropped from 12.1 per year to 8.4, according to Mike Ramsden, financial administrator for the Florida Office of Financial Regulation. Florida has a 24-hour cooling-off period between payday loans.

"The Florida Legislature wanted to make sure consumers didn't get too reliant on this type of lending because of its high cost," Ramsden said of the database. "It works tremendously well."

Oklahoma's system kicked in last year. One thing noticed by Jack Stone, deputy administrator of the Oklahoma Department of Consumer Credit, is that it is now much more difficult for a borrower to exaggerate on a loan application the number of payday loans he has outstanding.

"We knew that customers were lying before," Stone said. "The database is very good because it has cleaned that up."

Cash Cow Corp. President David Cowles of Las Vegas is one payday lender who believes a database would be worth considering in Nevada. He and many other payday lenders already use privately operated databases such as Teletrack to determine whether prospective customers have had a history of passing bad checks.

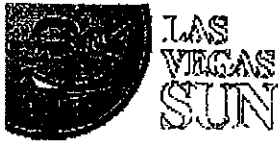
"If we know a customer is in a situation where it will be difficult for him to repay us, we won't loan him the money," Cowles said.

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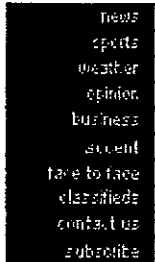
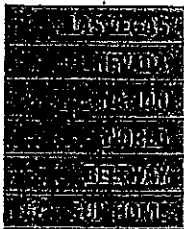
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March 04, 2005

New rules unlikely to affect Nevada lenders

LAS VEGAS SUN

WEEKEND EDITION

March 5 - 6, 2005



Stock prices for ACE Cash Express and other major payday lenders tumbled last week after the Federal Deposit Insurance Corp. tightened regulations for lenders that partner with federally chartered banks. Those lenders are now prohibited from giving payday loans to individuals who have had another outstanding loan from them for three of the previous 12 months.

The order affects only 12 of the 5,200 federally chartered banks, and the FDIC will not name those banks under federal privacy guidelines. The Nevada Financial Institutions Division does not keep data on Nevada payday lenders that partner with federally chartered banks, Commissioner Carol Tidd said.

But FDIC spokesman David Barr in

Washington said he believed the impact on payday lenders in Las Vegas would be minimal since Nevada is a state where payday lending is legal and loosely regulated.

"I would say that this will have minimal impact in Las Vegas because a lot of the payday lenders that partner with banks tend to be in states with more restrictive payday lending laws," Barr said.

The Consumer Federation of America, a consumer watchdog group in Washington, reported in July that 11 of the nation's 13 largest payday loan chains are partnered with federally insured banks. Three of those companies do business in Southern Nevada. They are Advance America (eight stores), ACE Cash Express (17 stores) and Check 'n' Go (six stores).

But the federation said those companies partner with banks only in certain states in order to avoid usury laws and small-loan laws. Nevada has no such laws.

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Nevada's Largest Website

January 2005



**Short-Term,
High Interest
Cash Lending
in Nevada:**

*A Study of the Industry
and Recommendations
for Consumer
Protections*

**Nevada Fair Housing Center, Inc.
3380 W. Sahara Ave. Suite 150
Las Vegas, NV 89102**

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Executive Summary

There has been a rapid proliferation of check cashers and payday lenders in Nevada. In 1998, there were 16 check cashing and payday loan branches in the state; by 2004, that number had swelled to 381, an increase of 2281 percent in just 7 years.

In Nevada, there are 1.91 check cashing/payday lending branches for every 10,000 people. There are more payday lenders per capita in Nevada than in any neighboring state.

According to a survey of payday lenders in Clark County, the median finance charge per \$100 borrowed is \$17.00 (443.21% APR) for a two-week period. The up-front fees charged by Nevada lenders are comparable to those of lenders in nationwide surveys.

In addition to costly fees charged up-front, Nevada lenders pile abusive late fees on to their debt collection suits. The most abusive lenders examined were Budget Loans and Lucky Cash 4 U. The amount owed by the typical borrower sued by Budget Loans was 6.60 times the original loan amount; the amount owed by the typical borrower sued by Lucky Cash 4 U was 5.27 times the original loan amount.

To try to determine who borrows from short-term, high interest lenders, Nevada Fair Housing Center (NFHC) examined the geographic distribution of payday loan stores. In Clark County, these loan stores are most concentrated in census tracts with a median household income of less than \$25,000.

NFHC also examined the geographic distribution of short-term, high interest lenders to investigate whether they predominate in neighborhoods with high minority compositions. In Clark County, these lenders are most concentrated in neighborhoods with a minority composition higher than that of the county overall.

Studies conducted by state regulators in Illinois, Indiana, Wisconsin, North Carolina and Washington have found that cycles of repeat borrowing are a problem for a significant number of payday loan borrowers. Nevada would benefit from a similar study.

Introduction

In Nevada, as in the rest of the country, there has been a rapid proliferation of short-term, high interest cash lenders. Between 1998 and 2004, the number of check cashers and payday lenders in Nevada increased more than 20-fold, from 16 to 381. Although business models vary greatly, these lenders generally provide cash loans ranging from \$100 to \$500, though some go as high as \$1000. The loans are usually for a short-term of 14 days or less. The annualized interest rates on these loan products are typically 400 percent to 500 percent.

As the concentration of short-term, high interest lenders has increased in Nevada—reaching as many as four locations on a single block in some places—the controversy over the legitimacy of the industry has increased as well. Local consumer advocates and politicians have expressed concerns that payday lenders target low-income consumers and stifle redevelopment efforts in older wards (Squires 2003). In 2003, these concerns led the Las Vegas City Council to consider an ordinance that that would prevent payday loan stores from locating within 1,000 feet of each other and within 200 feet of residences.

Short-term, high interest lenders counter these attacks by insisting that they provide a useful service—short-term, unsecured cash loans—that traditional lending institutions have abandoned. In addition, the lenders insist that high labor and administrative costs and a greater risk also demand higher interest rates than those on larger, longer-term loans made by mainstream financial institutions.

The controversy over short-term, high interest loans in Nevada continues and focuses on three major issues: (1) what is the customer base of short-term, high interest lenders? (2) Do short-term, high interest loans trap consumers in cycles of chronic, repeat borrowing? And, (3) do short-term, high interest lenders employ abusive debt collection practices?

In 2005, the Nevada legislature will consider several bills that deal with these issues. One bill aims to curb recurrent borrowing and limit the amounts sought by lenders in debt collection cases. To contribute to an understanding of payday lending in the state, Nevada Fair Housing Center, Inc. (NFHC) has conducted a study of the industry. After providing an overview of the industry, this paper will examine each of the three controversial issues in turn and provide recommendations for consumer protections.

Overview of Short-Term, High Interest Cash Lending in Nevada

There are two major types of short-term, high interest cash loans available in Nevada: payday loans/deferred-deposit loans and short-term, high interest cash installment loans.

Payday loans/Deferred-Deposit Loans. In a payday loan transaction, the lender provides the borrower with an amount of cash equal to the amount of a check provided by the borrower, less any interest charged for the transaction. The check acts as security for the loan. The deferred deposit service agrees not to cash the check until the customer's next payday. If the customer does not have sufficient funds to cover the cashed check at the next payday, the customer can pay the interest to extend (or rollover) the loan for another pay-period (usually two weeks).

Cash Installment Loans. Short-term, high interest cash loans are also available from some installment lenders. In these transactions, the lender provides cash and the borrower signs a promissory note agreeing to repay the loan plus interest in a specified period of time (the customer does not provide a post-dated check). Some lenders require repayment in less than 30 days, much like a payday loan. Also like a payday loan, if the borrower is unable to repay the loan on the due date, the borrower can pay the interest to extend the loan for another period. Other lenders require repayment in a series of bi-weekly installments. The installment payments often run from 6 to 18 weeks, which is longer than the typical payday loan. If borrowers miss a payment, they must pay a late fee on top of their next installment.

To get a sense of the types of short-term, high interest loans offered in Nevada, NFHC conducted a telephone survey of Clark County payday lenders. For payday lenders with more than one branch, NFHC picked one location to call because the loan products were likely to be the same at each location. NFHC called 105 locations. 28 locations (representing 39% of all locations in Clark County) responded in full about their loan products, 22 locations (representing 18% of all locations) responded partially, 21 locations (representing 10% of all locations) provided check cashing services only and 34 locations (representing 33% of all locations) refused to respond over the phone or were unreachable.

The survey revealed that finance chargers per \$100 borrowed ranged from \$10 (182.50% APR) to \$50 (1303.57% APR) for a two-week period. The median finance charge per \$100 borrowed was \$17.00 (443.21% APR). All 28 locations that responded in full permitted rollovers,¹ though three locations limited the number of rollovers to two or three.

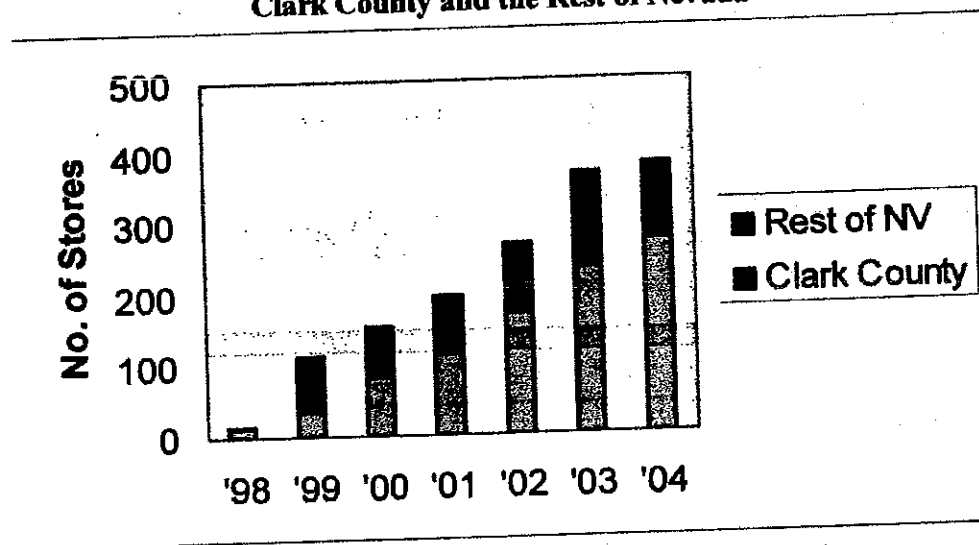
¹ The term "rollover" refers to paying just the interest or finance charge on a short-term loan to extend it for another term—usually 2 weeks. Rollovers are similar to "back-to-back transactions," which involve taking out a new loan to repay an old one. At the end of a back-to-back transaction, the borrower still owes the entire principal.

These findings are widely consistent with previous surveys of the terms offered by payday lenders. In a survey of 235 lenders in 20 different states, the Consumer Federation of America and the U.S. Public Interest Research Group found an average fee of \$18.28 (470% APR) per \$100 borrowed for a two-week period (Consumer Federation of America 2001). A study of Illinois lenders by the Financial Institutions Division found an average finance charge of \$20 (521% APR) per \$100 borrowed while a similar study in Indiana found an average finance charge of \$27.20 on an average loan of \$165.74 for an APR of 498.75 percent.

Growth of the Industry

Check cashing and payday lending were first authorized in Nevada by legislation passed in 1997. Since that time, there has been a rapid proliferation of check cashing and payday loan stores. In 1998, there were 16 of these branches in Nevada; by 2004, that number had swelled to 381, an increase of 2281 percent over 6 years. As Figure 1 shows, most of that increase has occurred in Clark County.

Figure 1: Growth of Check Cashing/Payday Loan Branches in Clark County and the Rest of Nevada



Source: State of Nevada Financial Institutions Division

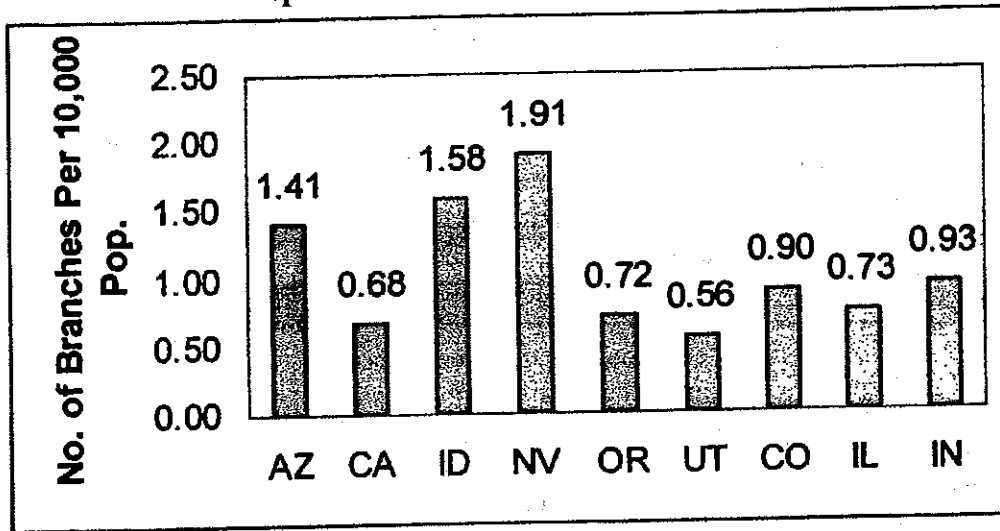
While the concentration of check cashing and payday loan branches has been increasing throughout the country, it is particularly high in Nevada. There are 1.91 of these branches for every 10,000 people. Figure 2 shows that Nevada has more payday loan stores relative to its population than any neighboring state. There are 1.41 payday lenders per 10,000 population in Arizona, 0.68 in California, 1.58 in Idaho, 0.72 in Oregon and 0.56 in Utah. The concentration of these lenders is also higher in Nevada than in Colorado (0.90), Illinois (0.73), and Indiana (0.93).

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Figure 2: Number of Check Cashing/Payday Loan Branches² per 10,000 Population in Nevada and Other States



Sources: Arizona State Banking Department; Colorado Office of the Attorney General; Idaho Department of Finance; Indiana Division of Financial Institutions; McDonald and Santana; Nevada Division of Financial Institutions; Oregon Division of Finance and Corporate Securities; Utah Commissioner of Financial Institutions; Feltner and Williams.

Because the concentration of check cashers and payday lenders is so great in Nevada, it is particularly important to assess the industry's impact on communities here. The sections that follow examine the three central controversies over short-term, high interest lending in Nevada: do lenders target low-income and minority consumers; do customers become ensnared in cycles repeat borrowing, and do lenders employ abusive debt collection practices?

² This graph under-represents the number of short-term, high interest lenders in Nevada because it only includes check cashing/payday loan branches. Short-term, high interest installment lenders were not included because comparable data for the other states were not available.

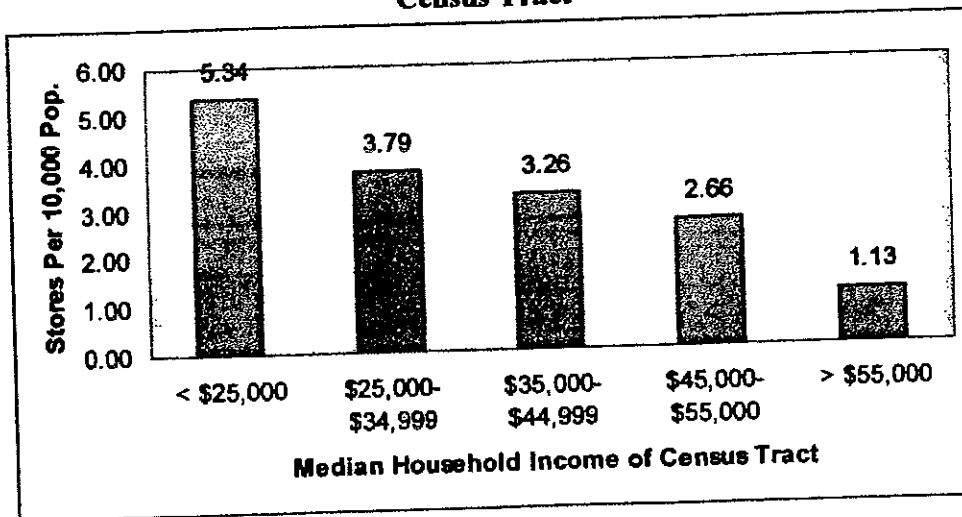
What is the Customer Base of Short-Term, High Interest Lenders?

Critics of payday loan companies argue that the business specifically targets cash-strapped and minority households. A payday lending business plan leaked to the Consumer Federation of America identifies neighborhoods with many households receiving public assistance as opportune places to locate (Consumer Federation of America 2001). Proponents of the industry flatly deny those claims and counter that their typical customer comes from a household making between \$35,000 and \$45,000 a year (Squires 2003).

The best way to find out who borrows from payday lenders is to analyze data collected from payday loan applications (Illinois Financial Institutions Division; Indiana Financial Institutions Division; Wisconsin Department of Financial Institutions). In the absence of such a comprehensive data set, NFHC examined the geographic distribution of payday loan branches and short-term, high interest installment loan branches to investigate whether they are disproportionately located in census tracts with low median household incomes (see p. 32 for a map of short-term, high interest lenders in Clark County).

NFHC found that statewide, over 60 percent of short-term, high interest loan branches are located in census tracts with low or moderate median household incomes. In Clark County, the relationship between the location of these lenders and low household incomes is even more striking. Figure 3 shows that the concentration of these loan stores is highest in neighborhoods where the median household income is the lowest. In census tracts with a median household income less than \$25,000, there are 5.34 short-term, high interest lenders per 10,000 population. This is almost twice the countywide concentration of 2.89 stores per 10,000 population.

Figure 3: Concentration of Short-Term, High Interest Lenders by Median Income of Census Tract



NFHC's findings generally agree with those of previous studies. Several state regulators have studied payday lenders and their customer base. The Indiana Department of Financial Institutions found that the average income of payday loan customers was \$24,673 a year. This finding was based on the examination of 5,134 customer files and 54,508 loans. The Wisconsin Department of Financial Institutions (2001) examined 321 files at 14 lender branches. The average take-home pay of the borrowers in Wisconsin was \$18,675.³

In 1999, the Illinois Department of Financial Institutions collected data from over 600 loan applications completed by payday loan customers. They found the average annual salary to be \$24,104. 40 percent of the customers were men; 60 percent were women. The average age was 36.6 years old. The Woodstock Institute analyzed the Illinois data further and found that 19 percent of the customers made less than \$15,000 a year; 38 percent made between \$15,000 and \$24,999, 31 percent made between \$25,000 and \$39,999; and 12 percent made more than \$40,000 a year.

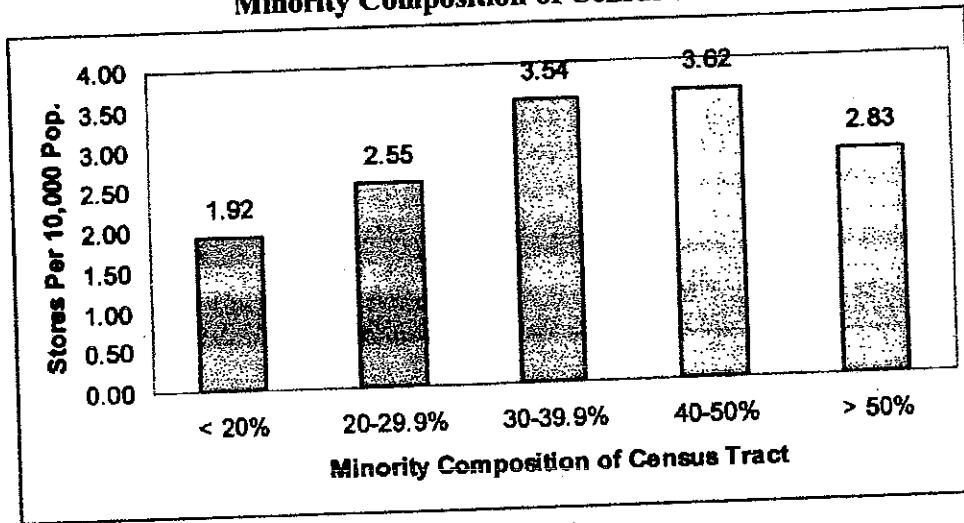
Two economists at the Credit Research Center conducted a nationwide survey of payday loan customers (Elliehausen and Lawrence 2001). They found that 23.1 percent of the respondents came from households making less than \$25,000 a year; 51.5 percent made between \$25,000 and \$50,000 a year and 25.4 percent made more than \$50,000 dollars a year. A little over half (56.5%) of the payday loan customers reported having a credit card, which is significantly less than the adult population overall (72.5%) (Caskey 2002).

NFHC also examined the geographic distribution of short-term, high interest loan branches to see if they predominate in neighborhoods with a high minority composition. Statewide, 55% of these loan stores are located in census tracts with a higher minority composition than the state as a whole.

In Clark County, the concentration of short-term, high interest loan branches is highest in census tracts with a minority composition ranging from 40 to 49.99 percent (Figure 4). Short-term, high interest lenders are not most concentrated in the census tracts with the highest minority composition. Still, the data show that short-term, high interest lenders are disproportionately located in neighborhoods with a minority composition higher than that of the county overall.

³ The results of the nationwide survey and the results of the studies by state regulators are not directly comparable. The nationwide study collected data on *family* income; the studies by state regulators collected data on *individual* income. The studies by state regulators did not collect any data on family size.

Figure 4: Concentration of Short-Term, High Interest Lenders by Minority Composition of Census Tract



While Nevada would benefit from a comprehensive study of short-term loan applications to find out exactly who borrows from short-term cash lenders, the data clearly show that these lenders tend to cluster in census tracts with lower household incomes. The evidence from Nevada is broadly consistent with a nationwide survey of payday loan customers and studies conducted in other states.

Do Short-Term, High Interest Loans Trap Consumers in Cycles of Repeat Borrowing?

Gail, a mother of three children, took out a short-term, high interest installment loan. She received \$150 cash after signing a promissory note agreeing to repay \$165 four days later. Unable to repay the entire sum in a short period of time, Gail paid \$15 to rollover⁴ the loan. She paid \$15 each week for 9 consecutive weeks before defaulting. Although she had paid a total of \$135—almost the entire loan amount—the principal had never been reduced. Four weeks after defaulting, Gail's lender, Lucky Cash 4 U, filed a debt collection suit against her. After charging interest at 2 percent per day upon default and a "wage garnishment" charge of \$1250, the lender was awarded \$1487—more than 9 times the original loan amount. Gail sought help from Clark County Legal Services and was able to vacate the judgment. The suit was settled for \$226.

Consumer advocates use stories like Gail's to indict the short-term, high interest loan industry. They argue that these loans are inherently predatory because they are structured so that clients can get stuck in a cycle of debts. Consumers living from paycheck-to-paycheck are not likely to be able to repay a high interest loan in a short period of two weeks or less. Because the risk of becoming a recurrent borrower is high, consumer advocates argue that states should adopt consumer protection laws that eliminate rollovers.

Industry spokespeople dismiss consumer advocates' claims as anecdotal and object to the elimination of rollovers. They maintain that while the debt cycle is a problem for a small portion of their customers, the vast majority repays on time. The Best Practices of the Community Financial Services Association, the trade association of payday lenders, recommends a limitation of four rollovers.

Several state agencies responsible for the regulation of financial institutions conducted studies of customer files at payday loan branches. These studies suggest that recurrent borrowing is a larger problem than industry lobbyists suggest. The Illinois Financial Institutions Division conducted a survey of payday loan stores in 1999. Examiners visited 60 lenders and compiled data from ten randomly selected customer files from each lender (for a total of 600 files examined). The study found that the average customer made \$24,104 a year and took out 10.93 loans in the twelve months preceding the examination date. In similar studies, the Indiana Financial Institutions Division found an average of 10.19 loans per customer in 1999 and the Wisconsin Department of Financial Institutions found an average of 11.9 loans per customer in 2001.

The North Carolina Commissioner of Banks and the Washington State Financial Institutions Division conducted more comprehensive studies of lending frequencies. The North Carolina study included data on all payday loan transactions in 2000; the Washington study included data on all payday loan transactions made by the four largest payday lenders in the state. The results of these studies are displayed in Table 1 below.

⁴ The term "rollover" refers to paying the interest or finance charge on a short-term loan to extend it for another term—usually 2 weeks. A related practice, the "back-to-back transaction," involves taking out a new loan to repay an old one. As with a rollover, the borrower still owes the same principal at the end of a back-to-back transaction.

P/10-24

APP 014803
ROA 0110126-00105

The North Carolina Commissioner of Banks found that almost a third (30.16 percent) of all payday loan borrowers took out more than 10 loans in a single year. Washington state regulators found that almost half (43.87 percent) of all borrowers took out more than 10 loans in a single year. A significant minority of customers in each state took out more than 20 loans in a single year: 7.59 percent (or 32,718 customers) in North Carolina and 8.27 percent (or 16,034 customers) in Washington.

Table 1: Frequency of Borrowing from Payday Lenders in North Carolina and Washington

# of Loans Taken Out in a Single Year	No. of Customers in NC	Percent of Customers in NC	No. of Customers in WA	Percent of Customers in WA
1-5	202,910	47.06	104,630	48.54
6-10	98,231	22.78	41,932	21.61
11-15	62,383	14.47	63,265	14.07
16-20	34,952	8.11	14,483	7.46
21-25	24,092	5.59	10,464	5.4
> 25	8,626	2.00	5,570	2.87

Source: North Carolina Commissioner of Banks; State of Wisconsin Department of Financial Institutions; State of Washington Financial Institutions Division

Caskey (2002) points out that these studies are likely to underestimate the number of loans a typical customer takes out in a given year because they do not account for borrowers taking out loans from different lenders. Moreover, the studies fail to distinguish between recent customers and old customers. The loan file of a new customer whose most recent loan occurred within the last month or two would not have had time to accumulate many loans. When Caskey re-analyzed the Wisconsin data and restricted his analysis to long-term customers, he found that 44 percent had taken out more than twenty loans in a single year. Less than 4 percent had fewer than five loans.

APP 014804

ROA 010127

11-24

Skillern (2002) examined the payday lending industry in North Carolina. Using data collected by the North Carolina Commissioner of Banks, he quantified rollover and repeat borrowing as a portion of the overall revenue and loan volume of North Carolina payday lenders. He found that payday lenders had a powerful economic incentive to encourage recurrent borrowing. A smaller number of repeat customers generated more revenue for payday lenders than a larger number of occasional borrowers. The 38 percent of all customers who took out between 1 and 3 loans in a year generated 12 percent of total industry revenues. The 18 percent of customers who took out 12 or more loans in a single year generated 40 percent of the industry's revenues.

These studies by economists and regulators in other states belie the claims of payday loan industry lobbyists that repeat borrowing is a rare occurrence. The only way to accurately gauge the extent of repeat borrowing in Nevada would be to conduct a study similar to those completed by state regulators in Illinois, Indiana, Wisconsin, North Carolina and Washington. Considering that short-term, high interest lending is more pervasive in Nevada than in these states, a similar study here seems prudent.

APP 014805
ROA 0110128-00107

Do Payday Lenders Employ Abusive Debt Collection Practices?

If the due date on a payday loan arrives and the client has not come in to rollover the loan, the lender cashes the post-dated check provided by the customer. If the customer's account contains sufficient funds, the loan is repaid and the transaction is complete. If the check is returned for insufficient funds, the lender contacts the customer to arrange repayment as promptly as possible. If the loan remains unpaid, some lenders write it off as uncollectible. Others file debt collection cases against their delinquent customers.

Consumer advocates have protested that many payday lenders engage in abusive debt collection practices. These practices include suing their customers for treble damages and threatening criminal prosecution if the loans are not repaid (Consumer Federation of America 2001; Johnson 2001). Some lenders have also threatened borrowers with foreclosure (Johnson 2001).

NFHC investigated the debt collection practices of local payday lenders and short-term installment lenders. It would be impossible to investigate the debt collection practices of every short-term lender in Clark County, so NFHC selected five payday lenders and four short-term installment lenders known to file debt collection cases. The payday lenders studied were Check City, Rapid Cash, Cool Cash, Cash Out and Easy Cash. The installment lenders studied were Your Credit, Inc., Budget Loans, Gentry Finance and Lucky Cash 4 U.

Debt collection suits in Las Vegas are filed with the Justice Court. The Civil Records Division of the Justice Court pulled 15 case files for each lender. From each file, NFHC collected data about: the original loan (loan amount, finance charge, APR, and loan term); the amount the lender sought to collect on top of the original loan (returned-check fees, late fees, treble damages, suit costs, attorney's fees); and the outcome of the case (Had a judgment been issued? Had the judgment been satisfied? Had a writ of execution garnishing the defendant's wages been issued?).

NFHC restricted its examination to files that contained all of the necessary information. Files that contained a complaint only were discarded. There were 9 complete files for Check City, 10 for Cool Cash, 11 for Rapid Cash, and 5 for Easy Cash. There were only 3 complete files for Cash Out, so the results of the examination of these files have not been included. There were 13 complete files for Your Credit, Inc., 10 for Budget Loans, 10 for Gentry Finance, and 10 for Lucky Cash 4 U. The total number of complete files included was 78. Table 2 summarizes NFHC's findings for each lender.

Check City. For the 9 debt collection cases filed by Check City, the typical loan amount was \$250 with a finance charge of \$43 (392.38% APR). In addition to the amount of the original loan and two \$25 returned-check fees, Check City sought "late charges" ranging from \$30 to \$240. Although the contract signed by Check City's customers does not specify how the amount of the "late charges" is calculated, Check City appears to charge \$30 for every \$100 borrowed.

A13-24

APP 014806

ROA 010129 00108

Rapid Cash and Easy Cash. Rapid Cash and Easy Cash are separate companies, but their debt collection practices are similar. The typical loan amount for Rapid Cash was \$462.50; for Easy Cash it was \$250. The typical finance charges at Rapid Cash and Easy Cash were \$75 (495% APR) and \$50 (730% APR), respectively. Rapid Cash and Easy Cash did not impose late charges as Check City did. Instead, they sued for treble damages under NRS 41.620.

NRS 41.620 enables merchants to collect three times the amount of a check returned for insufficient funds, up to \$500. It is intended to deter people from committing fraud by issuing checks that they know will bounce. The statute that authorizes check-cashing and payday lending, however, limits the fees lenders can collect on returned checks and precludes the use of 41.620 (NRS 604.162). Moreover, in July of 2002, the Commissioner of Nevada Financial Institutions Division issued a memo explicitly prohibiting the use of NRS 41.620 by payday lenders (Walsahw 2002).

Despite FID's prohibition, NFHC found that Rapid Cash, Easy Cash and Cool Cash regularly sued for treble damages under NRS 41.620. This allowed them to collect \$500 on top of the original loan amount and returned-check fees, which is substantially more than the typical late charge of \$120 at Check City.

Cool Cash. NFHC examined 10 cases filed by Cool Cash, Inc. The typical loan provided by the company was \$500. The median finance charge was \$105 and the median APR was 359.12%. Like Rapid Cash and Easy Cash, Cool Cash did not impose late charges but instead sued for treble damages under NRS 41.620. Unlike Rapid Cash and Easy Cash, however, Cool Cash required its customers to write a separate check for every \$100 borrowed. This allowed Cool Cash to circumvent the \$500 cap in NRS 41.620.

For example, in Case # 04C-003038, the defendant borrowed \$300. He wrote three checks, each for \$130 (there was a finance charge of \$90). When all three checks bounced, Cool Cash sued for the sum of three times the original amount of each check, or \$1170 (\$390+\$390+\$390=\$1170). Had the defendant written one check for \$300, Cool Cash would have been able to sue for only \$500 in damages under NRS 41.620. The median amount Cool Cash sued for under NRS 41.620 was \$1017.50, which is substantially more than the typical late charges imposed by Check City and the damages sued for by Rapid Cash and Easy Cash.

Table 2: Late Fees and Damages Sought In Debt Collection Suits

Lender (Type)	Median Loan Amt.	Median Fin. Chg.	Median APR	Median Late Fees	Median "Damages"
Check City (Payday)	\$400	\$53	391.07%	\$120	0
Rapid Cash (Payday)	\$462.50	\$75	\$421.41%	0	\$500
Cool Cash (Payday)	\$500	\$105	359.12	0	\$1017.50
Easy Cash (Payday)	\$250	\$50	521.43%	0	\$500
Your Credit (Installment)	\$100	\$31.12	242.02	\$120	0
Budget Loans (Installment)	\$250	\$40	521.43%	\$1096.52	0
Gentry Finance (Installment)	\$200	\$92.40	216.74%	\$120	0
Lucky Cash 4 U (Installment)	\$300	\$60	521%	\$904	0

To assess whether the payday lenders' debt collection practices were abusive, NFHC compared the total amount to be paid by the borrower (including suit costs and attorney's fees) with the original loan amount. This provides a measure of how costly debt collection suits are to payday loan customers.⁵ The results of these calculations are summarized in Table 3.

⁵ Actually, this method is likely to underestimate the total cost to the borrower because it does not account for the number of finance charges the customer paid to rollover the loan before going into default.

P15-24

APP 014808
ROA 010131 - 00110

**Table 3: Amounts Awarded to Lenders and
Total Amounts Owed by Borrowers in Debt Collection Suits**

Lender (Type)	Median Amount Awarded	Median Total Judgment	Amt. In Total Judgment to Original Loan Amt.
Check City (Payday)	\$605	\$829	2.14
Rapid Cash (Payday)	\$1025	\$1279	2.66
Easy Cash (Payday)	\$825	987.82	3.95
Cool Cash (Payday)	\$1687.50	\$1922.38	5.28
Gentry Finance (Installment)	\$311.76	\$390.12	2.56
Your Credit (Installment)	\$251.12	\$390.12	3.37
Lucky Cash 4 U (Installment)	\$1204	\$1499	5.27
Budget Loans (Installment)	\$1095.71	\$1461	6.60

By this measure, Cool Cash was the most abusive of the payday lenders studied. The amount owed by the typical borrower sued by Cool Cash was more than five times the amount of the original loan. For example, in Case Number 04C-004278, the customer initially borrowed \$200. At the end of the debt collection case, the customer owed \$1134.11, including suit costs and attorney's fees. On this \$200 loan, Cool Cash netted \$780⁶ after recovering the original loan amount and paying the suit costs and attorneys fees.

Check City, in contrast, was the least abusive of the payday lenders studied. The typical Check City customer had to pay 2.14 times the amount of the original loan. For example, in Case Number 04C-001583, the customer initially borrowed \$250. At the end of the debt collection case, the customer owed \$471, including suit costs and attorney's fees. On this \$200 loan, Check City netted \$119 after recovering the original loan amount and paying the suit costs and attorney's fees. Although Check City was the least abusive by this measure, the debt collection suit is still costly for the borrower.

⁶ The \$780 figure does not represent pure profit. The amount of the \$780 that goes to payroll and administrative costs is unknown.

Installment loan companies that provide short-term, high interest loans are not licensed under the same chapter of Nevada Revised Statutes under which check cashing and payday lending companies are registered.⁷ However, NFHC's analysis of debt collection cases indicates that installment loan companies offer short-term loans with amounts, maturities and interest rates comparable to those of payday loan companies (Table 2). Installment loan companies also employ similar debt collection practices.

Your Credit, Inc. For the 13 debt collection cases filed by Your Credit, the typical loan amount was \$100, and the typical finance charge was \$31.12 (242.02% APR) (Table 2). In addition to the amount of the original loan, Your Credit sought a "late charge" ranging from \$10.38 to \$160.00.

Budget Loans. For the 10 debt collection cases filed by Budget Loans, the typical loan amount was \$250, the typical finance charge was \$40.00 (521.43% APR), and the typical maturity was 14 days (Table 1). In addition to the amount of the original loan, Budget Loans sought a "penalty" ranging from \$375 to \$838.44 and "accrued interest" ranging from \$127 to \$949. Budget Loans would also offer credits to its customers, reducing the amount owed by a marginal amount.

Lucky Cash 4 U. For the 10 debt collection cases filed by Lucky Cash 4 U, the typical loan amount was \$300, the typical finance charge was \$60.00 (521.43% APR), and the typical maturity was 10 days (Table 1). In addition to the amount of the original loan, Lucky Cash 4 U sought "late fees," "accrued costs," "delinquency costs," and "administrative costs" from the borrower. The average sum of these charges was \$1119.13 on top of the initial loan amount.

Gentry Finance. The loans provided by Gentry Finance are structured differently than the loans provided by most payday lenders and short-term, installment lenders. Instead of having to repay the entire loan amount and finance charge on their next payday, borrowers repay the loan and finance charge in a series of bi-weekly installments. Of the lenders we examined, Gentry Finance has the highest finance charges in absolute terms but the lowest charges when expressed as APR's.

For the 10 debt collection cases filed by Gentry Finance, the typical loan amount was \$200 with a finance charge of \$92.40 (216.74% APR) and a maturity of 16 weeks (Table 2). In addition to the amount of the original loan, Gentry Finance sought "late charges" ranging from \$20 to \$120.

⁷ Check Cashers and Payday Lenders are registered under NRS Chapter 604. Installment lenders are licensed under NRS Chapter 675.

P/17-18

To assess whether the installment lenders' debt collection practices were abusive, NFHC compared the total amount to be paid by the borrower (including suit costs and attorney's fees) with the original loan amount, as it did for payday lenders (Table 3). By this measure, Budget Loans was the most abusive of both the payday and installment lenders studied. The amount owed by the typical borrower sued by Budget Loans was almost seven times the amount of the original loan. Gentry Finance, in contrast, was the least abusive of both the payday lenders and the installment lenders studied. Gentry finance was typically awarded less than twice the original loan amount. The amount owed by the typical borrower sued by Gentry Finance was a little over twice the original loan amount.

The findings of NFHC's study of payday loan companies and installment loan companies that offer short-term, high interest loans complement a study of the debt collection practices of Americash, a payday lender in Illinois (Monsignor John Egan Campaign 2004). Researchers found that the average APR of Americash's loan products was 573.18%. The average award in a debt collection case was nearly triple the average original loan amount. The researchers looked at every debt collection case filed by Americash in 2002 and 2003. They found that the borrower's wages were garnished in 97.8% of the cases in 2002 and 98.5% of the cases in 2003.

Installment loan companies in Nevada offer short-term, high interest loans that are structured like payday loans. They also employ abusive practices to collect on delinquent loans. These findings suggest that any future regulation of the payday loan industry should also apply to installment loan companies that offer short-term, high interest loans.

Conclusions and Recommendations for Consumer Protections

The controversy over short-term, high interest lending in Nevada has centered on three major issues: (1) who borrows from payday lenders? (2) Do borrowers become stuck in cycles of chronic, repeat borrowing? And, (3) do lenders employ abusive debt collection practices? The answers to these questions can help craft legislation containing appropriate consumer protections.

NFHC's study of the geography of payday lending in Nevada and Clark County reveals that short-term, high interest lenders are more highly concentrated in low-income census tracts. These findings are consistent with nationwide surveys and studies in other states that find the typical payday loan customer to be of modest means. Low-income customers living paycheck-to-paycheck have difficulty repaying a high interest loan in a short, two-week period. This increases the likelihood of recurrent borrowing. Studies by state regulators have shown that cycles of repeat borrowing are a problem for a significant number of payday loan customers (Illinois Financial Institutions Division; Indiana Financial Institutions Division; Wisconsin Financial Institutions Division 2001; North Carolina Commissioner of Banks; Stegman and Ferris 2003). Legislative action can take steps to address this problem.

1. Require lenders to allow partial payments. Short-term, high interest lenders should be required to accept partial payments in any amount without charge.
2. Prohibit rollovers and require a repayment plan. Rather than allowing borrowers to make a series of interest-only payments that do not reduce the loan principal, lenders should establish installment repayment plans for borrowers who cannot repay the full amount on the due date.
3. Prohibit lending to customers with two or more outstanding loans. Several states require lenders to consult a database that tracks a customer's outstanding loans. Such a database would be necessary in Nevada as well.
4. Prohibit loans of more than $\frac{1}{4}$ of a borrower's net monthly income.

When borrowers default on their short-term, high interest loans, some lenders file debt collection suits with the Las Vegas Justice Court. NFHC's examination of debt collection suits revealed that these lenders employ abusive collection practices. Some lenders add exorbitant "late charges" to the loan principal. Others sue their customers for damages under NRS 41.620. Borrowers with a suit filed against them end up paying anywhere from twice the original loan amount to more than six times the original loan amount. Legislative action can take steps to prohibit abusive debt collection practices as well.

In debt collection cases, lenders should be limited to recouping the principal, a returned check fee (if it was a deferred deposit transaction), the suit costs and an attorney's fee. Any additional fees are excessive and abusive because lenders already compensate for the risk of default by charging high interest rates up front.

A19-24

APP 014812
ROA 010135 - 0011

Though legislative action is an important step towards reducing abuses, the prolific growth of the payday loan industry makes it difficult for state regulators to adequately enforce the statutes governing payday lending. For example, some lenders regularly sue their customers for treble damages even though the Nevada Financial Institutions Division explicitly prohibits this practice (Walsahw 2002). Borrowers must be able to pursue a private right of action against a lender who violates Nevada law.

Removing a borrower's private right of action is not a rare practice among short-term, high interest lenders. The loan contracts of at least 5 of the lenders in NFHC's study of Justice Court documents included an arbitration clause waiving the borrower's right to sue the lender. This is another practice that legislative action ought to prohibit.

Currently, payday lenders and short-term installment lenders are covered by different chapters of Nevada law. As the analysis of court documents revealed, however, they offer comparable products and employ similar, abusive debt collection practices. It is important that the consumer protections discussed above apply to both payday and short-term, high interest installment loans. This could be accomplished by inserting the protections into both chapters of Nevada law or by consolidating all short-term, high interest loans into a single chapter. Lenders in other states have proved adept at evading consumer protection statutes (Feltner and Williams 2004; Morstad 2001). If consumer protections in Nevada are not applied to both payday loans and short-term installment loans, lenders will just adopt the loan product with the fewest protections.

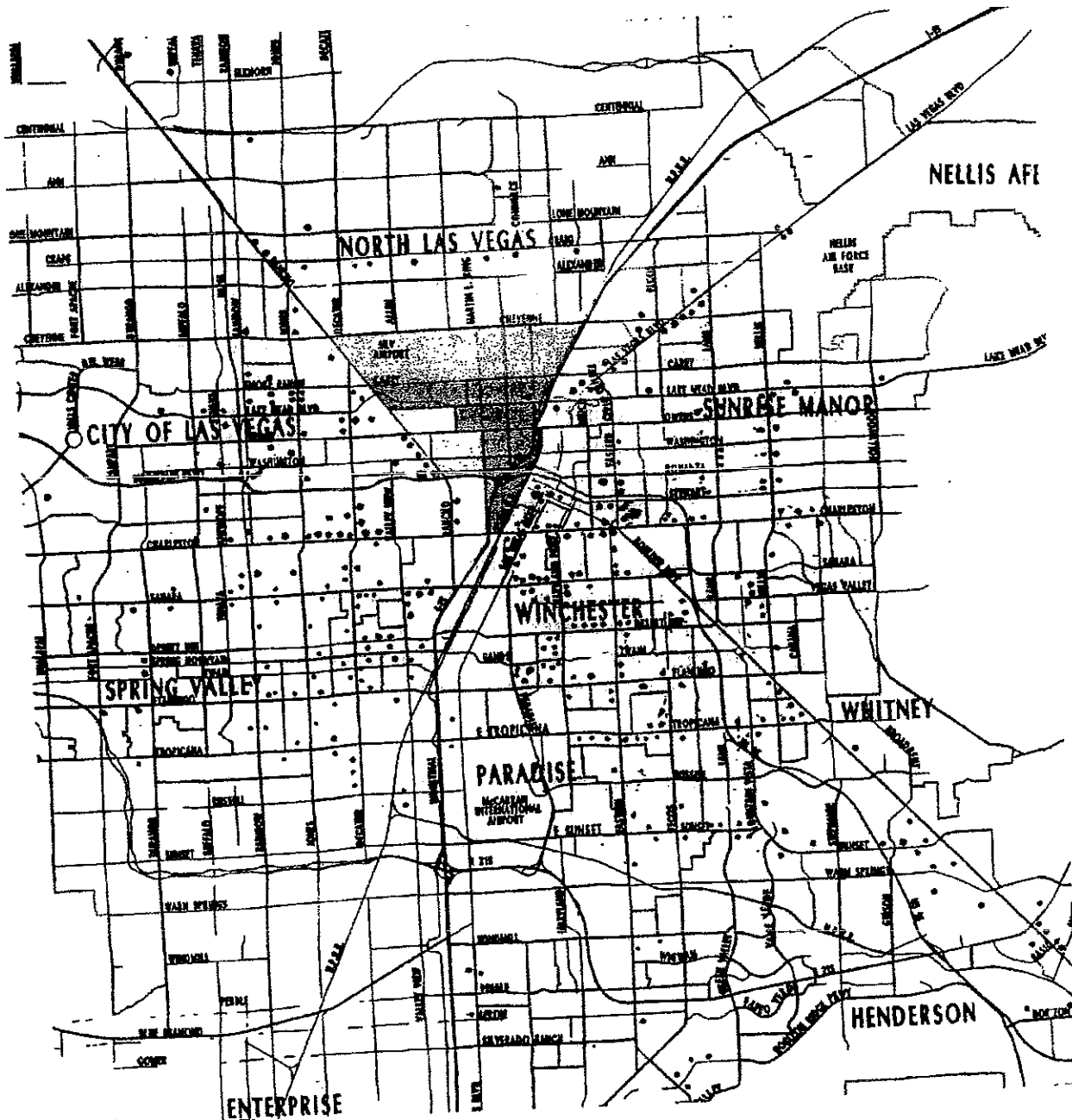
Consumer advocates have documented how payday lenders in states with comprehensive payday lending statutes partner with out-of-state banks to circumvent consumer protections (Consumer Federation of America 2004; National Consumer Law Center). To prevent Nevada lenders from doing the same, consumer protections must apply to lenders who make the loans themselves and to lenders who act as agents for a federally or state-chartered bank, thrift, savings association or credit union.

This study has documented abusive practices in the Nevada payday loan industry. Increasing consumer protections is prudent public policy. If comprehensive consumer protections are not adopted in Nevada, the abuses documented in this study will only continue.

P 20-24

APP 014813
ROA 010186 00115

Map of Short-Term, High Interest Lender Branches in Clark County



Location of Short-Term, High Interest Lending Branches in Clark County

Koster's Cash Loans •
Max Cash •

Acc America's Cash Express •
Check City • Budget Loans •

Moneytree •
All Other •

P 21-24

APP 014814
ROA 010137

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Acknowledgements

Nevada Fair Housing Center, Inc. is grateful to the people that contributed to this study. Martin Lotz and the staff of the Las Vegas Justice Court Civil Records Division generously provided access to debt collection cases filed in Justice Court. Heather Brannagan of Clark County Legal Services provided insight into the abusive debt collection practices of payday lenders. Barbara Buckley, Esq. and Dan Wulz, Esq. of Clark County Legal Services gave invaluable feedback on a previous draft of this study. However, the views expressed in this paper are those of Nevada Fair Housing Center, Inc.

About Nevada Fair Housing Center, Inc.

Nevada Fair Housing Center, Inc. (NFHC) enforces the Fair Housing Act, protects consumers from predatory lending and administers financial literacy, asset-building, and first-time home-buyer programs. Through programs that ensure equal access to capital and credit, NFHC supports neighborhood revitalization. NFHC also works with local municipalities to implement long range plans to affirmatively further fair housing.



A 24-24

APP 014817

ROA 010140 00110

Good afternoon, my name is Azucena Valladolid. I am Director of Counseling for Consumer Credit Counseling Service, a not-for-profit United Way organization serving residents of the State of Nevada for over 30 years. CCCS provides basic financial and asset building services including down-payment assistance, IDA accounts, establishment of checking and savings accounts, income tax preparation, financial literacy, financial counseling, mortgage default/delinquency counseling and debt management and repayment. We provide financial counseling, face-to-face, to over 650 individuals and families each month and it is these clients and the disturbing trends being experienced I would like to briefly speak about today.

As you are aware, the payday and small loan industry has grown incredibly the last few years and we see the affects on a daily basis with consumers seeking solutions (other than bankruptcy) for their indebtedness. Obligations to payday or small loan companies added to an already over-burdened consumer results in a downward financial spiral. It also seems evident marketing by the industry is directed to minorities, low to moderate-income individuals, and seniors. Spanish speaking consumers sign documents in English, knowing only what they are told, which may very well not be the same thing.

In March 2005, our agency, on a statewide basis, counseled 660 unduplicated individuals/families. Of those, **17.4% owed one or more payday loans.**

These consumers were obligated to from **one to seventeen** different

payday/small loans and, in over 95% of the clients, this debt was in addition to other consumer debt (credit card, retail, etc.).

I spoke earlier of seniors and will provide an example which is, unfortunately, not rare. A 71-year-old gentleman came in for assistance. His total net monthly income is \$1,000.25 from social security. He owed 15 payday and four small loan companies – 19 creditors with monthly payments totaling \$3,627. This started with one loan of \$100.00. His social security check arrives on the 3rd of each month. On the 16th he borrowed \$100, to be repaid on the 30th.

Unfortunately, he had no income until the 3rd so when the loan became due, he borrowed from another payday company to pay the interest on the first....and on and on and on, resulting in almost \$4,000 in debt. Moreover, this amount did not reflect costs associated with the legal action that was being processed.

A Spanish-speaking client enlisted our assistance to repay his 6 payday loans. On January 25, 2005 One of the companies responded in writing to our agency, accepting the proposed payment of \$67 on a \$400 balance. On February 26, 2005, a lawsuit was filed for treble damages, resulting in a demand for \$1,978.08 plus 15% interest per two weeks. All this for a \$400 debt the company agreed to accept payments on.

The examples could continue, as we see them daily. Consumers are being exploited. Being indebted to 19 creditors as a 71-year old with no possible way to repay is exploitation. Owing \$400 and liquidating the debt as agreed upon by the payday loan company only to be sued for almost \$2,000 is exploitation. I am

asking you consider the proposed legislation to provide protection for the residents of Nevada. Thank you for allowing me to speak.



Nevada Fair Housing Center, Inc.

paving the way to a world of resources

Testimony Before

The Committee On Commerce And Labor

Payday Lending

Nevada Fair Housing Center appreciates the opportunity to present this statement to the Nevada State Assembly Committee on Commerce and Labor. We offer this testimony in strong support of A.B. 384, which increases consumer protections for borrowers of short-term, high interest loans.

Nevada Fair Housing Center, Inc. enforces the Fair Housing Act, protects consumers from predatory mortgage lending and administers financial literacy and first-time home-buyer programs. Through programs that promote equal access to capital and credit, NFHC supports neighborhood revitalization and community economic development.

As part of our efforts to ensure that low-income neighborhoods can access capital and credit on fair terms, we conducted a study of payday lenders and other short-term, high interest cash lenders in Nevada. Our findings can help craft legislation that includes appropriate consumer protections.

Short-term, high interest lenders make money in two ways: on the front-end of the transaction in the form of finance charges and interest and on the back-end of the transaction in the form of late fees and rollovers. We are mainly concerned with abusive practices on the back end.

Abusive Debt Collection Practices

When a short-term, high interest loan goes unpaid, some lenders file debt collection suits with the Las Vegas Justice Court. Lenders are certainly entitled to recoup the amount of money they originally lent. Our study, however, documents a number of abusive debt collection practices that lenders use to collect sums well in excess of the original loan amount.

We investigated the debt collection practices of 9 short-term, high interest installment lenders. Some lenders add exorbitant late charges to their debt collection suits. Others sue their customers for treble damages under NRS 41.620.

NRS 41.620 enables merchants to collect three times the amount of a check returned for insufficient funds, up to \$500. It is intended to deter check-fraud. It is not intended to allow unscrupulous lenders to pile damages on to their debt collection suits. In July of 2002, the Commissioner of Nevada Financial Institutions Division issued a memo explicitly prohibiting the use of NRS 41.620 by payday lenders (Walsahw 2002).

Despite this prohibition, our study found that some lenders ¹ regularly sue for treble damages under NRS 41.620. Moreover, they require borrowers to write multiple checks for a single transaction, allowing them to circumvent the \$500 limit.

For example, in one case we examined (no. 04C-003038), the customer borrowed \$300. He wrote three checks, each for \$130 (there was a finance charge of \$90). When all three checks were returned for insufficient funds, the lender² sued for treble damages on each check, or for \$1170 (\$390+\$390+\$390=\$1170). Had the customer written one check for \$300, the lender would have been able to sue for only \$500 in damages. In this case, the court ordered the borrower to pay \$1832, including court costs and attorney's fees. He had repaid \$1728 at the time of our examination. The court had issued a writ of execution garnishing his wages for the remainder.

Our findings suggest that such examples are not rare. For the most abusive lenders in our study,³ the typical borrowers ended up paying a sum more than five or six times the original loan amount.

A.B. 384 takes important steps to reign in these abusive debt collection practices. Specifically, it:

- Clearly states what fees and rate of interest can be charged on delinquent accounts;
- Explicitly prohibits the use of NRS 41.620 by deferred-deposit and payday lenders;
- Prohibits lenders from making multiple loans to one customer at a single time; and
- Prohibits lenders from requiring borrowers to write multiple checks for a single loan.

The issue of rollovers

The second issue we're concerned with is rollovers. The term "rollover" refers to paying just the interest or finance charge on a short-term loan to extend it for another term—usually 2 weeks. Some customers pay to rollover their loans many times but never reduce the loan principal.

Consumer advocates argue that payday loans are structured to encourage such cycles of repeat borrowing. Payday lenders, on the other hand, insist that only a very small percentage of customers get stuck on the debt treadmill.

Although we lack data specific to Nevada on borrowing frequency, we reviewed a

¹ Rapid Cash, Easy Cash and Cool Cash

² Cool Cash

³ The typical Budget Loans customer ended up paying 6.60 times the original loan amount; the typical Cool Cash customer ended up paying 5.28 times the original loan amount.

number of studies conducted by regulators in other states. State regulators in Illinois, Indiana and Wisconsin found that the typical customer took out between 10 and 12 payday loans a year. The North Carolina Commissioner of Banks and the Washington State Financial Institutions Division found that a significant minority of customers in each state took out more than 20 loans in a single year: over 7 percent (32,718 customers) did so in North Carolina and over 8 percent (16,034 customers) did so in Washington.

A study based on data collected by the North Carolina Commissioner of Banks found that payday lenders have a strong economic incentive to encourage recurrent borrowing. A smaller number of repeat customers generated far more revenue for payday lenders than a larger number of occasional borrowers.⁴

These studies show that recurrent borrowing is a problem that warrants the attention of policymakers. AB 384 would help address this problem by:

- Prohibiting rollovers and requiring a repayment plan upon default;
- Prohibiting loans greater than $\frac{1}{4}$ of a borrower's expected monthly gross income;
- Prohibiting lenders from making loans to customers with loans already outstanding;
- Prohibiting back-to-back transactions;
- Requiring lenders to accept partial payments in any amount at no charge; and
- Requiring lenders to provide customers with copies of the loan agreement and the repayment schedule.

The issues of rollovers, late charges, and treble damages are highly contentious ones. The lenders will argue that prohibiting rollovers and limiting late charges and damages will remove the economic incentive for borrowers to repay on time. They're really trying to protect their own economic incentive to encourage cycles of repeat borrowing and charge abusive late fees.

It is possible to preserve the borrower's incentive to repay while putting a stop to serial rollovers and abusive late fees. AB 384 does just that.

Our study documented abusive practices in the Nevada payday loan industry. Increasing consumer protections is prudent public policy. If comprehensive consumer protections are not adopted in Nevada, the abuses documented in our study will only continue.

⁴ The 38 percent of all customers who took out between 1 and 3 loans in a year generated 12 percent of total industry revenues, or \$15 million. The 18 percent of customers who took out 12 or more loans in a single year generated 40 percent of total industry revenues, or \$49 million. From Skillern, Peter "Small Loans, Big Bucks: An Analysis of the Payday Lending Industry in North Carolina." Community Reinvestment Association of North Carolina, available at: <http://www.cra-nc.org/small%20loans%20big%20bucks.pdf>.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Third Session
April 13, 2005**

The Committee on Commerce and Labor was called to order at 12:26 p.m., on Wednesday, April 13, 2005. Chairwoman Barbara Buckley presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4401 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Barbara Buckley, Chairwoman
Mr. John Ocegüera, Vice Chairman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Morse Arberry Jr.
Mr. Marcus Conklin
Mrs. Heidi S. Gansert
Ms. Chris Giunchigliani
Mr. Lynn Hettrick
Ms. Kathy McClain
Mr. David Parks
Mr. Richard Perkins
Mr. Bob Seale
Mr. Rod Sherer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Sheila Leslie, Assembly District No. 27,
Washoe County
Assemblyman John Marvel, Assembly District No. 32, Humboldt
County, Lander County, and Washoe County

APP 014824
ROA 010147
TAX 88 - 00126

Assemblywoman Giunchigliani:

I like the idea. It has become the new trend and I think there need to be some protections out there. I did not get the letter. I wouldn't mind doing an amend and do pass. If we have to have a subsequent change or correction, at least this moves it further.

Chairwoman Buckley:

We could get copies of the emails and letters to Assemblywoman Weber now and copy them for every Committee member, then take it up later. We don't have to rush it. We should allow people to look at it all, and make sure the sponsor has it as well.

Assemblyman Hettrick:

My wife had the permanent cosmetics done. I think it is a good thing to do something, because what they made her sign off on was worse than a surgical procedure, as far as the risk. I think we ought to have people who are qualified doing it. I think it is reasonable to proceed with something here. I would be in support of that.

Chairwoman Buckley:

Let's do that. Let's get the copies to everybody and then we will bring it back.

We will take A.B. 384 next.

Assembly Bill 384: Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

Diane Thornton, Committee Policy Analyst:

[Submitted Exhibit K.] A.B. 384 was sponsored by Assemblywoman Buckley and was heard on April 6, 2005. This bill establishes uniform standards and procedures for the licensing and regulation of check-cashing services, deferred deposit services, payday loan services, and title loan services. The bill provides consumer protections including regulating customer repayment and default of these loans and requiring that the loan establishments comply with the federal Fair Debt Collection Practices Act [15 U.S.C. 1692]. The measure also provides remedies and administrative penalties. Behind Tab F is a mock-up of the amendment (Exhibit L) proposed by Assemblywoman Buckley.

Chairwoman Buckley:

I am continuing to work with consumer advocates and the industry. We are taking great care. If the Committee is willing to do an amend and do pass, I will bring the final amendment back to the Committee to allow us to continue to do some technical tweaking and further tightening of the language.

Assemblyman Anderson:

I see the need for legislation in this area.

ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 384.

ASSEMBLYMAN CONKLIN SECONDED THE MOTION.

Assemblyman Seale:

Weren't there several bills in this same vein?

Chairwoman Buckley:

Yes, the other one was A.B. 340, sponsored by Assemblywoman Giunchigliani. She indicated that she is still amending it and it wasn't ready for work session yet. It does not conflict. None of the provisions are in the same statute numbers, even though it does deal with the same subject.

Assemblyman Hettrick:

I will vote for this on the basis of what we have done. I have to indicate that I do have a concern. In Section 14, line 11, I know the fees always seem exorbitant, but 40 percent, calculated on an annual basis, will be so de minimis as to eliminate the industry entirely. I am concerned that number may be too low. I think the general direction of the bill is good.

Chairwoman Buckley:

Section 14 defines short-term loans as being subject to this chapter. Short-term loan is defined as anyone who charges more than a 40 percent APR [annual percentage rate]. The bill still allows them under this chapter to charge a higher interest rate. That is not the cap section. The way it was structured, everything had to be redefined.

Assemblywoman Gansert:

I didn't see a cap section. Is there a cap section?

Chairwoman Buckley:

Yes, the cap section is on page 15, Section 32.7. It states that a licensee may collect only the following amounts:

1. The principal amount of the loan.
2. The interest rate as disclosed on the federal truth and lending statement.
3. After the date of default, as defined by the bill, prime plus 10.
4. An insufficient fund fee.

In paragraph 2, it says that you may not charge the customer any other fees or cost. We are still working on that language because we want to make it crystal clear since the industry is very clever. The limitation upon default of prime plus 10 is in current law, NRS [*Nevada Revised Statutes*] 604. What we are really trying to tighten up here is, you get your contract amount, you get your interest rate in the contract up to default, upon default you get prime plus 10 for a period not to exceed 3 months, you get the bad check fee, and that is it. Collection charges of \$2,000 for a \$200 loan would be eliminated. That would be the heart of the bill. We will make that very clear for legislative history in case this is challenged. That is the intent.

THE MOTION CARRIED. (Assemblyman Arberry and Assemblyman Parks were not present for the vote.)

**Assembly Bill 437: Revises provisions governing manufactured home parks.
(BDR 10-1027)**

Diane Thornton, Committee Policy Analyst:

[Submitted Exhibit M.] A.B. 437 was sponsored by the Committee on Commerce and Labor, and was heard April 1, 2005. This bill revises several provisions regarding manufactured home parks. The landlord of a manufactured home park is required to post a copy of the utility bill for the park if the utility bill is for multiple tenants. The bill revises which representative must meet with the tenants upon receiving a request to hear any complaints or suggestions. The bill also revises the provisions governing the closure of a manufactured home park and revises the provisions regarding the limited dealer's license.

Behind Tab G is an amendment (Exhibit N) proposed by Joe Guild from the Manufactured Home Community Owners. This amendment has four sections to it. The first two sections deal with who should meet with the tenants. In Section 3, sub 3, page 3, "managing" is deleted; "with working knowledge of

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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.

The following measure may be considered for action by the Assembly Committee on Commerce and Labor during today's work session:

☐ **ASSEMBLY BILL 384**

Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

Sponsored By: Assemblywoman Buckley

Date Heard: April 6, 2005

Discussion

This bill establishes uniform standards and procedures for the licensing and regulation of check-cashing services, deferred deposit services, payday loan services and title loan services. The bill provides consumer protections including regulating customer repayment and default of these loans and requiring that the loan establishments comply with the federal Fair Debt Collection Practices Act. The measure also provides remedies and administrative penalties.

Proposed Conceptual Amendment(s)

Behind Tab F is a mock up of the amendment proposed by Assemblywoman Buckley.

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 384

PREPARED FOR THE ASSEMBLY COMMITTEE ON COMMERCE AND LABOR
APRIL 11, 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:

1 **Section 1.** Title 52 of NRS is hereby amended by adding thereto a
2 new chapter to consist of the provisions set forth as sections 2 to 86,
3 inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 17, inclusive, of*
6 *this act have the meanings ascribed to them in those sections.*

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

9 **Sec. 4. 1.** "Check" means:

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

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

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

15 **Sec. 5.** "Check-cashing service" means any licensee engaged in the
16 business of cashing checks for a fee, service charge or other
17 consideration.

*PROPOSED AMENDMENT TO AB3

ASSEMBLY COMMERCE & LABOR

DATE: 4/12/05 EXHIBIT L PAGE 1 OF 37

SUBMITTED BY: APP 014830

ROA 010153 - 00132

1 Sec. 6. "Commissioner" means the Commissioner of Financial
2 Institutions.

3 Sec. 7. "Customer" means any person who receives or attempts to
4 receive check-cashing services, deferred deposit loan services, ~~payday~~
5 ~~short-term~~ loan services or title loan services from a licensee.

6 Sec. 8. "Default" means the failure of a customer to pay a loan in
7 ~~compliance with full when required by the terms of~~ of a lawful loan
8 agreement, or any extension thereof. The date of a default must be
9 determined in the manner set forth in section 17.3 of this act.

10 Sec. 9. "Deferred deposit loan" means a transaction in which,
11 pursuant to a written agreement:

12 1. A customer tenders to a licensee:

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

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

16 2. The licensee:

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

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

24 Sec. 10. "Deferred deposit loan service" means any licensee
25 engaged in the business of making deferred deposit loans for a fee,
26 service charge or other consideration.

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

32 Sec. 11.5. 1. "Extension" means any extension or rollover of a
33 loan beyond the date on which the loan is required to be paid in full
34 under the original terms of the loan agreement, regardless of the name
35 given to the extension or rollover.

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

37 Sec. 11.7. "Grace period" means any period of deferment offered
38 gratuitously by a licensee to a customer if the licensee complies with the
39 provisions of section 17.5 of this act.

40 Sec. 12. "Licensee" means any person who has been issued one or
41 more licenses to operate a check-cashing service, deferred deposit loan
42 service, ~~payday short-term loan service or title loan service pursuant to~~
43 the provisions of this chapter.

44 Sec. 13. "Loan" means any deferred deposit loan, ~~payday short-~~
45 ~~term loan or title loan, or any extension thereof, made by a licensee at a~~

1 ~~place of business for which he is licensed, or through the Internet or~~
2 ~~other electronic means, any location or through any method, including,~~
3 ~~without limitation, at a kiosk, through the Internet, through any~~
4 ~~telephone, facsimile machine or other telecommunication device or~~
5 ~~through any other machine, network, system, device or means.~~

6 **Sec. 14. 1. "Payday Short-term loan"** ~~has the meaning ascribed to~~
7 ~~it by the Commissioner pursuant to section 21 of this act.~~ means a loan
8 made to a customer pursuant to a loan agreement which, under its
9 original terms:

10 (a) Charges fees or a rate of interest, or any combination thereof,
11 that when calculated as an annualized percentage rate is more than 40
12 percent; and

13 (b) Requires the loan to be paid in full in less than 1 year.

14 2. The term does not include:

15 (a) A deferred deposit loan; or

16 (b) A title loan.

17 **Sec. 15. "Payday Short-term loan service"** means any licensee
18 engaged in the business of providing ~~payday~~ short-term loans for a fee,
19 service charge or other consideration.

20 **Sec. 16. "Title loan"** means a loan made to a customer who secures
21 the loan with the title to a motor vehicle.

22 **Sec. 17. "Title loan service"** means any licensee engaged in the
23 business of providing title loans for a fee, service charge or other
24 consideration.

25 **Sec. 17.3. For the purposes of this chapter, a default on a loan**
26 **occurs:**

27 1. On the day immediately following the date on which the loan is
28 required to be paid in full under the original terms of the loan
29 agreement; or

30 2. If there is a lawful extension of the loan agreement, on the day
31 immediately following the date on which the loan is required to be paid
32 in full under the original terms of the extension.

33 **Sec. 17.5. The provisions of this chapter do not prohibit a licensee**
34 **from offering a customer a grace period on the repayment of a loan,**
35 **except that the licensee shall not charge the customer:**

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

37 2. Any fees or interest on the outstanding loan during such a grace
38 period.

39 **Sec. 18. 1. The provisions of this chapter must be interpreted so**
40 **as to effectuate their general purpose to provide for, to the extent**
41 **practicable, uniform regulation of the loans and transactions that are**
42 **subject to the provisions of this chapter.**

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

1 Sec. 19. This chapter or any part thereof may be modified,
2 amended or repealed so as to effect a cancellation or alteration of any
3 license or right of a licensee under this chapter, provided that such
4 cancellation or alteration shall not impair or affect the obligation of any
5 preexisting lawful loan agreement between any licensee and any
6 customer.

7 Sec. 20. 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 licensed to make installment loans pursuant to chapter~~
14 ~~675 of NRS, if the Commissioner determines that the person is not~~
15 ~~subject to the provisions of this chapter.~~

16 ~~3.~~ 32. A person who is primarily engaged in the retail sale of goods or
17 services who:

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

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

22 ~~4.~~ 43. A person while performing any act authorized by a license
23 issued pursuant to chapter 671 of NRS.

24 ~~5.~~ 54. A person who holds a nonrestricted gaming license issued
25 pursuant to chapter 463 of NRS while performing any act in the course
26 of that licensed operation.

27 ~~6.~~ 65. A person who is exclusively engaged in a check-cashing service
28 relating to out-of-state checks.

29 ~~7.~~ 76. A corporation organized pursuant to the laws of this State that
30 has been continuously and exclusively engaged in a check-cashing
31 service in this State since July 1, 1973.

32 ~~8.~~ 87. A pawnbroker, unless the pawnbroker operates a check-cashing
33 service, deferred deposit loan service, ~~payday~~ short-term loan service or
34 title loan service.

35 ~~9.~~ 98. A real estate investment trust, as defined in 26 U.S.C. § 856.

36 ~~10.~~ 109. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if
37 the loan is made directly from money in the plan by the plan's trustee.

38 ~~11.~~ 110. An attorney at law rendering services in the performance of
39 his duties as an attorney at law if the loan is secured by real property.

40 ~~12.~~ 121. A real estate broker rendering services in the performance of
41 his duties as a real estate broker if the loan is secured by real property.

42 ~~13.~~ 132. Any firm or corporation:

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

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

3 (c) Approved by the Department of Housing and Urban Development
4 and the Department of Veterans Affairs.

5 ~~1413.~~ A person who provides money for investment in loans secured
6 by a lien on real property, on his own account.

7 ~~1414.~~ A seller of real property who offers credit secured by a
8 mortgage of the property sold.

9 **Sec. 21.** 1. The Commissioner shall adopt by regulation a
10 definition of the term:

11 ~~(a) "Motor"~~ "motor vehicle" as that term is used in the definition of
12 "title loan" for this chapter.

13 ~~(b) "Payday loan," including, without limitation, regulations that~~
14 ~~define a payday loan as a loan made by a licensee to a customer who~~
15 ~~secures the loan with a promissory note.~~

16 2. The Commissioner may establish by regulation the fees that a
17 licensee who provides check-cashing services may impose for cashing
18 checks.

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

21 **Sec. 21.5.** 1. A person shall not operate a check-cashing service,
22 deferred deposit loan service, short-term loan service or title loan service
23 unless the person is licensed with the Commissioner pursuant to the
24 provisions of this chapter.

25 2. A person must have a license regardless of the location or method
26 that the person uses to operate such a service, including, without
27 limitation, at a kiosk, through the Internet, through any telephone,
28 facsimile machine or other telecommunication device or through any
29 other machine, network, system, device or means.

30 **Sec. 22.** 1. Except as otherwise provided in section 23 of this act,
31 each application for a license pursuant to the provisions of this chapter
32 must be accompanied by a surety bond payable to the State of Nevada in
33 the amount of \$50,000 for the use and benefit of any customer receiving
34 the services of the licensee.

35 2. The bond must be in a form satisfactory to the Commissioner,
36 issued by a bonding company authorized to do business in this State and
37 must secure the faithful performance of the obligations of the licensee
38 respecting the provision of the services.

39 3. A licensee shall, within 10 days after the commencement of any
40 action or notice of entry of any judgment against him by any creditor or
41 claimant arising out of business regulated by this chapter give notice
42 thereof to the Commissioner by certified mail with details sufficient to
43 identify the action or judgment. The surety shall, within 10 days after it
44 pays any claim or judgment to a creditor or claimant, give notice thereof

1 to the Commissioner by certified mail with details sufficient to identify
2 the creditor or claimant and the claim or judgment so paid.

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

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

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

9 5. The liability of the surety on the bond to a creditor or claimant is
10 not affected by any misrepresentation, breach of warranty, failure to pay
11 a premium or other act or omission of the licensee, or by any insolvency
12 or bankruptcy of the licensee.

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

16 (a) The death of the licensee or the dissolution or liquidation of his
17 business; or

18 (b) The termination of the bond,
19 ↪ whichever event occurs first.

20 7. A licensee or his surety shall not cancel or alter a bond except
21 after notice to the Commissioner by certified mail. The cancellation or
22 alteration is not effective until 10 days after
23 receipt of the notice by the Commissioner. A cancellation or alteration
24 does not affect any liability incurred or accrued on the bond before the
25 expiration of the 30-day period designated in subsection 6.

26 Sec. 23. 1. In lieu of any surety bond, or any portion of the
27 principal sum thereof as required pursuant to the provisions of this
28 chapter, a licensee may deposit with the State Treasurer or with any
29 bank, credit union or trust company authorized to do business in this
30 State as the licensee may select, with the approval of the Commissioner:

31 (a) Interest-bearing stocks;

32 (b) Bills, bonds, notes, debentures or other obligations of the United
33 States or any agency or instrumentality thereof, or guaranteed by the
34 United States; or

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

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

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

1 Sec. 24. 1. Except as otherwise provided in subsection 3, an
2 officer or employee of the Division of Financial Institutions of the
3 Department of Business and Industry shall not:

- 4 (a) Be directly or indirectly interested in or act on behalf of any
5 licensee;
6 (b) Receive, directly or indirectly, any payment from any licensee;
7 (c) Be indebted to any licensee;
8 (d) Engage in the negotiation of loans for others with any licensee;
9 or

10 (e) Obtain credit or services from a licensee conditioned upon a
11 fraudulent practice or undue or unfair preference over other customers.
12 2. An employee of the Division of Financial Institutions in the
13 unclassified service of the State shall not obtain new extensions of credit
14 from a licensee while in office.

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

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

24 Sec. 25. 1. An application for a license pursuant to the provisions
25 of this chapter must be made in writing, under oath and on a form
26 prescribed by the Commissioner. The application must include:

27 (a) If the applicant is a natural person, the name and address of the
28 applicant.

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

- 31 (1) Partner;
32 (2) Officer;
33 (3) Director;
34 (4) Manager or member who acts in a managerial capacity; and
35 (5) Registered agent,
36 ↳ of the business entity.

37 (c) Such other information, as the Commissioner determines
38 necessary, concerning the financial responsibility, background,
39 experience and activities of the applicant and its:

- 40 (1) Partners;
41 (2) Officers;
42 (3) Directors; and
43 (4) Managers or members who act in a managerial capacity.
44 (d) The address of each location at which the applicant proposes to
45 do business, including, without limitation, each location where the

1 applicant will operate at a kiosk, through the Internet, through any
2 telephone, facsimile machine or other telecommunication device or
3 through any other machine, network, system, device or means.

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

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

8 (a) A nonrefundable application fee;

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

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

13 ↪ All money received by the Commissioner pursuant to this subsection
14 must be placed in the Investigative Account for Financial Institutions
15 created by NRS 232.545.

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

18 Sec. 26. 1. A person may apply for a license for an office or other
19 place of business located outside this State from which the applicant will
20 conduct business in this State if the applicant or a subsidiary or affiliate
21 of the applicant has a license issued pursuant to this chapter for an
22 office or other place of business located in this State and if the applicant
23 submits with the application for a license a statement signed by the
24 applicant which states that the applicant agrees to:

25 ~~1-(a)~~ Make available at a location within this State the books,
26 accounts, papers, records and files of the office or place of business
27 located outside this State to the Commissioner or a representative of the
28 Commissioner; or

29 ~~2-(b)~~ Pay the reasonable expenses for travel, meals and lodging of
30 the Commissioner or a representative of the Commissioner incurred
31 during any investigation or examination made at the office or place of
32 business located outside this State.

33 ↪ The person must be allowed to choose between the provisions of
34 ~~subsection 1 or 2~~ paragraphs (a) or (b) in complying with the provisions
35 of this section, subsection.

36 2. This section applies, without limitation, to any office or other
37 place of business located outside this State from which the applicant will
38 conduct business in this State at a kiosk, through the Internet, through
39 any telephone, facsimile machine or other telecommunication device or
40 through any other machine, network, system, device or means.

41 Sec. 27. 1. Upon the filing of the application and the payment of
42 the fees required pursuant to section 25 of this act,
43 the Commissioner shall investigate the facts concerning the application
44 and the requirements provided for in section 29 of this act.

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

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

13 Sec. 28. If the Commissioner finds that any applicant does not
14 possess the requirements specified in this chapter, he shall:

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

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

20 Sec. 29. 1. The Commissioner shall enter an order granting an
21 application if he finds that the financial responsibility, experience,
22 character and general fitness of the applicant are such as to command
23 the confidence of the public and to warrant belief that the business will
24 be operated lawfully, honestly, fairly and efficiently.

25 2. If the Commissioner grants an application, the Commissioner
26 shall:

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

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

32 3. Each licensee shall prominently display his license at the location
33 where he does business. ~~Not more than one place of business may be~~
34 ~~maintained under the same license. The Commissioner may issue~~
35 ~~additional licenses to the same licensee for other business locations upon~~
36 ~~compliance with all the provisions of this chapter governing the issuance~~
37 ~~of a single license. for each branch location at which the licensee is~~
38 ~~authorized to operate under the license, including, without limitation,~~
39 ~~each branch location where the licensee is authorized to operate at a~~
40 ~~kiosk, through the Internet, through any telephone, facsimile machine or~~
41 ~~other telecommunication device or through any other machine, network,~~
42 ~~system, device or means. Nothing in this subsection requires a license for~~
43 ~~any place of business devoted to accounting, recordkeeping or~~
44 ~~administrative purposes only.~~

45 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. 30. 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. 31. 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. 32. 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. 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.

3. 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 unless:

(a) The customer is seeking multiple loans that do not exceed the limit set forth in subsection 2;

(b) The licensee charges the same rate of interest for any additional loan as he charged for the initial loan; and

(b) The licensee does not charge a fee for any additional loan.

4. 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.

5. 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.

6. 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.

7. Accept:

(a) Collateral as security for a loan under this chapter ~~as~~, 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. ~~or accept a~~

(c) A check as security for a ~~payday~~ 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.

8. 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.

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

1 10. Charge any fee to cash a check which represents the proceeds of
2 a loan.

3 11. Commence a civil action before a customer defaults on his
4 loan pursuant to the payment the expiration of the original term of a
5 loan agreement or before the expiration of any repayment plan,
6 extension or grace period negotiated and agreed to by the licensee and
7 customer, unless otherwise authorized pursuant to this chapter.

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

11 13. Use or attempt to use an affiliate or agent to avoid the
12 requirements or prohibitions of this chapter.

13 14. Engage in a deceptive trade practice, including, without
14 limitation, making a false representation.

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

18 Sec. 32.1. 1. A person shall not act as an agent for or assist a
19 licensee in the making of a loan unless the licensee complies with all
20 applicable federal and state laws and regulations.

21 2. The provisions of this section do not apply to the agent or
22 assistant to a state or federally chartered bank, thrift company, savings
23 and loan association or industrial loan company if the state or federally
24 chartered bank, thrift company, savings and loan association or
25 industrial loan company:

26 (a) Initially advances the loan proceeds to the customer;

27 (b) Does not sell, assign or transfer a preponderant economic interest
28 in the loan to the agent or assistant or an affiliate or subsidiary of the
29 state or federally chartered bank, thrift company, savings and loan
30 association or industrial loan company, unless selling, assigning or
31 transferring a preponderant economic interest is expressly permitted by
32 the primary regulator of the state or federally chartered bank, thrift
33 company, savings and loan association or industrial loan company; and

34 (c) Develops the product on its own.

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

41 Sec. 32.2. 1. A customer may rescind a loan on or before the close
42 of business on the next day of business at the location where the loan
43 was initiated. To rescind the loan, the customer must deliver to the
44 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

10 (b) Upon receipt of the sum of money or check pursuant to
11 subsection 1, shall give to the customer a receipt showing the account
12 paid in full and return to the customer;

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

16 (2) If the customer gave to the licensee a promissory note to
17 initiate a short-term loan, the promissory note stamped "void"; or

18 (3) If the customer gave to the licensee a title to a motor vehicle to
19 initiate the title loan, the title.

20 **Sec. 32.3. 1. A customer may pay a loan, or any extension**
21 **thereof, in full at any time, without an additional charge or fee, before**
22 **the date his final payment on the loan, or any extension thereof, is due.**

23 **2. If a customer pays the loan in full, including all interest, charges**
24 **and fees negotiated and agreed to by the licensee and customer, the**
25 **licensee shall:**

26 **(a) Return to the customer:**

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

30 **(2) If the customer gave to the licensee a promissory note to**
31 **initiate a short-term loan, the promissory note stamped "void"; or**

32 **(3) If the customer gave to the licensee a title to a motor vehicle to**
33 **initiate a title loan, the title; and**

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

35 **(1) The name and address of the licensee;**

36 **(2) The identification number assigned to the loan agreement or**
37 **other information that identifies the loan;**

38 **(3) The date of the payment;**

39 **(4) The amount paid;**

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

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

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

1 Sec. 32.4. 1. A customer may make a partial payment on a loan,
2 or any extension thereof, at any time without an additional charge or fee.

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

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

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

8 (c) The date of the payment;

9 (d) The amount paid;

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

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

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

15 Sec. 32.5. 1. The licensee and customer may enter into a
16 repayment plan if:

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

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

22 2. The licensee shall provide written notice of the provisions of this
23 section to the customer.

24 3. If the licensee and customer enter into a repayment plan pursuant
25 to this section, the licensee shall:

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

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

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

36 (a) Establish or extend the period for repayment beyond 8 weeks
37 after the date of default on the original loan agreement;

38 (b) Charge the customer any interest on the outstanding loan in
39 addition to the interest charged pursuant to the original loan agreement;

40 (c) Charge the customer any fees or costs to enter into the repayment
41 plan, regardless of the name given to the fees or costs, including, without
42 limitation, origination fees, set-up fees, repayment plan fees, collection
43 fees, transaction fees, negotiation fees, handling fees, processing fees,
44 late fees, default fees and postage costs;

1 (d) Accept any security or collateral from the customer to enter into
2 the repayment plan;

3 (e) Sell to the customer any insurance or require the customer to
4 purchase insurance or any other goods or services to enter into the
5 repayment plan;

6 (f) Make any other loan to the customer, unless the customer is
7 seeking multiple loans that do not exceed the limit set forth in subsection
8 2 of section 32 of this act; or

9 (g) Commence a civil action against the customer:

10 (1) During the term of the repayment plan; or

11 (2) If the customer stops making payments during the term of the
12 repayment plan, sooner than 31 days after the date on which the
13 customer made his last payment pursuant to the repayment plan.

14 5. Each time a customer makes a payment pursuant to a repayment
15 plan, the licensee shall give to the customer a receipt with the following
16 information:

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

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

20 (c) The date of the payment;

21 (d) The amount paid;

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

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

27 Sec. 32.6. If a customer agrees to establish or extend the period for
28 the repayment, renewal, refinancing or consolidation of an outstanding
29 loan by using the proceeds of a new loan to pay the balance of the
30 outstanding loan, the licensee shall not establish or extend such a period
31 beyond 8 weeks after the date of default on the original loan.

32 Sec. 32.7. 1. If a customer defaults on a loan, or on any extension
33 thereof, whichever is later, the licensee may collect only the following
34 amounts from the customer:

35 (a) The principal amount of the loan.

36 (b) The interest accrued before the date of default on the original
37 loan at the rate of interest set forth in the disclosure statement required
38 by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is
39 provided to the customer. If there is an extension of the loan, the licensee
40 may charge and collect interest pursuant to this paragraph for a period
41 not to exceed 8 weeks after the date of default on the original loan.

42 (c) The interest accrued after the date of default on the original loan
43 or after any extension that is allowed pursuant to paragraph (b),
44 whichever is later, at a rate of interest not to exceed the prime rate at the
45 largest bank in Nevada, as ascertained by the Commissioner, on January

1 1 or July 1, as the case may be, immediately preceding the date of
2 default, plus 10 percent. The licensee may charge and collect interest
3 pursuant to this paragraph for a period not to exceed 3 months. After
4 that period, the licensee shall not charge or collect any interest on the
5 loan.

6 (d) Any fees allowed pursuant to section 32.8 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
10 1, the licensee shall not charge a customer in default any other interest,
11 fees or costs, regardless of the name given to the interest, fees or costs,
12 including, without limitation, origination fees, set-up fees, collection
13 fees, transaction fees, negotiation fees, handling fees, processing fees,
14 late fees, default fees and postage costs.

15 Sec. 32.8. 1. A licensee may collect a fee of not more than \$25 if a
16 check is not paid upon presentment because the account of the customer
17 contains insufficient funds or has been closed.

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

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

24 Sec. 33. 1. A licensee shall not conduct the business of making
25 loans under any name ~~or~~, at any place ~~other than that stated or by any~~
26 method, including, without limitation, at a kiosk, through the Internet,
27 through any telephone, facsimile machine or other telecommunication
28 device or through any other machine, network, system, device or means,
29 except as permitted in the license or branch license issued to the
30 licensee.

31 2. Nothing in this section shall prevent the making of loans by mail
32 or prohibit accommodations to a customer when necessitated by hours of
33 employment, sickness or other emergency situations.

34 Sec. 34. 1. Except as otherwise provided in subsection 2, a
35 licensee may not conduct the business of making loans within any office,
36 suite, room or place of business in which any other business is solicited
37 or engaged in, except an insurance agency or notary public, or in
38 association or conjunction with any other business, unless authority to
39 do so is given by the Commissioner.

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

42 (a) A mortgage broker if:

43 (I) The licensee and the mortgage broker:

44 (1) Operate as separate legal entities;

45 (II) Maintain separate accounts, books and records;

(III) Are subsidiaries of the same parent corporation; and

(IV) 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) Operate as separate legal entities;~~

~~(II) Maintain separate accounts, books and records;~~

~~(III) Are subsidiaries of the same parent corporation; and~~

~~(IV) 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.

Sec. 35. 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. 36. 1. Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practices.

2. Each licensee shall maintain a separate record or ledger card for the account of each 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:

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

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

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

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

14 Sec. 37. 1. A licensee shall post in a conspicuous place in every
15 location at which he conducts business under his license, a notice that
16 states the fees he charges for providing check-cashing services, deferred
17 deposit loan services, ~~payday~~ short-term loan services or title loan
18 services.

19 2. ~~If a licensee offers loans to customers through the Internet or~~
20 ~~other electronic means, he~~ at a kiosk, through the Internet, through any
21 telephone, facsimile machine or other telecommunication device or
22 through any other machine, network, system, device or means, the
23 licensee shall, as appropriate to the location or method for making the
24 loan, post in a conspicuous place where customers will see it before
25 ~~entering~~ they enter into a loan, or disclose in an open and obvious
26 manner to customers before they enter into a loan, a notice that states:

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

29 (b) A list of the states where the licensee is licensed or authorized to
30 ~~offer loans through the Internet or other electronic means; conduct~~
31 ~~business from outside this State with customers located in this State.~~

32 Sec. 38. 1. Before making any loan to a customer, a licensee shall
33 provide to the customer a written loan agreement which ~~is in~~ may be kept
34 by the customer and which must be written in:

35 (a) English ~~and may be kept by the customer,~~ if the transaction is
36 conducted in English; or

37 (b) Spanish, if the transaction is conducted in Spanish.

38 2. ~~The Commissioner shall prescribe by regulation the form and~~
39 ~~contents of the loan agreement required pursuant to this section. The~~
40 loan agreement must include, without limitation, the following
41 information:

42 (a) The name and address of the licensee and the customer;

43 (b) The date of the loan;

44 (c) The nature of the security for the loan;

(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 applicable state statute or regulation.

Sec. 39. 1. If a customer defaults on a loan, the licensee shall may collect the loan debt owed to the licensee only in a professional, fair and lawful manner. and When collecting such a debt, the licensee must act in accordance with and must not violate sections 803 to 813, inclusive, of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. 1692a to 1692k, 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; and

(b) 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. 40. 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. 41. 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

(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

(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.

1 **Sec. 42.** ~~1. A person may apply to the Commissioner for an~~
2 ~~exemption from the provisions of this chapter governing the making of a~~
3 ~~loan.~~

4 ~~2. The Commissioner may grant the exemption if he finds that:~~
5 ~~(a) The making of the loan would not be detrimental to the financial~~
6 ~~condition of the licensee, customer or person who is providing the money~~
7 ~~for the loan;~~

8 ~~(b) The licensee, customer or person who is providing the money for~~
9 ~~the loan has established a record of sound performance, efficient~~
10 ~~management, financial responsibility and integrity;~~

11 ~~(c) The making of the loan is likely to increase the availability of~~
12 ~~capital for a sector of the state economy; and~~

13 ~~(d) The making of the loan is not detrimental to the public interest.~~

14 ~~3. The Commissioner:~~

15 ~~(a) May revoke an exemption unless the loan for which the~~
16 ~~exemption was granted has been made;~~

17 ~~(b) Shall issue a written statement setting forth the reasons for his~~
18 ~~decision to grant, deny or revoke an exemption; and~~

19 ~~(c) Shall adopt regulations which provide the application forms to be~~
20 ~~used to apply for an exemption and establish the fees to be paid with the~~
21 ~~application.~~

22 **Sec. 43.** 1. For the purpose of discovering violations of this
23 chapter or of securing information lawfully required under this chapter,
24 the Commissioner or his duly authorized representatives may at any time
25 investigate the business and examine the books, accounts, papers and
26 records used therein of:

27 (a) Any licensee;

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

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

35 2. For the purpose of examination, the Commissioner or his
36 authorized representatives shall have and be given free access to the
37 offices and places of business, and the files, safes and vaults of such
38 persons.

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

43 **Sec. 44.** 1. The Commissioner may require the attendance of any
44 person and examine him under oath regarding:

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

3 (b) The subject matter of any audit, examination, investigation or
4 hearing; and

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

8 **Sec. 45.** At least once each year, the Commissioner or his
9 authorized representatives shall make an examination of the place of
10 business of each licensee and of the loans, transactions, books, accounts,
11 papers and records of the licensee so far as they pertain to the business
12 for which he is licensed pursuant to the provisions of this chapter.

13 **Sec. 46.** 1. The Commissioner shall charge and collect from each
14 licensee a fee of \$40 per hour for any supervision, audit, examination,
15 investigation or hearing conducted pursuant to this chapter or any
16 regulations adopted pursuant thereto.

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

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

28 **Sec. 47.** If the Commissioner finds that probable cause for
29 revocation of any license exists and that enforcement of the provisions of
30 this chapter requires immediate suspension of a license pending
31 investigation, he may, upon 5 days' written notice and a hearing, enter
32 an order suspending a license for a period not exceeding 20 days,
33 pending a hearing upon the revocation.

34 **Sec. 48.** 1. Whenever the Commissioner has reasonable cause to
35 believe that any person is violating or is threatening to or intends to
36 violate any provision of this chapter, he may, in addition to all actions
37 provided for in this chapter and without prejudice thereto, enter an order
38 requiring the person to desist or to refrain from such violation.

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

44 3. In addition to all other means provided by law for the
45 enforcement of a restraining order or injunction, the court in which an

1 action is brought may impound, and appoint a receiver for, the property
2 and business of the defendant, including books, papers, documents and
3 records pertaining thereto, or so much thereof as the court may deem
4 reasonably necessary to prevent violations of this chapter through or by
5 means of the use of property and business. A receiver, when appointed
6 and qualified, has such powers and duties as to custody, collection,
7 administration, winding up and liquidation of such property and
8 business as may from time to time be conferred upon him by the court.

9 Sec. 49. 1. If the Commissioner has reason to believe that
10 grounds for revocation or suspension of a license exist, he shall give 20
11 days' written notice to the licensee stating the contemplated action and,
12 in general, the grounds therefor and set a date for a hearing.

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

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

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

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

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

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

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

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

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

35 (e) The licensee failed to open an office for the conduct of the
36 business authorized by his license within ~~120~~ 180 days after the date his
37 license was issued, or has failed to remain open for the conduct of the
38 business for a period of ~~120~~ 180 days without good cause therefor.

39 4. Any revocation or suspension applies only to the license granted
40 to a person for the particular office for which grounds for revocation or
41 suspension exist.

42 5. An order suspending or revoking a license becomes effective 5
43 days after being entered unless the order specifies otherwise or a stay is
44 granted.

1 **Sec. 50.** A licensee may surrender any license issued pursuant to
2 the provisions of this chapter by delivering it to the Commissioner with
3 written notice of its surrender, but a surrender does not affect his civil or
4 criminal liability for acts committed prior thereto.

5 **Sec. 51.** A revocation, suspension, expiration or surrender of any
6 license does not impair or affect the obligation of any preexisting lawful
7 loan agreement between the licensee and any customer. Such a loan
8 agreement and all lawful charges thereon may be collected by the
9 licensee, its successors or assigns.

10 **Sec. 52.** 1. Annually, on or before April 15, each licensee shall
11 file with the Commissioner a report of operations of the licensed
12 business for the preceding calendar year.

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

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

17 **Sec. 53.** 1. A court of this State may exercise jurisdiction over a
18 party to a civil action arising under the provisions of this chapter on any
19 basis not inconsistent with the Constitution of the State of Nevada or the
20 Constitution of the United States.

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

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

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

31 **Sec. 54.** 1. Except as otherwise provided in this section, if a
32 licensee willfully:

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

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

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

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

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

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

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

8 Sec. 55. In addition to any other remedy or penalty, if a licensee
9 violates any provision of this chapter or any regulation adopted pursuant
10 thereto, the customer may bring a civil action against the licensee for
11 any or all of the following relief:

12 1. Actual and consequential damages;

13 2. An additional amount, as statutory damages, which is equal to
14 \$1,000 for each violation;

15 3. Punitive damages;

16 4. Reasonable attorney's fees and costs; and

17 5. Any other legal or equitable relief that the court deems
18 appropriate.

19 Sec. 56. ~~As used in sections 56 to 69, inclusive, of this act, unless~~
20 ~~the context otherwise requires, "licensee" means any person who has~~
21 ~~been issued a license to operate a check-cashing service or deferred~~
22 ~~deposit loan service.~~

23 Sec. 57. ~~A person shall not operate a check-cashing service or~~
24 ~~deferred deposit loan service unless the person is licensed with the~~
25 ~~Commissioner pursuant to the provisions of this chapter.~~

26 Sec. 58. A licensee who provides check-cashing services shall give
27 written notice to each customer of the fees he charges for cashing
28 checks. The customer must sign the notice before the licensee provides
29 the check-cashing service.

30 Sec. 59. ~~1. A person shall not act as an agent for or assist a~~
31 ~~licensee in the making of a deferred deposit loan unless the licensee~~
32 ~~complies with all applicable federal and state laws and regulations.~~

33 ~~2. The provisions of this section do not apply to the agent or~~
34 ~~assistant to a state or federally chartered bank, thrift company, savings~~
35 ~~and loan association or industrial loan company if the state or federally~~
36 ~~chartered bank, thrift company, savings and loan association or~~
37 ~~industrial loan company:~~

38 ~~(a) Initially advances the loan proceeds to the customer;~~

39 ~~(b) Does not sell, assign or transfer a preponderant economic interest~~
40 ~~in the deferred deposit loan to the agent or assistant or an affiliate or~~
41 ~~subsidiary of the state or federally chartered bank, thrift company,~~
42 ~~savings and loan association or industrial loan company, unless selling,~~
43 ~~assigning or transferring a preponderant economic interest is expressly~~
44 ~~permitted by the primary regulator of the state or federally chartered~~

~~bank, thrift company, savings and loan association or industrial loan company; and~~

~~(c) Develops the product on its own;~~

~~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 deferred deposit 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. 60. A licensee shall not:

~~1. Charge any fee to cash a check which represents the proceeds of a deferred deposit loan;~~

~~2. Make more than one deferred deposit loan to the same customer at one time;~~

~~3. Accept more than one check or authorization for the electronic transfer of money for each deferred deposit loan;~~

~~4. Accept any collateral for a deferred deposit loan.~~

Sec. 61. 1. A customer may rescind a deferred deposit loan on or before the close of business on the next day of business at the location where the deferred deposit loan was initiated. To rescind the deferred deposit loan, the customer must deliver to the licensee:

~~(a) A sum of money equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money which the customer gave to the licensee to initiate the deferred deposit loan, less any fee charged to the customer to initiate the deferred deposit loan; or~~

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

~~2. If a customer rescinds a deferred deposit loan pursuant to this section, the licensee:~~

~~(a) Shall not charge the customer any fee for rescinding the deferred deposit loan; and~~

~~(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall:~~

~~(1) Return to the customer the check or written authorization for the electronic transfer of money which the customer gave to the licensee to initiate the deferred deposit loan; and~~

~~(2) Give to the customer a receipt showing the amount paid in full.~~

Sec. 62. 1. A customer may pay his deferred deposit loan in full at any time, without an additional charge or fee, before the date his final payment on the loan is due as set forth in the loan agreement.

~~2. If a customer pays the deferred deposit loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer, the licensee shall:~~

~~(a) Return to the customer the check or written authorization for the electronic transfer of money which the customer gave to the licensee to initiate the deferred deposit loan; 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;~~

~~(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 deferred deposit loan was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.~~

~~Sec. 63. 1. A customer may make a partial payment on his deferred deposit loan 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:~~

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

~~(b) The identification number assigned to the loan agreement;~~

~~(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 deferred deposit loan was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.~~

~~Sec. 64. 1. If a customer defaults on an original deferred deposit loan, the licensee shall provide, not later than 3 business days after the date of default, written notice to the customer that the customer has the right to enter into a repayment plan. The written notice must clearly explain in English that:~~

~~(a) To enter into a repayment plan, the customer and licensee must sign a written agreement;~~

~~(b) The licensee shall not charge the customer any fees or costs to enter into the repayment plan, including, without limitation, collection fees, transaction fees, late fees and postage costs;~~

~~(c) To repay the outstanding loan, the customer:~~

~~(1) Must make all payments within 8 weeks after the date of default of the original loan; and~~

~~(2) May make three or more payments over that period; and~~

~~(d) If the customer does not repay the outstanding loan within 8 weeks after the date of default of the original loan, the licensee may:~~

1 ~~(1) If the customer gave to the licensee a check to initiate the~~
2 ~~deferred deposit loan, deposit the check; or~~

3 ~~(2) If the customer gave to the licensee a written authorization for~~
4 ~~an electronic transfer of money to initiate the deferred deposit loan,~~
5 ~~execute the electronic transfer of money for the amount specified in the~~
6 ~~written authorization.~~

7 ~~2. The written agreement establishing the repayment plan must~~
8 ~~contain the following information:~~

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

10 ~~(b) The identification number assigned to the original loan~~
11 ~~agreement;~~

12 ~~(c) The balance due on the outstanding loan;~~

13 ~~(d) The interest, charges and fees accrued before the date of default;~~

14 ~~(e) The interest rate being charged on the outstanding loan;~~

15 ~~(f) The date each payment is due; and~~

16 ~~(g) The date by which the customer must make the final payment to~~
17 ~~comply with paragraph (e) of subsection 1.~~

18 ~~3. As used in this section, "business day" means any day the~~
19 ~~licensee is open for business at the location where the customer entered~~
20 ~~into the deferred deposit loan.~~

21 **Sec. 65.** ~~If a customer agrees to establish or extend the period for~~
22 ~~the repayment, renewal, refinancing or consolidation of an outstanding~~
23 ~~deferred deposit loan by using the proceeds of a new loan to pay the~~
24 ~~balance of the outstanding loan, the licensee shall not establish or extend~~
25 ~~such a period beyond 8 weeks after the date of default on the original~~
26 ~~loan.~~

27 **Sec. 66.** ~~1. If a customer defaults on a deferred deposit loan, or~~
28 ~~on any extension thereof, whichever is later, the licensee may collect~~
29 ~~only the following amounts from the customer:~~

30 ~~(a) The principal of the loan;~~

31 ~~(b) The interest, charges and fees accrued before the date of default;~~

32 ~~(c) Any fees imposed pursuant to section 68 of this act; and~~

33 ~~(d) After the date of default, a rate of interest not to exceed the prime~~
34 ~~rate at the largest bank in Nevada, as ascertained by the Commissioner,~~
35 ~~on January 1 or July 1, as the case may be, immediately preceding the~~
36 ~~date of default, plus 10 percent, upon all money from the date of default.~~

37 ~~2. After the date of default, the licensee shall not charge the~~
38 ~~customer any other fees or costs, including, without limitation, collection~~
39 ~~fees, transaction fees, late fees and postage costs.~~

40 **Sec. 67.** ~~1. A licensee who provides a cash loan to a customer~~
41 ~~shall not charge the customer who defaults on the loan an amount of~~
42 ~~interest and other fees which exceeds the amount of the principal loaned~~
43 ~~to the customer.~~

~~2. For the first 8 weeks of the loan, the licensee may charge the customer an interest rate agreed upon in writing by the customer and licensee.~~

~~3. After 8 weeks, the licensee shall not charge the customer:~~

~~(a) A rate of interest which exceeds 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 date of the loan, plus 10 percent; and~~

~~(b) Any other fees or costs, including, without limitation, collection fees, transaction fees, late fees and postage costs.~~

~~Sec. 68. 1. If a customer gives to a licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the licensee may collect a fee of not more than \$25 if the check is not paid upon presentment or the written authorization for an electronic transfer of money cannot be executed because the account of the customer:~~

~~(a) Contains insufficient funds;~~

~~(b) Contains an order to stop payment on that check or electronic transfer of money;~~

~~(c) Has been closed; or~~

~~(d) Denies payment for any other similar reason.~~

~~2. The licensee may collect only two fees of \$25 each regardless of the number of times the check is presented for payment or the electronic transfer of money is attempted if the account of the customer contains insufficient funds.~~

~~3. The licensee may collect only one fee of \$25 regardless of the number of times the check is presented for payment or the electronic transfer of money is attempted if the account of the customer:~~

~~(a) Contains an order to stop payment on that check or electronic transfer of money;~~

~~(b) Has been closed; or~~

~~(c) Denies payment for any other similar reason.~~

~~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 fraudulently or with criminal intent.~~

~~Sec. 69. The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.~~

~~Sec. 70. As used in sections 70 to 77, inclusive, of this act, unless the context otherwise requires, "licensee" means a person who has been issued a license to operate a payday loan service.~~

~~Sec. 71. A person shall not operate a payday loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.~~

1 **Sec. 72.** ~~1. A customer may rescind a payday loan on or before~~
2 ~~the close of business on the next day of business at the location where~~
3 ~~the payday loan was initiated. To rescind the payday loan, the customer~~
4 ~~must deliver to the licensee:~~

5 ~~(a) A sum of money equal to the face value of the promissory note~~
6 ~~which the customer gave to the licensee to initiate the payday loan, less~~
7 ~~any fee charged to the customer to initiate the payday loan; or~~
8 ~~(b) The original check, if any, which the licensee gave to the~~
9 ~~customer pursuant to the payday loan. Upon receipt of the original~~
10 ~~check, the licensee shall refund any fee charged to the customer to~~
11 ~~initiate the payday loan.~~

12 ~~2. If a customer rescinds a payday loan pursuant to this section, the~~
13 ~~licensee:~~

14 ~~(a) Shall not charge the customer any fee for rescinding the payday~~
15 ~~loan; and~~

16 ~~(b) Upon receipt of the sum of money or check pursuant to~~
17 ~~subsection 1, shall return to the customer:~~

18 ~~(1) The promissory note; and~~

19 ~~(2) A receipt showing the account paid in full.~~

20 **Sec. 73.** ~~1. A customer may pay his payday loan in full at any~~
21 ~~time, without an additional charge or fee, before the date his final~~
22 ~~payment on the loan is due as set forth in the loan agreement.~~

23 ~~2. If a customer pays the payday loan in full, including all interest,~~
24 ~~charges and fees negotiated and agreed to by the licensee and customer,~~
25 ~~the licensee shall:~~

26 ~~(a) Return the promissory note which the customer gave to the~~
27 ~~licensee to initiate the payday loan; and~~

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

29 ~~(1) The name and address of the licensee;~~

30 ~~(2) The identification number assigned to the loan agreement;~~

31 ~~(3) The date of the payment;~~

32 ~~(4) The amount paid;~~

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

34 ~~(6) A statement that the payday loan is paid in full; and~~

35 ~~(7) If more than one payday loan was outstanding at the time the~~
36 ~~payment was made, a statement indicating to which payday loan the~~
37 ~~payment was applied.~~

38 **Sec. 74.** ~~1. A customer may make a partial payment on his payday~~
39 ~~loan at any time without a charge or fee.~~

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

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

43 ~~(b) The identification number assigned to the payday loan~~
44 ~~agreement;~~

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

~~(d) The amount paid;~~
~~(e) An itemization of interest, charges and fees;~~
~~(f) The balance due on the payday loan; and~~
~~(g) If more than one payday loan was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.~~

Sec. 75. ~~1. If a customer defaults on an original payday loan, the licensee shall provide, not later than 3 business days after the date of default, written notice to the customer that the customer has the right to enter into a repayment plan. The written notice must clearly explain in English that:~~

~~(a) To enter into a repayment plan, the customer and licensee must sign a written agreement;~~

~~(b) The licensee shall not charge the customer any fees or costs to enter into the repayment plan, including, without limitation, collection fees, transaction fees, late fees and postage costs;~~

~~(c) To repay the outstanding loan, the customer:~~

~~(1) Must make all payments within 8 weeks after the date of default of the original loan; and~~

~~(2) May make three or more payments over that period; and~~

~~(d) If the customer does not repay the outstanding loan within 8 weeks after the date of default of the original loan, the licensee may execute the promissory note which the customer gave to the licensee to initiate the payday loan;~~

~~2. The written agreement establishing the repayment plan must contain the following information:~~

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

~~(b) The identification number assigned to the original loan agreement;~~

~~(c) The balance due on the outstanding loan;~~

~~(d) The interest, charges and fees accrued before the date of default;~~

~~(e) The interest rate being charged on the outstanding loan;~~

~~(f) The date each payment is due; and~~

~~(g) The date by which the customer must make the final payment to comply with paragraph (c) of subsection 1.~~

~~3. As used in this section, "business day" means any day the licensee is open for business at the location where the customer entered into the payday loan.~~

Sec. 76. ~~If a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding payday 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 date of default on the original loan.~~

1 **Sec. 77.** ~~1. If a customer defaults on a payday loan, or on any~~
2 ~~extension thereof, whichever is later, the licensee may collect only the~~
3 ~~following amounts from the customer:~~

4 ~~(a) The principal of the loan;~~
5 ~~(b) The interest, charges and fees accrued before the date of default;~~
6 ~~and~~

7 ~~(c) After the date of default, a rate of interest not to exceed the prime~~
8 ~~rate at the largest bank in Nevada, as ascertained by the Commissioner,~~
9 ~~on January 1 or July 1, as the case may be, immediately preceding the~~
10 ~~date of default, plus 10 percent, upon all money from the date of default.~~

11 ~~2. After the date of default, the licensee shall not charge the~~
12 ~~customer any other fees or costs, including, without limitation, collection~~
13 ~~fees, transaction fees, late fees and postage costs.~~

14 **Sec. 78.** ~~As used in sections 78 to 86, inclusive, of this act, unless~~
15 ~~the context otherwise requires, "licensee" means a person who has been~~
16 ~~issued a license to operate a title loan service.~~

17 **Sec. 79.** ~~A person shall not operate a title loan service unless the~~
18 ~~person is licensed with the Commissioner pursuant to the provisions of~~
19 ~~this chapter.~~

20 **Sec. 80.** A licensee who makes title loans shall not:

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

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

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

28 (a) The person has provided the licensee with true and correct
29 information concerning the customer's income, obligations and
30 employment; and

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

32 **Sec. 81.** ~~1. A customer may rescind a title loan on or before the~~
33 ~~close of business on the next day of business at the location where the~~
34 ~~title loan was initiated. To rescind the title loan, the customer must~~
35 ~~deliver to the licensee:~~

36 ~~(a) A sum of money equal to the value of the title loan, less any fee~~
37 ~~charged to the customer to initiate the title loan; or~~

38 ~~(b) The original check, if any, which the licensee gave to the~~
39 ~~customer pursuant to the title loan. Upon receipt of the original check,~~
40 ~~the licensee shall refund any fee charged to the customer to initiate the~~
41 ~~title loan.~~

42 ~~2. If a customer rescinds a title loan pursuant to this section, the~~
43 ~~licensee:~~

44 ~~(a) Shall not charge the customer any fee for rescinding the title~~
45 ~~loan; and~~

~~(b) Upon receipt of the sum of money or check pursuant to subsection 1, shall return to the customer:~~

~~(1) The title of the motor vehicle which the customer gave to the licensee to initiate the title loan; and~~

~~(2) A receipt showing the account paid in full.~~

Sec. 82. ~~1. A customer may pay his title loan in full at any time, without an additional charge or fee, before the date his final payment on the loan is due as set forth in the loan agreement.~~

~~2. If a customer pays the title loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer, the licensee shall:~~

~~(a) Return the motor vehicle title which the customer gave to the licensee to initiate the title loan; 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;~~

~~(3) The date of the payment;~~

~~(4) The amount paid;~~

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

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

~~(7) If more than one title loan was outstanding at the time the payment was made, a statement indicating to which title loan the payment was applied.~~

Sec. 83. ~~1. A customer may make a partial payment on his title loan at any time without a 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:~~

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

~~(b) The identification number assigned to the loan agreement;~~

~~(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 title loan was outstanding at the time the payment was made, a statement indicating to which title loan the payment was applied.~~

Sec. 84. ~~1. If a customer defaults on an original title loan, the licensee shall provide, not later than 3 business days after the date of default, written notice to the customer that the customer has the right to enter into a repayment plan. The written notice must clearly explain in English that:~~

~~(a) To enter into a repayment plan, the customer and licensee must sign a written agreement;~~

~~(b) The licensee shall not charge the customer any fees or costs to enter into the repayment plan, including, without limitation, collection fees, transaction fees, late fees and postage costs;~~

~~(c) To repay the outstanding loan, the customer:~~

~~(1) Must make all payments within 8 weeks after the date of default of the original loan; and~~

~~(2) May make three or more payments over that period; and~~

~~(d) If the customer does not repay the outstanding loan within 8 weeks after the date of default of the original loan, the licensee may repossess and sell the motor vehicle which the customer used to secure the title loan;~~

~~2. The written agreement establishing the repayment plan must contain the following information:~~

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

~~(b) The identification number assigned to the original loan agreement;~~

~~(c) The balance due on the outstanding loan;~~

~~(d) The interest, charges and fees accrued before the date of default;~~

~~(e) The interest rate being charged on the outstanding loan;~~

~~(f) The date each payment is due; and~~

~~(g) The date by which the customer must make the final payment to comply with paragraph (c) of subsection 1;~~

~~3. As used in this section, "business day" means any day the licensee is open for business at the location where the customer entered into the title loan;~~

~~Sec. 85. If a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding title 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 date of default on the original loan;~~

~~Sec. 86. 1. Except as otherwise provided in this section, if a customer defaults on a 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; or~~

~~(b) Any deficiency after repossession and sale of the motor vehicle which the customer used to secure the title loan.~~

~~2. 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 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.

4. 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 giving to a licensee as security for a title loan the title to a motor vehicle which does not belong to the customer.

Sec. 86.5. 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. 87. 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 86, inclusive, of this act.

Sec. 88. NRS 363A.050 is hereby amended to read as follows:

1 363A.050 1. Except as otherwise provided in subsection 2,
2 "financial institution" means:
3 (a) An institution licensed, registered or otherwise authorized to do
4 business in this State pursuant to the provisions of *title 55 or 56 of NRS or*
5 *chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,]*
6 *sections 2 to 86, inclusive, of this act*, or a similar institution chartered or
7 licensed pursuant to federal law and doing business in this State;
8 (b) Any person primarily engaged in:
9 (1) The purchase, sale and brokerage of securities;
10 (2) Originating, underwriting and distributing issues of securities;
11 (3) Buying and selling commodity contracts on either a spot or
12 future basis for the person's own account or for the account of others, if
13 the person is a member or is associated with a member of a recognized
14 commodity exchange;
15 (4) Furnishing space and other facilities to members for the purpose
16 of buying, selling or otherwise trading in stocks, stock options, bonds or
17 commodity contracts;
18 (5) Furnishing investment information and advice to others
19 concerning securities on a contract or fee basis;
20 (6) Furnishing services to holders of or brokers or dealers in
21 securities or commodities;
22 (7) Holding or owning the securities of banks for the sole purpose
23 of exercising some degree of control over the activities of the banks whose
24 securities the person holds;
25 (8) Holding or owning securities of companies other than banks, for
26 the sole purpose of exercising some degree of control over the activities of
27 the companies whose securities the person holds;
28 (9) Issuing shares, other than unit investment trusts and face-
29 amount certificate companies, whose shares contain a provision requiring
30 redemption by the company upon request of the holder of the security;
31 (10) Issuing shares, other than unit investment trusts and face-
32 amount certificate companies, whose shares contain no provision requiring
33 redemption by the company upon request by the holder of the security;
34 (11) Issuing unit investment trusts or face-amount certificates;
35 (12) The management of the money of trusts and foundations
36 organized for religious, educational, charitable or nonprofit research
37 purposes;
38 (13) The management of the money of trusts and foundations
39 organized for purposes other than religious, educational, charitable or
40 nonprofit research;
41 (14) Investing in oil and gas royalties or leases, or fractional
42 interests therein;
43 (15) Owning or leasing franchises, patents and copyrights which the
44 person in turn licenses others to use;

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

4 (17) Investing; or

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

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

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

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

18 **Sec. 89.** NRS 645B.0119 is hereby amended to read as follows:

19 645B.0119 "Financial services license or registration" means any
20 license or registration issued in this State or any other state, district or
21 territory of the United States that authorizes the person who holds the
22 license or registration to engage in any business or activity described in the
23 provisions of this chapter, *title 55 or 56 of NRS or chapter [604,] 645,*
24 *645A, 645C, 645E or 649 of NRS or [title 55 or 56 of NRS.] sections 2 to*
25 *86, inclusive, of this act.*

26 **Sec. 90.** NRS 658.098 is hereby amended to read as follows:

27 658.098 1. On a quarterly or other regular basis, the Commissioner
28 shall collect an assessment pursuant to this section from each:

29 (a) Check-cashing service or deferred deposit *loan* service that is
30 supervised pursuant to ~~chapter 604 of NRS;~~ *sections 2 to 86, inclusive,*
31 *of this act;*

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

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

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

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

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

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

44 (h) Savings and loan association that is supervised pursuant to chapter
45 673 of NRS;

- 1 (i) Person engaged in the business of lending that is supervised
2 pursuant to chapter 675 of NRS;
3 (j) Person engaged in the business of debt adjusting that is supervised
4 pursuant to chapter 676 of NRS;
5 (k) Thrift company that is supervised pursuant to chapter 677 of NRS;
6 and

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

8 2. The Commissioner shall determine the total amount of all
9 assessments to be collected from the entities identified in subsection 1, but
10 that amount must not exceed the amount necessary to recover the cost of
11 legal services provided by the Attorney General to the Commissioner and
12 to the Division of Financial Institutions. The total amount of all
13 assessments collected must be reduced by any amounts collected by the
14 Commissioner from an entity for the recovery of the costs of legal services
15 provided by the Attorney General in a specific case.

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

18 (a) A portion of the total amount of all assessments as determined
19 pursuant to subsection 2, such that the assessment collected from an entity
20 identified in subsection 1 shall bear the same relation to the total amount of
21 all assessments as the total assets of that entity bear to the total of all assets
22 of all entities identified in subsection 1; or

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

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

27 5. Money collected by the Commissioner pursuant to this section
28 must be deposited in the State Treasury pursuant to the provisions of NRS
29 658.091.

30 **Sec. 91.** NRS 675.040 is hereby amended to read as follows:

31 675.040 This chapter does not apply to:

32 1. A person doing business under the authority of any law of this
33 State or of the United States relating to banks, savings banks, trust
34 companies, savings and loan associations, credit unions, development
35 corporations, mortgage brokers, mortgage bankers, thrift companies,
36 pawnbrokers or insurance companies.

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

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

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

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

44 6. Except as otherwise provided in this subsection, any firm or
45 corporation:

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

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

5 (c) Approved by the Department of Housing and Urban Development
6 and the Department of Veterans Affairs.

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

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

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

13 10. *A person licensed to do business pursuant to sections 2 to 86,*
14 *inclusive, of this act.*

15 **Sec. 92.** NRS 675.060 is hereby amended to read as follows:

16 675.060 1. No person may engage in the business of lending in this
17 State without first having obtained a license from the Commissioner
18 *pursuant to this chapter or sections 2 to 86, inclusive, of this act* for each
19 office or other place of business at which the person engages in such
20 business.

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

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

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

28 **Sec. 93.** NRS 604.010, 604.020, 604.030, 604.040, 604.050,
29 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130,
30 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180
1 and 604.190 are hereby repealed.

2 **Sec. 94.** If, on October 1, 2005, a person:

33 1. Holds a valid license or certificate of registration that was issued
34 by the Commissioner of Financial Institutions pursuant to chapter 604 or
35 675 of NRS before October 1, 2005; and

36 2. Satisfies the definition of "licensee" as set forth in the amendatory
37 provisions of section 12 of this act,

38 the person shall be deemed to hold a valid license issued by the
39 Commissioner of Financial Institutions pursuant to the amendatory
40 provisions of sections 2 to 86, inclusive, of this act.

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.

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PROPOSED AMENDMENT TO AB384

APP 014868
ROA 010191

MY 88 - 00170

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

**Seventy-third Session
May 6, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:03 a.m. on Friday, May 6, 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 Chris Giunchigliani, Assembly District No. 9
Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Shirley Parks, Committee Secretary
Kevin Powers, Committee Counsel
Scott Young, Committee Policy Analyst
Donna Winter, Committee Secretary

OTHERS PRESENT:

Jon L. Sasser, Washoe County Senior Law Project
William R. Uffelman, Nevada Bankers Association
Thelma Clark, Nevada Silver Haired Legislative Forum

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ROA 010193
TX 03 00001

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third day of the month, you can make the payment automatically on the fourth day of the month. Without the language in section 1, subsection 2 of the bill, we would not have effectively been able to do that.

SENATOR TIFFANY:

So, instead of being able to go after any account, it has to be very specific and identified.

MR. UFFELMAN:

It has to be specifically identified as opposed to saying any account.

THELMA CLARK (Nevada Silver Haired Legislative Forum):
We support A.B. 257 as amended.

ROBERT DESRUISSEAU (Northern Nevada Center for Independent Living):
We are in support of A.B. 257, recognizing that some of the numbers Assemblywoman Pierce gave you earlier show how much seniors as well as individuals with disabilities depend on their social security payments. It is relatively easy to see what a negative impact those unexpected or unanticipated withdrawals from an account could have on an individual's life, especially the 20 percent who have social security as 100 percent of their income.

CHAIR TOWNSEND:

I will close the hearing on A.B. 257.

SENATOR CARLTON MOVED TO DO PASS A.B. 257.

SENATOR TIFFANY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

CHAIR TOWNSEND:

I will open the hearing on A.B. 384.

ASSEMBLY BILL 384 (1st Reprint): Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

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ROA 010184 00002

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ASSEMBLYWOMAN BARBARA E. BUCKLEY (Assembly District No. 8):

I have a PowerPoint presentation (Exhibit E). The impetus of this bill is the increasing number of people who seek the assistance of credit-counseling agencies and other community resources, including where I work. That is why I became so interested in this bill. Their problems include dozens of loans with triple- and quadruple-digit interest; payments that are greater than their monthly incomes; wage garnishment two, five or ten times the amount of the loan; threats of criminal prosecution and a never-ending cycle of debt. I hope the passage of A.B. 384 will create a more level and legitimate playing field for lenders, curb unscrupulous and egregious practices, provide remedies for those who have fallen victim to both licensed and unlicensed lenders and protect consumers from being trapped on a debt treadmill.

The debt treadmill begins when a customer takes out their first payday loan. A loan interest rate can range from 150 to 1,100 percent annually. It is not uncommon among those who seek assistance from credit-counseling agencies and legal-aid agencies to take out a second loan to pay the first and a third one to pay the second. I have met a dozen consumers who have taken out a dozen loans just to pay the interest on the other loans.

It is not uncommon for consumers to eventually fall off the debt treadmill and into the wage-garnishment machine where their meager earnings are quickly siphoned off by judgments that can double and triple the amount of the loan and which completely ignore any and all payments made. Because of the volume of lawsuits in small claims courts and justice courts, many judgments are by default and are rubber-stamped by the courts which are unable to keep up regardless of the legality or amount sought. In Las Vegas, 55 percent of all the court cases involving small claims in justice court are payday loans or high-cost loans. The overall volume for 2004 was 68,000 cases. That estimate would be over 34,000 lawsuits in the year 2004 involving payday loans. The experience is borne out in Carson City and Sparks. In North Las Vegas, it is even higher where up to 75 percent of all the court cases involve high-cost loans.

ASSEMBLYWOMAN BUCKLEY:

I would like to talk about the common abuses seen in the payday-loan industry because many of these are what are addressed in the bill. First, collection of trebled damages pursuant to *Nevada Revised Statutes* (NRS) 41.620, the bad-check statute. The checks that are used in these transactions are not given

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ROA-010195
TMX 89-00003

for merchandise. The checks are a security for a loan which makes the statute not applicable, but it is still being utilized anyway. Some lenders in Nevada still verbally threaten to have consumers arrested for writing the bad check that is issued in conjunction with the loan. In the deferred-deposit transaction, there is little doubt that the customer is attempting to defraud the lender. The lender knows there is no money backing the check; that is why they are loaning money on it. Despite the laws prohibiting this practice, an Attorney General's opinion and the commissioner of financial institutions, lenders continue to threaten criminal penalties and are usually awarded treble damages in all of these court cases you see in Exhibit E. A routine clause that is added to all of these cases usually states: "for maximum damages of \$1,000 as provided by NRS 41.620."

Attempting to collect and collecting illegal fees is a common practice among many of the lenders in this industry. There is an example of a collection letter and a default judgment in Exhibit E.

Another common abuse is the demand of more than one check for a single deferred-deposit loan. The payday loans require a check in conjunction with the loan transaction but some lenders will require a customer to write a post-dated check for each \$100 loaned. They are able to collect more money illegally under the treble-damages statute and are able to collect \$50 per check in returned-check fees. Our statute now allows \$25 per returned check twice. They will get \$50 for each \$100 check as opposed to one set charge of \$50.

Unfair loan terms are another common abuse referred to in Exhibit E. With Clark County having approximately 300 outlets, 50 pages in the telephone directory and stories in our newspapers and on television, the proliferation of payday lenders presents in our everyday life an impact on the community that cannot be ignored. Nevadans are especially vulnerable to unscrupulous tactics because so many are new to our State, and they lack the traditional safety nets in times of emergency. The industry now fills a void once filled by employers who would give payday advances. The practices this bill seeks to eliminate are hurting our communities, our senior citizens, our working poor, our military personnel and our middle-class service-industry employees.

I would like to talk about the specific provisions of A.B. 384. Because we are rewriting basically all of our high-cost payday loans, we are consolidating all of the laws into one chapter. Some of the provisions you will see in the mock-up

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amendment (Exhibit F) have provisions that are currently in law but we are combining them all in one place. Sections 24, 35, 36, 43, 44, 45 and 82 are all existing provisions that are reprinted in the mock-up amendment.

In the new provisions, section 17 defines short-term loans charging more than 40 percent for less than 18 months in Exhibit F. There are three types of lenders that are captured in the bill. The first defines the deferred-deposit loan where a check is exchanged for the money. The second defines short-term lenders who may loan you money for 2 weeks or 30 days, but they do not take a check. The third defines title loans. This area of the bill defines exactly a short-term loan, because there are many installment loans and other loans governed under chapter 675 of the NRS. This just pulls out the high-cost, shorter-term loans. The other redefined provisions are in sections 23, 31, 33, 34, 35, 37, 39, 40, 42, 43, 44, 64 and 75 of the bill and are defined in Exhibit F. Section 44 sets forth the amounts the licensee may collect. This is the heart of the bill and along with the remedy section, licensees can collect principal minus payments made, pre-default finance charge, prime plus 10-percent interest after default and a returned-check fee of \$25. With auto title loans, some of the provisions in the bill recognize the differences in this industry so the terms are different.

ASSEMBLYWOMAN BUCKLEY:

My last comment is that I have worked for weeks with many in the industry who are just as anxious to clean up this industry as I am, because they see their industry name being smeared by the tactics of those who are bringing a bad name to all. I have worked with lenders, some of who do not sue people at all, have never threatened criminal prosecution and have never assessed these kinds of damages. These tactics are creating an un-level playing field for them. It is hurting their competitive position and it is hurting their efforts to try to clean up this industry. I have been working with these industry groups for about a year. In the past 3 weeks, I have spent about 50 hours with them. We have worked on words and meanings; we have drafted, we have redrafted and I have tried to accommodate every good-faith business concern with this bill. Some provisions and changes that I have made I did not like, but we were trying to get you a consensus product with the limited amount of time by working with those who are just as appalled by these abuses as I am. I have submitted a summary (Exhibit G) of the sections amended in the mock-up of A.B. 384.

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SENATOR TIFFANY:

You made a comment about safety net in times of emergencies and our community does not have a safety net. How would you see that being developed in the industry?

ASSEMBLYWOMAN BUCKLEY:

I would like to see some of the more mainstream banks and credit unions going back into the micro-loan business. I would like to see more employers getting involved, perhaps through credit unions or with a bank with which they associate. Also, I want the field leveled for those who are right now in this industry who do not do any of these things that were mentioned today and who offer a good product.

SENATOR TIFFANY:

Do you want to see the banks develop some type of short-term loan?

ASSEMBLYWOMAN BUCKLEY:

I would like to see more competition in the short-term loan industry on fair terms.

SENATOR TIFFANY:

Do you realize this is a high-risk group with which you are dealing?

ASSEMBLYWOMAN BUCKLEY:

Yes. I would say this industry can and does use underwriting. You will hear from the good lenders today and they are doing underwriting. One of the anomalies being created in this market is because such a large segment of the population are using the courts to add on these illegal damages, they want people to default because they are making more money when someone defaults than when they pay their loans.

SENATOR TIFFANY:

Would you like to see the short-term loan business expand a little bit? The examples you gave in your presentation that I could see were both the bad-actor lenders and the bad actors who do not pay back their debts. I saw the extreme on both sides of the examples you presented.

ASSEMBLYWOMAN BUCKLEY:

The people we see want to pay back the debt, and they do not want to file for bankruptcy. They will say they borrowed \$300 and paid back \$1,200. They have three other loans pending and cannot make the payments to every single one of them with the add-on charges. That is what we are trying to get to here. If you can stop the abusive pile-on charges, then people will be able to pay their debts and will be able to avoid lawsuits.

SENATOR TIFFANY:

If this was a comfortable business to be in, the banks would be in it, but this is a high-risk business. What are the existing laws today that take into consideration some of your examples?

ASSEMBLYWOMAN BUCKLEY:

Deferred-deposit loans are governed by chapter 604 of the NRS and the protections were added to our statutes in A.B. No. 431 of the 70th Session. It has a prohibitive-practice section which says you cannot threaten criminal prosecution and you cannot charge any fees that a lender cannot generally collect. Also, upon default you get prime plus 10 percent. What is not in this bill is the fair debt-collection practice, military protections, more specific protections like making up imaginary fees or adding garnishment fees of \$1,200, and there is no remedy section. There is no enforcement when a bad actor does these things. These are all in chapter 604 of the NRS. Chapter 675 of the NRS is the general installment-loan chapter so any lender falls under that and there are no specific protections for high-cost, short-turnaround loans at all. The title-pawn industry provisions on the last slide of Exhibit E are all new.

SENATOR TIFFANY:

Section 44 states what a loan and default look like, the type of payback and what happens if it cannot be paid back. Is that not more like what you would want to have in the micro-loan business if it were expanded, as opposed to changing what is happening today with the deferred-deposit, short-term lenders and the title loans? Are you redefining an industry that you say is lacking?

ASSEMBLYWOMAN BUCKLEY:

Clearly, we are redefining an industry and the abuses have to stop. You can get your principal back. If you recall in the bill, there is no cap on interest rates. If someone wants to borrow \$200 at a 1,000 percent interest that is still allowed, the licensee gets your principal and your agreed-upon contractual rate of

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interest, but when that person defaults and cannot pay it back, that is when the licensee receives prime plus 10 percent. It is redefining the industry and the abuses will stop if the bill passes but all the folks in the room do this anyway. They want the customer to pay back the loan. They are not seeking to receive \$3,900 on a \$200 loan. They want to get their money back. They want to get back a reasonable rate of interest and their cost. They are not trying to get people on a debt treadmill. That is where I see the difference in the bill.

SENATOR TIFFANY:

Section 44 of A.B. 384 sets a limit at which you could have these kinds of contracts, but it also reidentifies those three categories we talked about. It looks like you are creating a micro-loan business the way you would like to see it happen.

ASSEMBLYWOMAN BUCKLEY:

We are regulating a micro-loan business that already exists.

SENATOR TIFFANY:

What are the damages against licensees today that are different than the damages in sections 73 and 74 of the bill?

ASSEMBLYWOMAN BUCKLEY:

The difference is the statutory damages of \$1,000 per violation.

SENATOR TIFFANY:

What is it today?

ASSEMBLYWOMAN BUCKLEY:

There is not one.

SENATOR TIFFANY:

Does the industry agree that this is not a problem?

ASSEMBLYWOMAN BUCKLEY:

The industry would like the \$1,000 more narrowly defined to certain violations. We already have laws in the book that are not working because there is no penalty for bad behavior. This amount is similar to what we utilize in other statutes. We use it in chapter 118A of the NRS, if the landlord shuts off your

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power willfully, tenants are entitled to \$1,000 in statutory damages. This is the statutory penalty that we usually utilize to stop egregious behavior.

SENATOR TIFFANY:

Where would you say the responsibility lies on the person who defaults on the loan?

ASSEMBLYWOMAN BUCKLEY:

The person who signs the contract is legally obligated to pay back the loan. If you do not pay it back, you may be sued.

SENATOR LEE:

Is there a cosigner provision for an 18-year-old to get a loan? Are pawn shops that now advertise non-collateral loans covered under this bill also?

ASSEMBLYWOMAN BUCKLEY:

There is no cosigner provision for an 18-year-old to get a loan. Pawn-shop activity and their loans are regulated by the pawn chapter that has a 10-percent interest cap. Pawn shops can get another license, either a payday-loan license or a license under chapter 675 of the NRS to do short-term 2-week or 30-day loans. There is no prohibition against a pawn shop from getting a dual license to offer both products.

SENATOR LEE:

How are these cases mediated for payoff in justice court?

ASSEMBLYWOMAN BUCKLEY:

A suit is filed, they are served and then a majority of the people will default. Most people who get sued acknowledge they owe the money so there is no point in contesting. They do not realize that the judgment is not going to be for \$200 or \$300. It will be at least quadruple the amount. They default then suffer the garnishment and it goes on to the examples you saw on the PowerPoint in Exhibit E. For those people who do show up in court, usually the judge tells the attorney there is a consumer present and together they should go out in the hallway and see if something can be worked out. The attorney will subtract about \$200 from the amount owed, they will come up with a plan and go back into court and the judge will issue that amount.

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SENATOR LEE:

We talked about underwriting happening at these companies. If a person borrows from one organization and cannot make payments and then borrows from another organization to pay the previous organization, are there cases of this happening in keeping these treadmills going?

ASSEMBLYWOMAN BUCKLEY:

It depends on the lender. Mark Thomson with Moneytree and Jim Marchesi with Check City, who I have been working with the past year, will check. If they see that pattern, they will not loan the money. The lenders that want to go to the garnishment mill do not care. They see the borrower's paycheck and they see that they are working. Even if the person has three payday loans by the time they get to them, they will have to stand fourth in line. The court will put through whoever gets the garnishment first. If the person is working, the lender knows they will get 25 percent of that person's paycheck and they will definitely loan them the money. The lender makes most of their profit from the abusive add-on fees.

SENATOR SCHNEIDER:

I heard the word micro-loan business but this is not. This is big business. These businesses are all over the place.

ASSEMBLYWOMAN BUCKLEY:

There are more payday-loan outlets in America than there are McDonald's.

SENATOR SCHNEIDER:

The consumers are saying that there is a demand for these payday-loan businesses. Have you heard from any attorneys that are going to court? The attorneys going to court representing these companies are manipulating the system.

ASSEMBLYWOMAN BUCKLEY:

The attorneys who do this are liable as debt collectors under the federal Fair Debt Collection Practices Act. The attorneys themselves could be liable for participating in these types of activities. I hope they will stop and if they do not stop, I hope they will be sued.

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SENATOR SCHNEIDER:

I am on the board of a credit union and we are trying to do a check-cashing business. Our goal was to do the check cashing and then convert them to regular credit union members. We are not that good at the check-cashing business. You have to wear two different hats. If you are a banker or credit union, you cannot do a check-cashing business. It just does not fit under what banks and credit unions do. There is a big demand. I suggested to our board that this is a business we should start. For the Hispanic community, where they do not trust conventional-type banking institutions, we hired Hispanic clerks to speak with the people and we were just not very good at it. I do not know how we can change this industry. Your attempt is good. Do you have the support on these amendments from the good actors?

ASSEMBLYWOMAN BUCKLEY:

Yes, I do have their support on these amendments. I have been working with a lot of folks a long time as well as lobbyists who just started participating in this the past six days.

CHAIR TOWNSEND:

My question has to do with the court system. On three of your pages, you identified interest rates signed by the consumer and signed by the lender that were inaccurate. Does the court have any authority to say that document is inaccurate therefore this contract is void. What is a reasonable rate?

ASSEMBLYWOMAN BUCKLEY:

If the interest rate is off by that much, there is a defense to that loan under the federal Truth in Lending Act (TILA). The courts react to what is before them. If you file a complaint to collect on a loan with the TILA violations, it is up to the consumer to answer that complaint and to allege that the sum should not be enforceable because of violations of the federal TILA. The consumer does not know there is a violation of the TILA. The average consumer has no way of identifying the TILA act violations. They do not know they even exist.

CHAIR TOWNSEND:

Unless they had a private attorney, which obviously they cannot afford or they would not be in this position, or unless they were educated enough to try to find one of the organizations in the State like yours, they would really be without that defense.

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ASSEMBLYWOMAN BUCKLEY:

Unless they are lucky enough to qualify for legal services and the legal-services entity has the resources to help.

CHAIR TOWNSEND:

I am not saying the bill should not be passed because of my question. You know when you go to court or get into trouble, you want as many arrows in your quiver as you can get. When you are charging 1,000 percent interest and not putting the accurate number down, that is doubly egregious. Is there any way to get into these communities that are using these services to explain to them to think through that when they see 1,000 percent, that might not be in their best interest?

ASSEMBLYWOMAN BUCKLEY:

Michele Johnson with Consumer Credit Counseling and Gail Burks with Nevada Fair Housing and Lending Service in Las Vegas run classes on financial counseling. They are trying to help people. My own opinion is that it is tough. If a person's truck breaks down, it does not matter whether it is 500 or 1,000 percent interest rates. They choose more on location. They do not shop for terms. They are desperate. They have to get to work.

SENATOR CARLTON:

If you would share the discussion that you had, I like the language provision that you have that if it is negotiated in Spanish, the contract would be in Spanish. If you would share that with me when the other people come up and talk about the Spanish documents, I can understand both sides.

ASSEMBLYWOMAN BUCKLEY:

We passed that last Session with regard to car contracts. It is a good consumer-protection measure. All the folks with whom I negotiated do it already.

GAIL BURKS (President and Chief Executive Officer, Nevada Fair Housing Center, Incorporated):

We are in support of A.B. 384. We conducted a study on high interest-rate loans in Nevada. A copy of the report (Exhibit H) has been given to the Committee. We looked at four basic areas: geographic distribution, market penetration, product base and collection practices.

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The geographic distribution for these entities is centered in lower-income communities. Since 1998, the industry has grown from 16 branches to 381 branches in 2004. That is a 2,281-percent increase. There are 1.9 branches per 10,000 people in census tracts where people earn less than \$25,000 per year. This is higher than five of our neighboring states: Arizona, California, Idaho, Oregon and Utah. It is also higher than Colorado, Illinois or Indiana. The stores are concentrated in census tracts where the minority population ranges from 40 to 49 percent.

In terms of market product, our research involved a direct survey of 105 locations; 39 percent fully answered our questions about their products, 22 percent responded partially and 34 percent refused to respond about the products that they offered to consumers. Only 10 percent of the respondents provided check-cashing services only. The finance charges per \$100 borrowed ranged from 182.5 percent annual percentage rate (APR) upward to 1,303 percent APR. The median finance charge was 443.21 percent and all locations permitted rollovers.

Collection practices were the most interesting. The method used to examine this and get specific research involved justice courts selected at random to pull files for us. They pulled files for eight lenders; four of those lenders offered short-term high-interest loans, and the other four offered the check-cashing services. We took a look at the original loan amount, what the lender was asking for in the lawsuit and the outcome of the case of each file. We examined 78 cases. We wanted to determine the cost to the borrower. We compared the original loan amount to what was actually collected by the lender. Typical collection was five times more than the original loan amount and the highest was six times the loan amount.

These companies are in this business because banks will not get into it. Under community reinvestment, banks have attempted to do more. Since bank modernization, they have gotten bigger and do less but they are trying. The bankers would tell you the working families and people served are not high-risk clients.

The second point is that while education is important, I think like other predatory lending issues, we cannot put this all on the victim. If you have a good con person, it does not matter how educated you are.

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MICHELE JOHNSON (President and Chief Executive Officer, Consumer Credit Counseling Service):
I have written testimony (Exhibit I).

CHAIR TOWNSEND:

The real-life examples and the effort you are making to help people is something that needs to be shared with young people before they leave high school.

MARK THOMSON (Director of Government Relations, Community Financial Services Association; Moneytree Incorporated):

We support much of what is in the bill today. I have conceptual agreement on many of the issues. Many of the changes to Nevada law will bring it in line with laws in many other states. The current version of Exhibit F that you have before you we have had very little time to review. We would need some time to review the new language and we may still have one or two small issues but we are committed to working with everyone to move this bill forward. Community Financial Services Association (CFSA) recognizes this product is in a process of evolution. Hearings and processes such as this are part of that evolutionary process.

I am a former regulator for the state of Washington. I spent 14 years regulating non-depository lenders at work throughout the 1990s with the legislature in the state of Washington to address many of these types of issues. I would get calls from the media throughout the 1990s about the rapid growth of this industry in our state. I could not figure out where the demand was coming from for this product. The demand had always been there and this size of loan had historically been made by consumer finance companies. These companies would take a lien on property or furniture in the house. Throughout the 1960s and 1970s, if someone needed this kind of a loan, that is where they would go. What happened through time as these companies' cost rose, it became more and more difficult for them to make those loans and still make a profit. By the end of 1970s and early 1980s when inflation had risen and interest rates had risen, they could no longer make a \$300 loan under the interest-rate caps they operated under in most states and still make a profit.

These companies in large part turned to making home-equity loans, refinances and they entered the real estate market. Therefore, there was a market niche left open. It is a market niche where you are making a very small loan and where the cost of making that loan is very high relative to the amount of the

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loan. Everything about this industry evolves from the economics of that equation. The facts are that you are making a small loan and you need to limit the cost associated with each loan and the fee has to be high enough to cover those cost to make it economically viable.

In most of the states where we operate, credit unions are trying to get into this business. They find it very difficult to make it economically viable. The more underwriting, the more disclosure and the more process there is in making the loan, the higher the cost. Banks and credit unions are in this product. Their product is called overdraft protection. It is a very different animal, legally. Under truth and lending, it is not an extension of credit and does not need to be disclosed as such. The product would not work if it was treated as an extension of credit under truth and lending. If you calculated an APR on an overdraft protection, it would be very similar to what a deferred-deposit lender charges. It is very costly to provide that credit relative to the size of the loan.

CHAIR TOWNSEND:

The only issue there is that you need to have a checking account before you need overdraft protection.

MR. THOMSON:

That is correct, and in order to get a deferred deposit loan you have to have a checking account. It is a very similar product, economically.

CHAIR TOWNSEND:

Are you trying to tell me that you have not seen the bill and you cannot comment on it? If so, how long will it take you to look at the bill?

MR. THOMSON:

We support most of the bill but need to look at certain provisions. We can look over the bill this weekend. In section 74 of the bill, it allows consumers to bring action against us and get statutory and punitive damages. Our main concern with statutory and punitive damages is that they do not become a magnet for class actions for technical violations of the statute that do not cause actual damages to the consumers. The more we can narrow that down to violations of licensing provisions and violations of the new section 44, limitations on the interest that can be collected on the back end, the better.

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SENATOR TIFFANY:

In section 44 of the bill, it is reshaping the way you can collect the debt, the interest on the debt and the time on the debt and we do that statutorily. You made the comment that this is a very short-term loan with a high cost and a high-risk pool to whom you are loaning. Does section 44 regulate satisfactorily so you can stay in business and make a profit and still offer this service?

MR. THOMSON:

Moneytree is one of the companies that does not sue and it states in our loan agreement that we will not take civil action. It will not impact us but there are other good actors that have used that authority and I will pass your question to Jim Marchesi.

JIM MARCHESI (President/Chief Executive Officer, Nevada Financial Service Association; President/Chief Executive Officer, Check City):

As the bill is proposed, we have a conceptual agreement on what we could and could not live with going into it. Section 44, without having had time to look through it, I think is okay. We still have some very legitimate concerns about sections 42 and 74 of the bill, but we can continue through and work on it and work it out. I hope I answered your question.

SENATOR TIFFANY:

In order for me to vote on the bill, I would have to make sure the good actors can still stay in business. If that cuts out the bad guys the better it is, so that is what I wanted to hear from you. It sounds like you want sections 74 and 75, the penalty part, to be better defined.

MR. MARCHESI:

Yes, and some additional work on section 42 of the bill.

SENATOR TIFFANY:

What is section 42 of the bill?

MR. MARCHESI:

Section 42 of A.B. 384 is a repayment plan. When a customer now goes into default, we will work with that customer for a long time to try to get them to make the payment. For 30 to 60 days, we find operators will try to encourage the customer to repay their note. At that point you make a decision. Some

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companies will continue to try to collect and others will use the court system to recoup the money.

The examples you saw today are from the bad actors. When you sit back and look at the industry, there are a few companies that have a very large portion of the market who operate 100 percent within the statute. You also have the small segment of the industry that is shared among a bunch of other players and in that bunch inevitably there will be somebody who does not live by the existing statute or is going to find the gray areas and work down the gray areas. Those practices have to stop.

SENATOR TIFFANY:

Would you like to see further movement on section 42 of the bill?

MR. MARCHESI:

Absolutely

SENATOR LEE:

I would like to ask about the underwriting process for mainstream lenders.

MR. MARCHESI:

Underwriting in the industry is very broad and different companies conduct underwriting in vastly different ways. The high underwriting company can do things from pulling credit reports to pulling tele-track. This gives you a read on the customer's repayment behavior. Those who use this service will take the information they get and use it in the decision about whether they should or should not loan.

The other end of the spectrum is that you look to see if a person has a bank account and a job and then do your underwriting through confirming other items that are on their application. The breadth of underwriting can really go quite some way. In the free market system, each operator makes that decision on their own. If you say the limited underwriter is doing the limited underwriting so he can use the back end as an income source, A.B. 384 takes care of that.

You brought up the consumer with 16 loans. The consumer has responsibility in determining what credit they use and where they use it. Our task force became an education to both sides. We helped the people who were on the task force and taught them about the business; likewise, they taught us a lot about their

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concerns. Overall, the matrix of people who use the product use it responsibly. I understand the people who Assemblywoman Buckley sees in her real-world job. We want to encourage consumer responsibility. A lot of this bill is to try to get these best practices in the statute.

SENATOR LEE:

I would agree that your demographics are typically a guy in his mid-30s with a wife and child.

MR. MARCHESI:

Our customers are middle income, well educated and homeowners who are hard-working Americans. It is not the other extreme who get painted in the media a lot, the poorest of the poor, who are using the product. Looking at it from a business standpoint, would it make sense for us to loan money to people who could not legitimately have a chance to pay us back? The answer is no.

NATASHA FOOMAN (Advance America):

I want to state for the record that we really appreciate all the effort and time Assemblywoman Buckley and her staff have put into this bill in bringing the industry and consumer groups together. My colleagues and I believe in responsible lending and that is why we are here at the table today in support of this bill conceptually.

SENATOR TIFFANY:

Are you aware of anybody in the industry who provides training to high school or college students?

MR. THOMSON:

Community Financial Services Association (CFSA) has a financial literacy program called CFSA-access that is made available to whomever would like it.

SENATOR TIFFANY:

Do you reach out to do some education?

MR. THOMSON:

Yes

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SENATOR TIFFANY:

I believe Wells Fargo Bank offers education, too. I know we had addressed this, Mr. Chair, because you were concerned whether there was curriculum available.

CHAIR TOWNSEND:

Maybe we need a coordination of those efforts or a real focused opportunity we can work on over the next few years to make this education available. I used to teach a Junior Achievement class in junior high school. It was one of the most enjoyable things I did. I would leave the class after teaching so excited because the kids just soak up this information. I was thinking if the students are so excited about the class, why is Junior Achievement teaching these classes instead of the school system.

MIKE REED (Vice President, General Counsel, Loan Max):

We did not know about A.B. 384 until a few days before it was scheduled for a floor vote in the Assembly. We are appreciative of the Assembly majority leader's willingness to work with us to address some of our concerns. Our company strongly supports reasonable regulation. Some concepts related to title loans were worked out between some members of the title-loan industry and the Assembly majority leader's staff. I have not had an opportunity to review that language yet but my company fully supports the concepts as they were presented to me. We look forward to working with this Committee and the Assembly majority leader to finalize A.B. 384, and we will be back on Monday.

ROBERT REICH (Director, Consumer Lending Alliance National Organization of Affiliated Title Lenders):

Our association and member companies deeply respect, want and need regulated environments. This bill goes a long way in providing a structure that really promotes a set of best practices which most title lenders in the State follow. All title lenders in the State would have a good road map and not have some of the fringe, fly-by-night operators. We agree conceptually with A.B. 384 as well.

Unlike payday loans, there can be no concept of multiple loans to a title-loan customer. There can be only one lien on a vehicle so someone cannot take that vehicle around to multiple lenders and have 18 to 20 different loans in those extreme cases.

We have just seen the language when it was handed out to Committee. We need some time to review it over the weekend. The last set of discussion happened yesterday. We just want to make sure that there are no unintended consequences in the language, and we will be studying the bill over the weekend to ensure that such is not the case.

CHAIR TOWNSEND:

Assemblywoman Smith asked me to put written testimony from Robbin Novello (Exhibit J) in the record. I will read from Exhibit J: "After some time, I received notice I was being taken to court, but even though the loan was obtained at a Sun Valley Loan store, I was taken to court in Las Vegas. Naturally, I could not take time off of work to go in the middle of the week, so of course, was 'defaulted'." Assemblywoman Buckley, is there a section in the bill that I possibly missed that deals with this type of situation?

ASSEMBLYWOMAN BUCKLEY:

I do not think that is in the bill. It would be in the prohibitive-practices section if it was and we can certainly add that.

CHAIR TOWNSEND:

I am not trying to put an amendment on this bill but I want it to be considered for Assemblywoman Smith's constituent.

MR. UFFELMAN:

I want to answer a couple of questions that you had asked unrelated to the bill. Senate Bill (S.B.) 459, which the Senate passed on April 25, 2005, and is now over in the Assembly Committee on Education, specifically deals with financial education in the school system in Nevada. The Nevada Bankers Association provides free of charge to all Nevada teachers who request it a program called "Banking Is." As mentioned, Wells Fargo Bank has a program and several organizations have free curriculum on financial responsibility. The month of April was financial literacy month and April 26 was teach children to save day. There is a wide variety of programs available to educators to teach the young about finance.

SENATE BILL 459 (1st Reprint): Requires instruction in financial responsibility in public high schools. (BDR 34-1093)

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The Nevada Bankers Association appreciates Assemblywoman Buckley's actions on this bill. We are 99.99 percent ready with the bill. We have one little addition that we just presented to her in the last couple of minutes because we saw the change this morning. I have sent to Kevin Powers and Scott Young a URL for the Federal Deposit Insurance Corporation (FDIC) Financial Institution Letter 1405A issued on March 1, 2005. It gives you all the details if a bank is going to do payday lending with restrictions and requirements related to it. This also applies to the credit unions. It is a tough business; it is sub-prime lending. It is an endless treadmill from the bank's side. Some of the banks that have direct deposit with customers do allow advances against the direct deposit because they know the money is coming.

JOSEPH W. BROWN (Security Finance Company):

We are regulated by chapter 675 of the NRS as an installment-loan lender. We support the bill as amended. It needs a little bit of fine-tuning and I will allow Mr. Holt to explain that.

PHILLIP HOLT (Vice President of Government Relations, Security Financial of Spartanburg, South Carolina):

Our business practice is very similar to those that have been outlined. However, as an installment lender, we do not do payday loans so we do not take post-dated checks. Some of the issues we have regarding the simple payback process and the way it is being lumped into one sum as some of the examples were laid out on the overhead today. The information (Exhibit K) I will be handing out to you today shows we are members of the American Financial Services Association which is one of the largest trade groups for lenders in the State. We are large supporters of financial literacy but the difficulty is you can only do so much. The school districts have to be willing to find time in their curriculum to do these free educational programs for the junior high and high school levels. As Mr. Brown indicated, we are very close to reaching a complete agreement with the bill and look forward to working with you.

SANDRA J. PERRY (Cash Express/Money Express Catalog Sales, Incorporated):

I am not here today to address some of the concerns that the major players within the industry have already adequately addressed. I just want to address concerns that I have as a small-business owner. I have concerns (Exhibit L) on the bill. Section 8; section 23; section 42, subsection 2, paragraph (a) and section 42, subsection 3, paragraph (a) of A.B. 384 concern default. I know the Legislators are trying to help the consumer and make it easier for all of us to

operate within the framework of the law. I do see a problem with this. The problem is addressed in Exhibit L. I have a question, how are we supposed to operate within this framework and still make a profit? We now work with our customers on an individual basis. We try to do whatever they want to do and make it work for both parties.

In the example I have given in Exhibit L, under the proposed bill as written, we would be forced to deposit the borrower's check on Saturday. This would be in the hopes of avoiding having our money out for a term of over 18 weeks. The 18 weeks would include 4 months and 15 days from date of notice of default. There is a strong possibility that by depositing that person's check on Saturday as A.B. 384 proposes, our check or others that this person has written will be returned because of non-sufficient funds (NSF). In the event our check is returned, an additional \$25 will be added to their fees. At this point the borrower may be faced with numerous returned bank charges that could possibly add up to \$175 or more for a small \$100 loan. On a \$100 loan, it would cost them 4 cents a day for 8 weeks if we charged interest. I ask you as a business owner trying to make a profit, what would you do?

I do have a suggestion for a solution. I think the period of default should not be on the day that it is due. There should be a period of at least 15 days in which to allow us to confer with our customer to possibly make an extension or work something out. We should be allowed to charge interest during this period of time. This is my request in regard to that portion of the bill.

CHAIR TOWNSEND:

Are you looking at the printed bill or do you have a copy of the changes to the bill that we faxed or e-mailed to you?

Ms. PERRY:

I pulled the amended bill off the Internet.

CHAIR TOWNSEND:

There is a mock-up amended version. When I look at your section 8, it may not be the same one. What is the next section you are on?

Senate Committee on Commerce and Labor
May 6, 2005
Page 27

MS. PERRY:

The next section I would like to address is section 39. My question and solution are discussed in Exhibit L.

CHAIR TOWNSEND:

You were making reference to section 39 of the bill?

MS. PERRY:

Yes.

CHAIR TOWNSEND:

I have written testimony (Exhibit M) from D.C. Younger who could not be present today.

I will close the hearing on A.B. 384 and I will open the hearing on A.B. 340.

ASSEMBLY BILL 340 (1st Reprint): Revises provisions relating to certain short-term, high interest loans. (BDR 52-126)

ASSEMBLYWOMAN CHRIS GIUNCHIGLIANI (Assembly District No. 9):
My student intern, Chris Dorman, has been working on this legislation and has worked through the changes as well as the original presentation.

CHRIS DORMAN (Intern to Assemblywoman Giunchigliani):
The bill has been reduced significantly from its original form. It addresses only two issues regarding the marginal-lending industry. It would require counties, cities and the like to set up zoning laws regarding payday-loan places and title-loan businesses. I have a proposed amendment to A.B. 340 (Exhibit N). These restrictions would not apply ideally to counties with populations under 100,000 people. If local government has already adopted regulations regarding the zoning for payday-loan businesses or title-loan businesses, it would not apply either. The city of Las Vegas, North Las Vegas and Clark County have already adopted zoning laws specifically regarding the payday-loan industry.

The second issue of the act deals with refund anticipation loans (RALs). I have handed out some articles (Exhibit O) regarding this issue. This is just a first step in what the State should do to regulate this industry. The RALs are tax preparation services like H&R Block that are willing to provide an advance to a consumer on what they believe their tax refund will be based on the work they

provisions of the chapter within that common, standard dictionary definition.

SENATOR HECK:

If we are going to use the common, customary definition, what was your intent? Is this like an automated teller machine (ATM) type device?

ASSEMBLYWOMAN GIUNCHIGLIANI:

Yes.

CHAIR TOWNSEND:

When I first read this, I thought about a kiosk being a small structure in which a salesperson stands similar to the ones they put in center of malls down the walkways.

ASSEMBLYWOMAN GIUNCHIGLIANI:

There may be a different term that we would prefer to use.

MR. POWERS:

Mr. Chairman, I might add as well that ... A.B. 340 prohibits the Commissioner from issuing a license for a person to do business at a kiosk, whereas A.B. 384 does not have that prohibition. In fact, A.B. 384 permits that activity as long as it falls under that new regulatory chapter. So, there is a conflict between the two bills.

MS. PERRY:

I was a little unsure of what the meaning of kiosk was referring to within our industry. In an effort to try to protect my branch stores and the income I receive from those stores, I might mention my branch in Henderson is inside a Smith's store and it is with a PostNet Express. All of our business is handled through our main branch where we do all the contracts and approvals and do all the contacts with the customer so the store is utilized as simply a means to give out money and take in money. Everything else is provided from the main store by either fax or e-mail. My written concerns are stated in my handout (Exhibit P).

CHAIR TOWNSEND:

What does your store look like?

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MS. PERRY:

The store is as you would see PostNet Express within a Smith's grocery. There is a counter and it is a space that is utilized for two different services. That would be express mailing and also the service of my business.

CHAIR TOWNSEND:

We would have to ask the sponsor of the bill if that is the type of thing she was including.

ASSEMBLYWOMAN GIUNCHIGLIANI:

No, it would not be.

SENATOR HARDY:

We could probably statutorily define that because I know some of the small stores like Sprint and AT&T in the malls, if you look them up in the Internet, are called kiosk stores. If we contemplate it being something other than that, we ought to define it.

CHAIR TOWNSEND:

I believe Assemblywoman Giunchigliani is trying to establish someone with substance, someone who is going to be there tomorrow, a month from now or a year from now. Longevity is what you are looking for so if a customer has a problem they have an appropriate place to go.

I have written testimony from people who could not attend today's meeting. The written testimony is from Ronald L. Barrett (Exhibit Q), Julie Cairns (Exhibit R) and Ken Indra (Exhibit S). There are also concerns from D.C. Younger on this bill in Exhibit M.

MR. MARCHESI:

The bill has three primary sections. The first is the 800 number; the industry is in support of the 800 number. The second issue is the requirement for the municipalities to form some restrictions or guidelines on how the industry ought to behave. We have worked very closely with Assemblywoman Giunchigliani on the bill we believe that should be left in the hands of the municipalities and not be dictated by the state government. Our view is that it would be an unnecessary provision at this point and allow them to do that. The third issue I want to talk about is the RALs. There are a tremendous number of federal regulations that are required anytime that you do one of those loans. In the

issue of posting the rates, there are a vast number of different ways that those products are done and I do not think there would be any objections.

I will not go into a defense of H&R Block, because I do not know anything about their lawsuits. In general, there are already a lot of federal regulations in the area of RALs.

CHAIR TOWNSEND:

I never thought about RALs in terms of what we talked about in the previous bill.

MR. MARCHESI:

It is a completely different product. My company does tax preparation; we do not do RALs. One of the things done at the end is to offer the customer an option. Do you want us to submit your return by mail, electronically, or do you want to take an advance on the return. It is not a product that we do because it is a federal product. We are just an agent of a company, Bank One, that does RALs.

CHAIR TOWNSEND:

Are you going to start offering credit cards, too?

MR. MARCHESI:

Yes, I think with the brick and mortar stores there are a lot of financial services that really make sense for those of us who have brick and mortar stores. An answer to your Internet question, yes, there are people who provide RALs via the Internet. I know they are offered because at the end of the Turbo Tax program there are options that you can select.

MR. UFFELMAN:

A kiosk is defined as a small area set off by walls for a special use.

You have recognized the need to integrate A.B. 340 with A.B. 384. We would like to urge at the minimum that the Division of Financial Institutions, Department of Business and Industry, look for guidance in the words of A.B. 384 when it comes to the definition of payday loans.

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MR. POWERS:

Mr. Chairman, to follow up on that, there are several sections in A.B. 340 that would need to be altered or incorporated in the A.B. 384 if we are going to process this bill. The reason being is that A.B. 384 eliminates chapter 604 of NRS and then payday loans are all put in the new chapter in A.B. 384; so are the provisions in 675 dealing with payday loans in A.B. 340.

CHAIR TOWNSEND:

If the Committee is interested in any provisions of A.B. 340, maybe, they should go appropriately into the other one just because it has been restructured.

MR. POWERS:

Yes, Mr. Chairman, in my review of A.B. 340 is that sections 3 and 4 of the bill dealing with zoning could stand on their own and be unconnected completely with A.B. 384. They refer to check-cashing services or deferred-deposit services pursuant to chapter 604 of NRS but that sort of conflict can be resolved at the end of the Session. Then, section 7 dealing with the tax-refund anticipation loans, that could stand on its own in chapter 675 of NRS.

MR. MARCHESI:

One other thing for the Committee to consider is S.B. 431, which is Commissioner Tidd's bill, which also will require some integration into these other two bills.

SENATE BILL 431 (1st Reprint): Makes various changes to provisions governing financial institutions and related business entities. (BDR 55-361)

MR. POWERS:

That is correct, Mr. Chairman. That bill also contains provisions dealing with chapters 604 and 675 of NRS. That is in the Assembly side so they would have to consider that either during their deliberations in commerce and labor or when the bills are enrolled resolving them at the end of Session.

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CHAIRMAN TOWNSEND:

I will leave that up to you in terms of your workload, if you just want to leave it for reconciliation or at the end, rather than trying to fix them all at once.

MR. POWERS:

"That may be one approach. I think with A.B. 340 and A.B. 384 that can be done in this Committee as we send them out."

CHAIR TOWNSEND:

I will close the hearing on A.B. 340 and open the hearing on A.B. 437.

ASSEMBLY BILL 437 (1st Reprint): Revises provisions governing manufactured home parks. (BDR 10-1027)

JOSEPH GUILD (Manufactured Home Community Owners):

Assemblywoman Buckley was going to join me here and there is an amendment in my handwriting (Exhibit T). Assemblywoman Buckley's executive assistant is typing a version of this as we speak. For Mr. Young's purposes and for the permanent record of the Committee, you will have a typed version of the amendment (Exhibit U).

Assembly Bill 437 is a product of a collaboration between various groups of people interested in mobile home parks, tenants and landlords. Years ago, the then majority leader, Assemblyman Perkins, asked the groups to get together during the interim if there were necessary revisions to chapter 118B of the NRS, which is the mobile-home-landlord-tenant law in the State, bringing to the Legislature the consensus bill so we would not have to battle the bills, which was the occurrence for many Sessions prior to that. You have the collaborative effort before you. This is really a clean-up bill; there are no big changes here.

I will start with section 1 of the bill. If a landlord bills individually for utility charges, they must post or provide each tenant who is affected a copy of the utility bill for the park. The tenants then know what the park is paying in addition to what they are paying.

Section 3 of the bill states that when, as is required after 25 percent of the persons in a mobile home park or manufactured-home community ask for a meeting with the owner of the park, that somebody with some authority to make decisions and with an understanding of the operations of that park, meet

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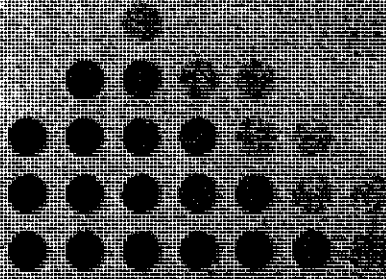
Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

Assembly Bill 384

Assembly Majority Leader

Barbara Buckley



With no interest rate cap and lax customer protections, Nevada has quickly become home to some of the nation's most predatory lenders.



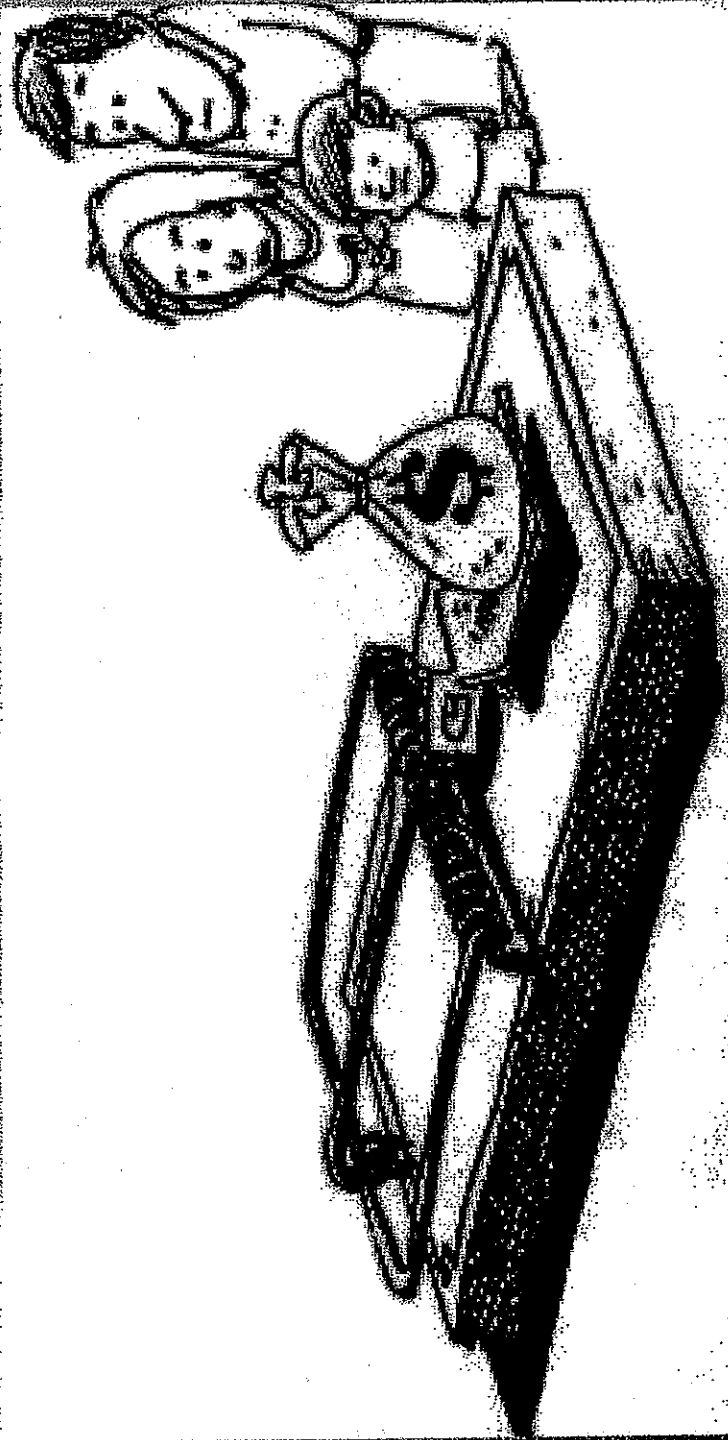
Goals of A.B. 384

- Create a level playing field for deferred deposit lenders, short term lenders and auto title lenders.
- Curb unscrupulous and egregious lending and collection practices.

• Provide remedies for those who have fallen victim to unlicensed lenders and lenders who have engaged in unscrupulous practices.

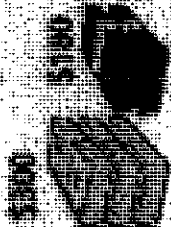
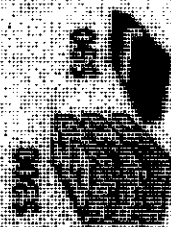


The Debt Trap: From Debt Treadmill to Garnishment Machine



Getting buried in debt

Paying loans, or high-interest rate loans with a revolving overdraft, during periods, have caused financial difficulties for some cash-poor entrepreneurs. If the borrower can't pay the entire loan with interest in 300 weeks, the lender will roll over the loan and add an additional fee.



A borrower gets to a payday but is left with a loan for \$3000 and agrees to pay it back in two weeks plus \$90 for interest.

At the end of the lending period, the borrower pays the interest, but can't afford to pay back the entire \$3000 borrowed. The lender rolls over the \$3000 and charges an additional \$90 in interest.

The borrower pays only the \$90 interest every two weeks, a total of \$2,340 will be added to the original \$500 principal is still owed.

From the spread earned charged from \$5 to \$30 per \$100 borrowed.

THE MORTGAGE PRICES

Debt Treadmill

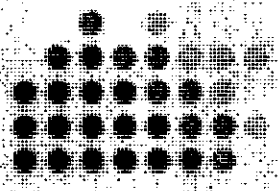
Garnishment Machine -

Small Claims Court Cases CY 2004:



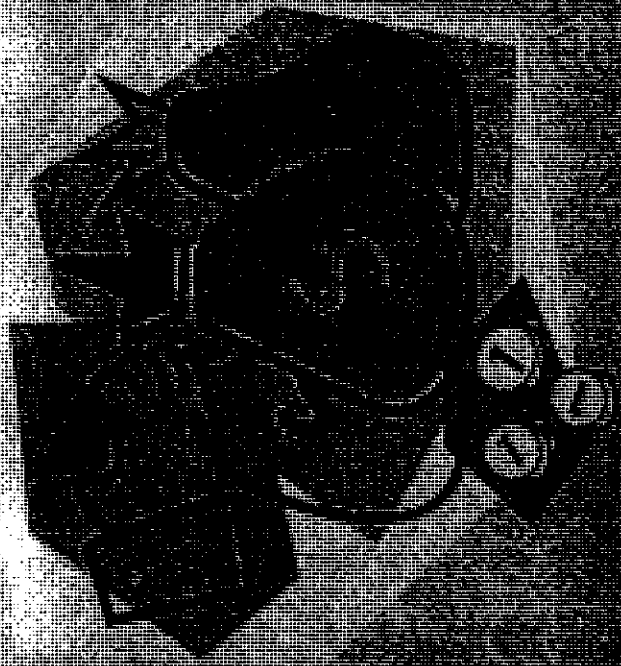
	High-Interest Loan Cases	%	To Garnishment	%
Carson City	226 of 563	40%	89	39%
Sparks	377 of 1,187	35%	126	33%
N. Las Vegas	Estimated 750	Estimated		35%
Henderson	407 of 992	41%	Unknown	
Las Vegas	450 of 1,100	55%	29	31%
Trucking/Fire				

APP 014904
ROA 010227



Common Abuses:

Collection of
treble damages
in
the
NRS 41-620



APP 014905
ROA 010228

JUSTICE COURT, THIS BEGAS TOWNSHIP

CLARK COUNTY, NEVADA

FILED

RECEIVED

GORMAN'S STAR ENTERPRISES
P.O. BOX 94527
LAS VEGAS, NV 89193

FEB 18 2005

Plaintiff,

JUSTICE COURT
LAS VEGAS, NEVADA - KS

CASE NO. 05-000000

WRIT OF EXECUTION

☒ EARNINGS ☐ OTHER PROPERTY
☐ EARNINGS, ORDER OF SUPPORT

Defendant,

THE STATE OF NEVADA TO THE CONSTABLE/SHERIFF, LAS VEGAS TOWNSHIP, GREETINGS:

On JANUARY 4, 2005, I, a Judgment creditor, upon which there is due to United States Currency the following amounts, was entered in this action in favor of GORMAN'S STAR ENTERPRISES as Judgment Creditor and against [REDACTED] as Judgment Debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs leaving the following net balance which must bear interest at 10% per annum, \$ [REDACTED] per day from issuance of this writ to date of levy and to which sum must be added all commissions and costs of executing this writ.

JUDGMENT BALANCE

Principal	\$1,410.00
Pre-Judgment Interest	
Attorney's Fee	\$ 103.00
Costs	\$ 75.00
JUDGMENT TOTAL	\$1,589.00
Accrued Costs	
Accrued Interest	
Less Satisfaction	
NET BALANCE	\$1,589.00

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	\$1,589.00
Fee This Writ	\$ 6.00
Commission Fee	\$ 5.00
Mileage	20.00
Levy Fee	18.00
Advertising	
Storage	
Interest From	
Date of Issuance	
SUB-TOTAL	1628.00
Commission	22.76
TOTAL LEVY	1670.76

NOW, THEREFORE, you are commanded to satisfy the Judgment for the total amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described real property:

[REDACTED]

REPRESENTATIVE OF THE CHECK CASHING BUSINESS PAYMENT AS FOLLOWS

MANAGEMENT SERVICES 213869

4275 E. SAHARA AVENUE, SUITE 3
LAS VEGAS, NEVADA 89104
(702) 641-0008

213869



64-189
1812

PAY:

One hundred and 00 cents

DATE 08/06/2004 \$ 100.00

NOT VALID AFTER 90 DAYS
TRUST ACCOUNT

TO THE
ORDER
OF:
Star Loan Centers
610 E. Sahara, Ste. 10
Las Vegas, NV 89104-

NON NEGOTIABLE

⑈ 213869 ⑈ ⑆ 1212016946153750075060 ⑈

REPRESENTATIVE OF THE CHECK CASHING BUSINESS PAYMENT AS FOLLOWS

MANAGEMENT SERVICES 215145

4275 E. SAHARA AVENUE, SUITE 3
LAS VEGAS, NEVADA 89104
(702) 641-0008

215145



64-189
1812

Three hundred fourteen and 42 cents

DATE 09/02/2004 \$ 314.42

NOT VALID AFTER 90 DAYS
TRUST ACCOUNT

TO THE
ORDER
OF:
Star Loan Centers
610 E. Sahara, Ste. 10
Las Vegas, NV 89104-

NON NEGOTIABLE

⑈ 215145 ⑈ ⑆ 1212016946153750075060 ⑈

1 I. For the first cause of action.

- 2 a. For a judgment against defendant in the amount of \$410.00, plus interest at
3 14.23% per annum plus any other late fees accrued to date.
4 b. For maximum damages of \$1,000.00 as provided for by NRS 41.620.
5 c. For reasonable attorney's fees and cost of suit incurred herein.
6 d. For any other judgment this court may deem proper in the premises.

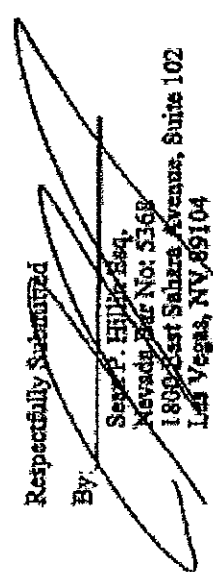
7 2. For the second cause of action.

- 8 a. For a judgment against defendant in the amount of \$410.00 plus interest at
9 14.25% per annum plus any other late fees accrued to date.
10 b. For reasonable attorney's fees and costs of suit herein; and
11 c. For any other judgment this court may deem proper in the premises.

12 Dated this 14 day of September, 2004.

13 Respectfully Submitted

14 By:

15
16 
17 Scott P. Hill, Esq.
18 Nevada Bar No: 5368
19 1800 East Sahara Avenue, Suite 102
20 Las Vegas, NV 89104
21 (702) 737-9939

22 Attorney for Gorman's Star Enterprises

Return Check No. [REDACTED]
Drawn On [REDACTED]
Customer: [REDACTED]
Amount of Check: \$300.00
Fees Due: \$25.00
Payments Applied: \$.00
Current Amount Due: \$325.00

REQUEST FOR PAYMENT
NSF or Account Closed

This letter is being sent to inform you that we have made several attempts to reach you and/or make reasonable payment arrangements pertaining to the item listed above.

Payment arrangements may still be possible if you contact us within (10) ten days of the date of this notice. Failure to contact us to make payments will result in legal action being taken against you. Furthermore, if a judgment is recorded against you, you will be required to pay the full amount of the check plus triple damages (3 times the amount of the check minimum amount of \$100.00 with a maximum amount of \$500.00 per item under NRS 41.620) plus check return fees, court costs and attorney's fees.

A judgment is recorded against you, you will be required to pay the full amount of the check plus triple damages (3 times the amount of the check minimum amount of \$100.00 with a maximum amount of \$500.00 per item under NRS 41.620) plus check return fees, court costs and attorney's fees. A judgment will result in garnishment of your wages and or bank account in addition to this account being reported to credit bureau as a non payment debt owed.

Sincerely,

[Signature]
Collection Division
702-940-3900

This communication, from a debt collector, is an attempt to collect a debt. Any information obtained will be used solely for that purpose.

014909
ROA 010232

CUSTOMER DISCLOSURE

NAME [REDACTED] NO. [REDACTED] ACTING [REDACTED]
ADDRESS [REDACTED]
CITY STATE [REDACTED]

ANNUAL PERCENTAGE RATE (THE COST OF A YEARLY RATE)	FEE CHARGED	AMOUNT ADVANCE	TOTAL CHECK AMOUNT
651.79%	\$50.00	\$200.00	\$250.00

YOUR PAYMENT SCHEDULE WILL BE

NO OF PAYMENT	AMOUNT OF PAYMENTS	DEPOSIT DATE
1	\$250.00	07/22/03

THERE WILL BE NO REFUND OF THE FEE CHARGED

I authorize Refugee Holdings, Inc. dba Boulder Check Cashing or its designated representative (hereinafter referred to as Boulder Check Cashing) to deposit or to cash my check, and Boulder Check Cashing agrees to defer said deposit or cashing of my check until my next payday, or until the day of [REDACTED] 2003. An outstanding loan made in the form of a deferred deposit cannot be extended beyond 10 weeks after the expiration of the initial loan period. A fee not to exceed \$25.00 may be charged for any returned check(s). I hereby authorize Boulder Check Cashing and/or its financial institution to ACH debit my account for the amount due. Furthermore, I authorize Boulder Check Cashing and/or its representatives to contact any company, entity, reference, relative, supervisor, commanding officer, or other person(s) having dealings with me and/or listed on my post-dated application and supplemental back-up, submitted before or updated with this agreement. In order to obtain information and to discuss any debts which I owe Boulder Check Cashing, I understand that Boulder Check Cashing does not make any loans and that its service charges are for check cashing and/or deferred deposits.

Caution: It is important to thoroughly read this contract before signing it. I also understand that closing my account or placing a stop payment on my check may result in criminal prosecution for fraud. My signature below indicates that I have received a copy of this agreement.

NRS 804.186 Registrant may pursue collection proceedings upon default of the loan made in form of deferred deposit, charges and interest. If the borrower defaults on the original loan made in the form of a deferred deposit, or on any extension thereof, whichever is later, the registrant may immediately pursue any available collection proceedings on the amount of the loan made in the form of a deferred deposit and all accrued charges and interest that are due. The interest charged from the date of the default on the loan made in the form of a deferred deposit, or on any extension thereof, must not exceed a rate equal to or less than the prime rate at the nearest bank in the State of Nevada, as ascertained by the consumer credit bureaus or by the

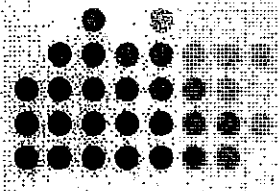
NRS 41.620 Liability for issuance on nonexistent account or drawing on insufficient money. Issuer is liable to the payee for the amount of the check and damages equal to three times the amount of the check, not less than \$100 nor more than \$500.

with information regarding the cost of credit in transactions that are primarily for personal, family, or household purposes.

My signature and/or endorsement on item(s) presented at Boulder Check Cashing guarantees payment of item(s) cashed at Boulder Check Cashing and I hereby offer payment if due from this or subsequent item(s) presented at Boulder Check Cashing.

212

APP 014910
ROA 010233



NAME:	PHONE:
ADDRESS:	SSN:
CITY, STATE:	LOAN DATE: 12/17/2003
YOUR CHECK NUMBER:	
AMOUNT: \$155.00	PREVIOUS BALANCE:
WILL BE DEPOSITED AFTER THE CLOSE OF BUSINESS ON: 12/28/2003	
AMOUNT PAID TODAY: \$0.00	
NEW CASH ADVANCE: \$150.00	
AMOUNT FINANCED: \$150.00	
SERVICE CHARGE: \$45.00	
TOTAL DUE: \$195.00	

PLEASE NOTE: If your check does not clear your bank within 10 days, you will be charged a NSF CHECK HANDLING FEE of \$25.00 plus a LATE CHARGE of \$5.00 per day until paid in full. You will not be charged more than two (2) NSF CHECK HANDLING FEES per check.

You may "buy back" your check with cash or a money order. If you redeem your check within seven days, we will gladly refund a full weeks service charge.

You may be permitted to extend the deposit date for an additional 1, 2 or 3 weeks by paying at least the amount of your service charge in cash or with a money order. If we allow you to extend the deposit date, a new service charge will be added to the remaining balance. This option is only available for 8 weeks from the initial scheduled due date or:

REGISTRATION: If you want to buy back your check or extend the deposit date, you must make the necessary payment prior to the close of business on the scheduled deposit date. If you fail to do so, your check will be deposited.

If you cannot come to our location to buy back or extend your check before the close of business on the deposit date, we will hold your check a maximum of three days beyond the scheduled deposit date, provided that you telephonically or fax us prior to the close of business on the scheduled deposit date. You will be required to pay a late charge of \$5.00 per day.

In event of a default, Nevada State law allows us to charge you 17.75% interest on the unpaid balance.

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 to you (service charge)	Amount of credit provided to you (cash advance)	Write check payable to CASH OUT in the amount of
1095.00%	\$45.00	\$150.00	\$195.00

Payment Schedule: Your payment schedule will be one payment of \$195.00 Due 12/28/2003
Minimum Finance Charge: The minimum finance charge is: \$45.00
Security: This is an unsecured loan.

I have read and received a copy of this disclosure statement. This deferred deposit does not exceed 1/3 of my expected monthly income.

• ACTUAL FINISHED

TRIP OF INTEREST IS
1217.00%

• POST DEFAULT

INTEREST OF 17.75%
THE SCHEDULED PAYMENT
WILL BE PAID

1 WHEREFORE, plaintiff, ACT Investments, Inc. dba Cash Out, prays as follows:

2 For the first cause of action.

- 3 a. For a judgment against defendant in the amount of \$220.00, plus interest at
4 14.00% per annum plus any other late fees accrued to date.
5 b. For maximum damages of \$500.00 as provided for by NRS 41.530.
6 c. For reasonable attorney's fees and cost of suit incurred herein.
7 d. For any other judgment this court may deem proper in the premises.

8 For the second cause of action.

- 9 a. For a judgment against defendant in the amount of \$220.00 plus interest at
10 14.00% per annum plus any other late fees accrued to date.
11 b. For reasonable attorney's fees and costs of suit herein; and
12 c. For any other judgment this court may deem proper in the premises.
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Dated this 19 day of February, 2004

Respectfully Submitted

By:

Scotty Hillin Esq.
Nevada Bar No. 4368
1300 East Sahara Avenue, Suite 102
Las Vegas, NV 89104
(702) 757-9939

Attorney for ACT Investments, Inc. dba Cash Out

Justice Court, Las Vegas Township

CLARK COUNTY, NEVADA
FILED

Name: ACT Investment Inc, dba Cash Out
Address: 4821 Alta Drive
Las Vegas, NV 89107

Case No: 2004 APR 16 P 12:19

CASE NO: [REDACTED]

Plaintiff: JUSTICE COURT
Vs. [REDACTED]
Defendant: [REDACTED]

WRIT OF EXECUTION

☒ EARNINGS ☐ OTHER PROPERTY
☐ EARNINGS, ORDER OF SUPPORT

THE STATE OF NEVADA, TO THE CONSTABLE/SHERIFF, LAS VEGAS TOWNSHIP, GREETINGS:

On April 9, 2004, a Judgment, upon which there is due in United States Currency the following amounts, was entered in this action in favor of ACT Investment Inc, dba Cash Out, as Judgment Creditor and Against [REDACTED] Judgment Debtor. Interest and costs have accrued in the amounts shown. Any satisfaction has been credited first against total accrued interest and costs leaving the following net balance which sum bears interest at _____ % per annum, \$ _____ per day from issuance of this Writ to date of levy and to which sum must be added all consideration and costs of executing this Writ.

JUDGMENT BALANCE

Principal	\$ 720.00
Pre-Judgment	\$
Attorney's Fee	\$ 55.00
Costs	\$ 100.00
JUDGMENT TOTAL	\$ 875.00
Accrued Costs	
Accrued Interest	
Less Satisfaction	
NET BALANCE	\$ 875.00

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	\$ 875.00
Fee this Writ	\$ 5.00
Garnishment Fee	\$ 5.00
Mileage	20 -
Levy Fee	18 -
Advertising	
Storage	
Interest from Date of Issuance	
SUB-TOTAL	924 -
Commission	18.48
TOTAL LEVY	942.48

NOW, THEREFORE, you are commanded to satisfy the Judgment for the amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described real property:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff recover of and from Defendant, [REDACTED] as follows: the principal amount of \$289.00, together with interest accruing at the rate of 14.00% per annum from July 23rd, 2003 until paid in full, plus damages pursuant to NRS 41.620 in the amount of \$790.00 plus the amount \$146.00 in cost of suit, and reasonable attorney's fees in the amount of \$70 -

IT IS ORDERED.

DATED this 21 day of August, 2003

William D. Jones
Honorable

Respectfully Submitted:

Example of a default judgment for a \$150.00 loan

Total judgment for \$150.00 plus 14% interest = \$166.50

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff recover of and
2 from Defendant, [REDACTED] as follows: the principal amount of \$510.00, along with late
3 fees in the amount of \$0.00, together with interest accruing at the rate of 14.00% per annum from
4 July 2nd, 2003 until paid in full, plus damages pursuant to NRS 41.620 in the amount of
5 \$1,000.00 plus the amount \$76.00 in cost of suit, and reasonable attorney's fees in the amount of
6 \$ 128.00.

7 IT IS ORDERED.

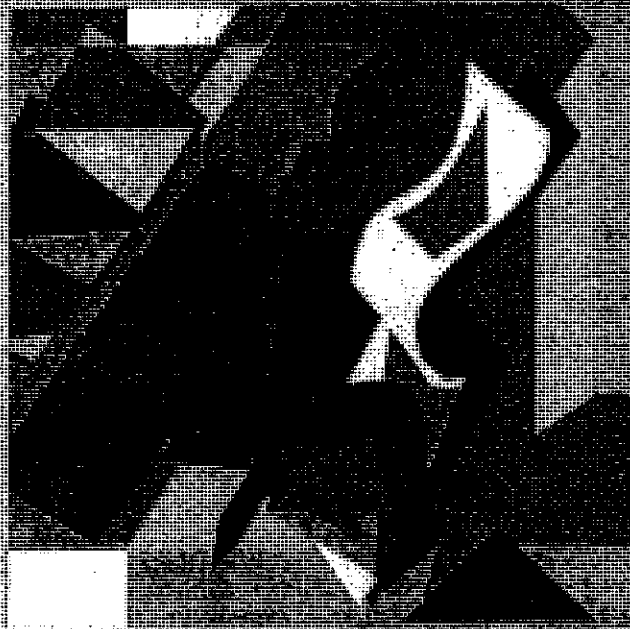
8
9
10 DATED this 28 day of July, 2003

11
12
13 William D. Jensen
14 Honorable JUDGE M. GEXLER
15

Respectfully Submitted:
[Signature]

Common Abuses:

Demanding more
than one check for
a single deferred
deposit loan



APP 014916
ROA 010239

CONTRACT #



CLIENT ID

HANDY CASH LOAN CENTERS

\$200 LOAN

DATE 7/7/04

LENDER: MUSTAR MANAGEMENT FINANCIAL GROUP DBA
HANDY CASH LOAN CENTERS
4531 W. CHARLESTON
LAS VEGAS, NV 89102

DEBTOR

TRUTH AND LENDING DISCLOSURE

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	AMOUNT FINANCED	TOTAL OF PAYMENTS
714.56%	\$344.00	\$200.00	\$544.00
THE COST OF YOUR CREDIT AS THE CREDIT WILL COST YOU IF TERMS ARE NOT FULLY FILLED			THE AMOUNT YOU WILL HAVE PAID AFTER YOU HAVE MADE ALL PAYMENTS AS SCHEDULED

THIS IS A LOAN OF DESIGNATED INCREMENTAL PAYMENT PERIODS. A PAYMENT MADE AT ANY TIME DURING A PAYMENT PERIOD WILL BE FOR NO LESS THAN THE TOTAL AMOUNT DUE FOR THAT PERIOD. THIS TOTAL PAYMENT DUE FOR EACH PERIOD POLICY APPLIES TO ANY TYPE PAYMENT.

PAYMENTS ARE DIVIDED INTO EIGHT (8) CONSECUTIVE PAYMENT PERIODS OF 1 OF \$31.00 - 7 OF \$68.00 DUE ON THE 4 AND 21 OF EACH MONTH STARTING ON Wednesday, July 21, 2004 AND ENDING ON Thursday, November 04, 2004

FIRST PAYMENT DUE DATE	FINAL PAYMENT DUE DATE	FIRST PAYMENT	FINAL PAYMENT
7/21/04	11/4/04	\$31.00	\$68.00

I AGREE THAT ALL PAYMENTS ARE TO BE MADE IN 8 CONSECUTIVE BI-MONTHLY INSTALLMENTS OF \$68.00

FOR A TOTAL FOUR (4) MONTHS. CASH OR MONEY ORDER ONLY. NO CHECKS, NO MAIL, NO DROP BOXES.

• Interest rate disclosed as 714.56% - actually 836.58%

• Undisclosed \$15.00 computer online account setup fee

... THE TERMS OF MY SECURITY AGREEMENT. I WILL READ THIS AGREEMENT CAREFULLY AND IF I AGREE TO BE BOUND BY THE LAW IN THE STATE OF NEVADA AND DO PROMISE TO REPAY THIS AGREEMENT IN FULL CONDITION AND I WILL SIGN MY NAME HERE AFTER IN FULL AGREEMENT.

THE WORDS "I", "ME", "US" REFER TO EACH PERSON WHO SIGNS THIS AGREEMENT AS DEBTOR, THE WORDS YOU AND YOUR WILL REFER TO THE LENDER (SECURED PARTY)

I FULLY AGREE AND UNDERSTAND HOW THE REPAYMENT PLAN WORKS AND CONSENT TO THE PAYMENT DATES. I ALSO FULLY UNDERSTAND THAT HANDY CASH LOAN CENTERS DOES NOT WORK WITH CREDIT COUNSELING.

SECTION 1 : SECURITY

Security for the above loan by the debtor ARE (3) CHECKS :

CHECK 1: \$144.00 CHECK 2: \$200.00 CHECK 3: \$30.00 FOR ANY BANK FEES, DEFAULTED BALANCES, MISSED PAYMENTS AND ANY OTHER

APPLICABLE CHARGES

* Return check charges to the debtor from the lender will assessed the greater of \$10.00 or the charge by the financial institution for any returned item or processing of that check in default of a loan.

* Handling and processing charges of any check will be, \$15.00 each in the event the loan is in default.

Late fees in the amount of \$5.00 per day will be assessed each day that account is overdue including Sundays and holidays.

* Each account setup for each loan will be charged a \$15.00 computer online account setup paid on the FIRST INCREMENTAL PAYMENT, AND IS NOT FINANCED IN THIS AGREEMENT.

SIGN

DEBTOR SIGNATURE AS TO ACKNOWLEDGEMENT TO CHARGE

SIGN

DEBTOR SIGNATURE AS TO ACKNOWLEDGEMENT TO CHARGE

SECTION 3 : PAYOFF BALANCE :

IT IS REQUIRED THAT A PAYMENT OR PAYOFF BALANCE MADE AT ANY TIME DURING A DESIGNATED PAYMENT PERIOD WILL BE NO LESS THAN THE TOTAL AMOUNT DUE AND OWED FOR THAT RESPECTIVE PERIOD. THIS REQUIREMENT WILL APPLY TO ANY LOAN PAYMENT OR PAYOFF BALANCE MADE. BORROWER UNDERSTANDS THAT HE CAN RETIRE THE LOAN BY PAYING THIS CORRESPONDING PAYOFF BALANCE FOR THAT DESIGNATED PAYMENT PERIOD AS STATED IN THE PAYMENT PLAN. PRE-COMPUTED INTEREST IS NON-REFUNDABLE IN THE EVENT OF A PRE-PAYMENT. THE BORROWER HAS AGREED TO THIS PROVISION WHEN THIS LOAN IS MADE.

SECTION 4 : REINSTATEMENT OF LOAN:

I have the full right to exercise the options of reinstatement of a loan if the loan agreement has been paid in full and on the due date required by Lender.

3 checks taken as

security

handling and

processing charge of

\$15.00 in addition to

return check charge

for the \$15.00 per

day including

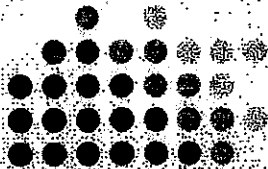
Sundays and holidays

No partial payments

accepted

When account is

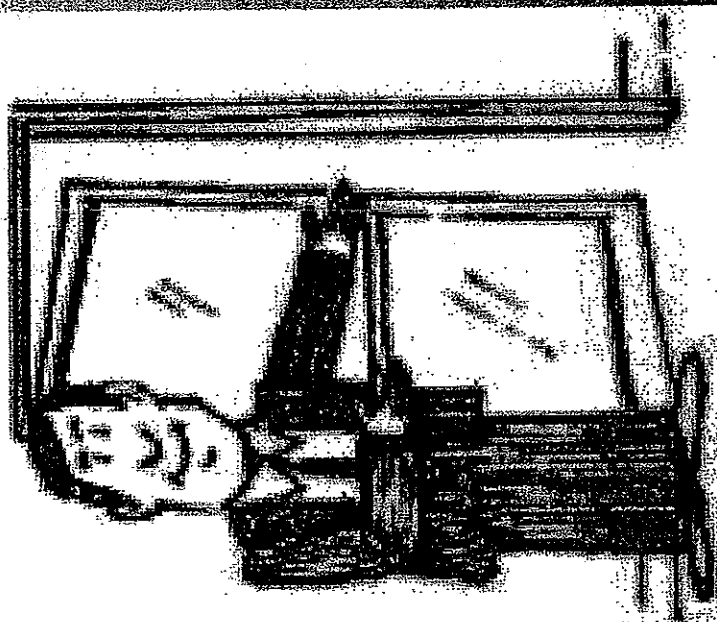
reinstated



Common Abuses:

LOANS

Unfair loan
terms



LUCKY CREDIT COMPANY, LLC

LENDER:

LUCKY CREDIT COMPANY, LLC
2530 S. RAINBOW E-1
LAS VEGAS, NV 89102
702.365-5777

BORROWER:



LOCATIONS THROUGHOUT LAS VEGAS PLEASE CALL FOR NEAREST BRANCH

DATE: December 1, 2003

DEMAND PROMISSORY NOTE/ LOAN AGREEMENT

FOR VALUE RECEIVED, the undersigned, [REDACTED] jointly and severally promise to pay to Lucky Credit Company, LLC, the order of, the sum of One Hundred sixty five (\$165.00)

Interest is in the amount of 521% annually. The entire unpaid principal and any accrued interest, and any fees associated with such note that Lucky Credit Company, LLC may charge shall be fully and immediately payable UPON DEMAND of any holder thereof.

Upon default in making payment upon demand, and provided this note is turned over for collection, the undersigned agrees to pay all reasonable legal fees and costs of collection to the extent permitted by law. This note shall take effect as a sealed instrument and be enforced in accordance with the laws of the State of Nevada. All parties to this note waive presentment, notice of non-payment, protest and notice of protest, and agree to remain fully bound notwithstanding the release of any party, extension or modification of terms. Borrower will automatically be in default if the minimum payment or the balance payment has gone unpaid on the FIFTH (5TH) CALENDAR DAY. Lender also has the right to place the loan under default if Borrower's phone is either disconnected or changed. Also, lender has the full right to exercise any one or all of the following remedies if the loan is placed in default:

1. Demand full payment of the defaulted loan which includes the following: the total of remaining payments, check processing charges, all late fees, loss of interest and the reimbursement of reasonable fees of representation and enforcement of lender's rights and remedies including but not limited to attorney's costs, travel costs, and postage costs.

INITIALS

PAGE 1 OF 3

Terms include:

- Waive presentment, notice of non-payment, protest and notice of protest, and agree to remain fully bound
- Right to place loan in default in borrower's telephone number is disconnected or changed
- Right to demand remaining payments, loss of interest, check processing charges, late fees, attorney's fees and costs
- Right to obtain a judgment, garnish wages and report to credit bureaus

2. File a law suit against you where you will be served either at home or at work by the Justice Court to register a judgment, have your wages GARNISHED and reported to the credit bureau.

ALL BORROWER HEREBY AGREES TO LATE FEES IN THE AMOUNT OF 2% PER DAY. IN THE EVENT THAT LENDER HAS TO GARNISH WAGES BORROWER AGREES AND AUTHORIZES A ONE TIME FLAT FEE OF \$1250.00 TO BE ADDED TO THE LOAN BALANCE. THIS FEE IS A PENALTY FEE, AND CAN ONLY BE REMOVED AT THE LENDERS SOLE DISCRETION.

ALL IN THE EVENT THAT A COURT DEEMS THAT ANY PORTION OF THIS CONTRACT IS UNENFORCEABLE, ONLY THAT PORTION WILL BE DEEMED UNENFORCEABLE AND DOES NOT IN ANY WAY VOID THE REST OF THIS CONTRACT.

ALL BORROWER ACKNOWLEDGES THAT INFORMATION THAT IS PROVIDED IS TRUTHFUL AND UNDERSTANDS THAT LENDER HAS MADE ITS DECISION TO LEND MONEY TO THE BORROWER BASED ON THE TRUTHFULNESS OF SAID DOCUMENTS.

ALL BORROWER IS NOT UNDER ANY DURESS, AND IS OF SOUND MIND, AND, AT LEAST 18 YEARS OF AGE.

ALL BORROWER IS NOT IN BANKRUPTCY ^{NOT} OR HAS SPOKE TO OR IS PLANNING TO MEET WITH A BANKRUPTCY ATTORNEY.

ALL BORROWER ALSO IS AWARE THAT IN THE EVENT THAT TWO CONSECUTIVE PAYMENTS ARE LATE, THEN LENDER HAS THE RIGHT TO CHARGE A HIGHER ANNUAL PERCENTAGE RATE (APR) WHICH WILL INCREASE THE RATE BY 5% EVERY 2 WEEKS (120% APR). AFTER 3 ON TIME CONSECUTIVE PAYMENTS, LENDER WILL DROP THE INTEREST RATE TO THE ORIGINAL RATE OR APR.

ALL UPON SIGNING THIS CONTRACT BORROWER WAIVES THEIR RIGHT TO ANY LAWSUIT AND ALL CLAIMS MUST BE SETTLED WITH AN ARBITRATOR. THIS INCLUDES ANY CLASS ACTION LAWSUIT. BORROWER ALSO HOLDS LENDER HARMLESS FOR ANY FUTURE CLAIM THAT MAY ARISE.

PAGE 2 OF 3

• Late fees of 2% per day

• Penalty fee of \$1,250.00 for wage garnishment

• After two late payments, annual percentage rate increases to by 120%

• Arbitration agreement and a waiver of right to private lawsuit

• Threat of criminal prosecution



ALSO IF ON THE MATURITY DATE OF THIS LOAN YOU PAY ALL OF THE FINANCE CHARGE, YOUR LOAN MATURITY MAY BE EXTENDED BY THE EXECUTION OF AN EXTENSION AGREEMENT BETWEEN BORROWER AND LENDER, SUBJECT TO LENDERS SOLE APPROVAL AND SUBJECT TO ALL THE SAME TERMS, CONDITION AND COVENANTS AS CONTAINED IN THIS AGREEMENT

REPORTER'S INITIALS

THIS AGREEMENT CONSTITUTES THE WHOLE AGREEMENT THERE IS NO ORAL OR IMPLIED AGREEMENT.

Pursue Nevada Statutes 205.134 and 205.375 dealing with false written statements to obtain property or credit. You may face criminal sanctions resulting in your arrest.

Borrower's Initials

BY SIGNING BELOW I FULLY UNDERSTAND ALL THE TERMS AND CONDITIONS OF THIS CONTRACT AND HAVE RECEIVED A COPY OF THIS CONTRACT.

100

DATE: [REDACTED]
BORROWER: [REDACTED]
SSN: [REDACTED]

LENDER
LUCKY CREDIT COMPANY, LLC

CO-BORROWER DATE
SSN

PAGE 3 OF 3

• Truth in Lending Act Violation

APR disclosed as 521%

Actual APR 912.5%

APP 014922
ROA 010245

LOAN DEPOSIT COVER SHEET

Last Name

First Name

Principal: \$ 1332.35 Interest/ week: 5%

Amount Late: \$ 532.88 Interest/ 2 weeks: 10%

Late Penalty: \$ 2238.32 Filing Fee Amt: \$ 113.00

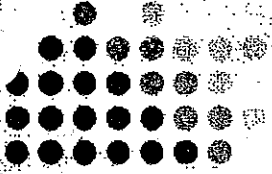
Sue for Amount: \$ 4103.55

EXPLANATION

8 weeks late = 56 days late
 \$ 1332.35 x .03 = 39.97 per day late penalty
56 days x \$ 39.97 = \$2238.32

Original Contract Date: October 16, 2003 Original Amount: \$ 1350.00

• Late fee of \$39.97
 per day



COPY

Justice Court, Las Vegas Township
CLARK COUNTY, NEVADA

The Loan Deposit Inc.
4613 W. Russell Blvd. #11-2
Las Vegas, Nevada 89118

Plaintiff,

[Redacted Name]
Defendant.

CASE NO. [Redacted]

FILED

WRIT OF EXECUTION FOR A/E - S A & J3

• EARNINGS • OTHER PROPERTY

• EARNINGS, ORDER OF SUPPORT

• Contract for a
\$300.00 loan

• Almost
\$1,400.00 was
paid before
default

• Additional
\$1,611.95 was
garnished

THE STATE OF NEVADA, TO THE COMPTROLLER, LAS VEGAS TOWNSHIP, GREETINGS:

On July 26, 2004 a judgment, upon which there is due in United States Currency the following amount, was entered in this action in favor of The Loan Deposit, Inc. as Judgment Creditor and against

[Redacted Name] as Judgment Debtor. Interest and costs have accrued in the amount shown. Any satisfaction has been credited the applicant until accrued interest and costs bearing the following and between which semi-annual interest is 14 1/2 per annum, \$2.50 per day from issuance of this writ in date of levy and in which sum must be added all accumulations and costs of executing this writ.

JUDGMENT BALANCE

Principal	1145.00
Pre-Judgment Interest	16.34
Attorney's Fee	215.00
Costs	91.00
JUDGMENT TOTAL	1392.34
Accrued Costs	
Accrued Interest	
Less Satisfaction	
NET BALANCE	1392.34

AMOUNTS TO BE COLLECTED BY LEVY

NET BALANCE	1392.34
Pre this Writ	5.00
Commission Fee	5.00
Levy Fee	18.00
Advertising	18.00
Storage	
Interest from Date of Issuance	
SUB-TOTAL	1580.34
Commission	34.61
TOTAL LEVY	1614.95

NOW, THEREFORE, you are commanded to satisfy the judgment for the amount due out of the following described personal property and if sufficient personal property cannot be found, then out of the following described personal property:

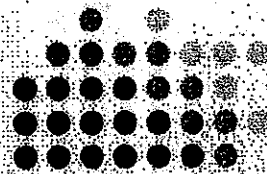
[Redacted Property Description]

(SEE REVERSE SIDE FOR EXEMPTIONS THAT MAY APPLY)

Payday Loan Companies Raise Questions

WorldNow and KLAS 2000-2005

Local Presence



Editorial: Preying on borrowers

**Payday lenders use law to seek more
damages**

Las Vegas Sun 2005

Las Vegas
Sun 2005

State Warns People of 'Pay-Day' Loans

WorldNow and KLAS 2000-2005

Borrowers beware

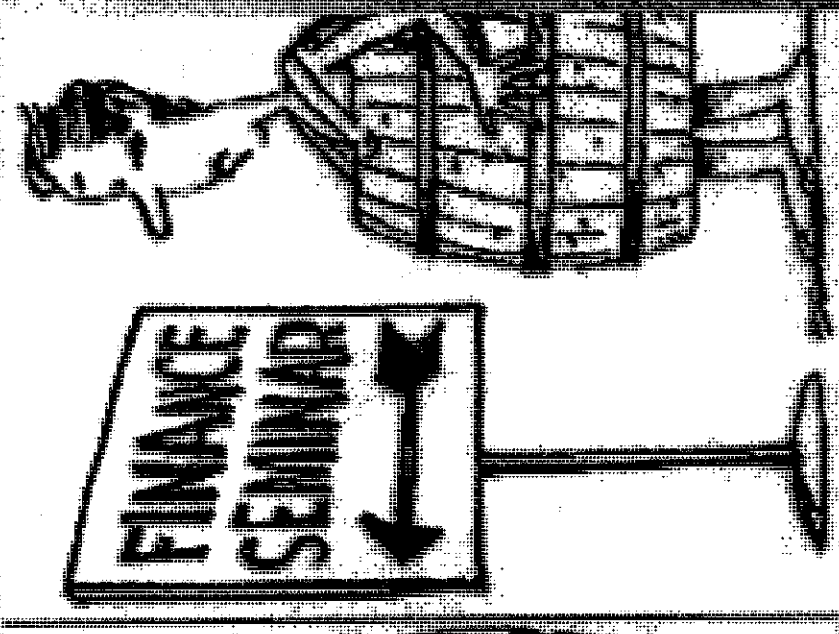
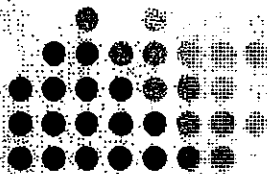
Las Vegas Sun 2005

Payday loans are criticized, lauded in how they affect Nevadans

**Consumer Advocates Warn Some
Loan Sharks Swim on the Web**

WorldNow and KLAS 2000-2005





Specific Provisions of A.B. 384



Provisions similar to those currently in N.R.S. 604

- Section 24 provides that the provisions of this chapter must be interpreted so as to effectuate their general purpose to provide for the uniform regulation of check cashers, deferred deposit lenders, short term lenders and auto title lenders.

- Section 35 prohibits licensee from accepting certain types of security, failing disclose information about the terms of the loan, accepting instruments with blanks, demanding the purchase of insurance, goods or services, and charging a fee to cash a check which represents the amount of the loan.

- Section 36 prohibits a licensee from issuing a check according to the terms of the instrument if the instrument is not cashed before midnight of the day of issuance. The licensee must also comply with the provisions of the chapter relating to the issuance of checks. The licensee must also comply with the provisions of the chapter relating to the issuance of checks. The licensee must also comply with the provisions of the chapter relating to the issuance of checks.



Provisions similar to those currently in N.R.S. 604

- Section 43 prohibits deferred deposit lenders and short term lenders from extending the loan beyond 8 weeks, 2 weeks less than the statute currently states.
- Section 44 limits the amount of interest that can be charged after default to prime plus ten percent.
- Section 45 authorizes lenders to collect a return check fee of not more than \$25.00.
- Section 82 repeals provisions governing check cashing, money and bill exchange, deposit loans, etc.



New provisions in A.B. 384

- Section 17 defines a short term loan as one with an interest rate greater than 40% and for a term of less than 18 months.
- Section 22 states that the provisions of the chapter apply to any person who provides services that come within the provisions of the chapter even if the person tries to avoid compliance by any subterfuge.
- Section 23 states that no fee or interest may be charged during a grace period.
- Section 29 requires any person financing a loan service under this chapter to be licensed as a financial institution or a money transmitter.

New provisions in A.B. 384

- Section 31 states that the loan agreement must be in Spanish if the transaction was in Spanish. It also requires certain disclosures to be in the contract.
- Section 32 states that the licensee may only collect the debt in a profession, fair and lawful manner and in accordance with the relevant provisions of the federal Fair Debt Collections Practices Act.
- Section 33 provides certain protections for customers called to active duty in the military, such as deferring collection activity and garnishment and prohibiting licensees from contacting the customer's military or financial community.

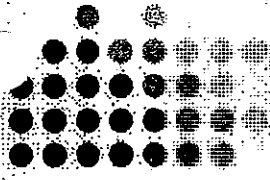
New provisions in A.B. 384

Section 34 prohibits a licensee from making a loan in which the payment or payments exceed 25% of the expected monthly gross income. It also prohibits making more than one loan to a customer.

Section 39 allows a customer to rescind a loan within one business day.

Section 40 allows a licensee to receive a fee in full at any time and receive a receipt on demand.

Section 41 allows a customer to rescind a loan by paying a fee and receiving a receipt on demand.



New provisions in A.B. 384

- Section 42, as amended, will prohibit a licensee from commencing civil action without offering the customer the opportunity to enter into a repayment plan.
- Section 44 sets forth the amounts the licensee may collect if the customer defaults; principal minus payments made, pre-default finance charge, prime plus ten percent interest after default, and a return check fee of \$25.00.
- Section 45 states that customers are not liable for damages pursuant to N.R.S. 41.620 or for criminal prosecution for a violation of N.R.S. 215.
- Section 46 requires that a licensee provide a receipt to the customer.