

Case No. 79224

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**In the Supreme Court of Nevada**

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

Appellant,

*vs.*

TITLEMAX OF NEVADA, INC., a  
Delaware corporation,

Respondent.

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**APPEAL**

from the Eighth Judicial District Court, Clark County  
The Honorable JERRY A. WIESE II, District Judge  
District Court Case No. A-18-786784-C

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**RESPONDENT'S NRAP 28(f) PAMPHLET  
WITH 2005 AND 2017 LEGISLATIVE HISTORY  
OF ENACTMENT AND AMENDMENTS TO NRS  
CHAPTER 604A**

**VOLUME 3  
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**CERTIFICATE OF SERVICE**

I certify that on May 20, 2020, I submitted the foregoing “Respondent’s NRAP 28(f) Pamphlet with 2005 and 2017 Legislative History of Enactment and Amendments to NRS Chapter 604A” for filing *via* the Court’s eFlex electronic filing system. Electronic notification will be sent to the following:

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

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

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

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

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

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

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

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

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

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

2. The term does not include:

(a) A deferred deposit loan; or

(b) A title loan; or

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

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

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

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

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

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

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

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

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

Sec. 21. "Title to a motor vehicle" or "title" means a certificate of title or ownership issued by the Department of Motor Vehicles pursuant

Based on the testimony before the Committee, this bill is not intended to apply to loans secured by a tax refund. Thus, that term is defined in Sec. 15.5 and persons making such loans are exempted from the chapter in Sec. 17 and Sec. 27.

1 to the laws of this State that identifies the legal owner of a ~~motor~~ vehicle  
2 or any similar document issued pursuant to the laws of another  
3 jurisdiction.

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

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

9 2. The term includes, without limitation:

10 (a) Passenger vehicles;

11 (b) Recreational vehicles; and

12 (c) House trailers and travel trailers.

13 3. The term does not include:

14 (a) Farm vehicles;

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

16 (c) Commercial vehicles;

17 (d) Construction vehicles;

18 (e) Military vehicles;

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

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

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

26 (a) "Amount financed."

27 (b) "Annual percentage rate."

28 (c) "Finance charge."

29 (d) "Payment schedule."

30 (e) "Total of payments."

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

35 **Sec. 22.** The provisions of this chapter apply to any person who  
36 seeks to evade its application by any device, subterfuge or pretense,  
37 including, without limitation, calling a loan by any other name or using  
38 any agents, affiliates or subsidiaries in an attempt to avoid the  
39 application of the provisions of this chapter.

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

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

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

46 **Sec. 24.** 1. The provisions of this chapter must be interpreted so  
47 as to effectuate their general purpose to provide for, to the extent  
48 practicable, uniform regulation of the loans and transactions that are  
49 subject to the provisions of this chapter.

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

53 **Sec. 25.** This chapter or any part thereof may be modified,  
54 amended or repealed by the Legislature so as to effect a cancellation or  
55 alteration of any license or right of a licensee under this chapter,  
56 provided that such cancellation or alteration shall not impair or affect  
57 the obligation of any preexisting lawful loan agreement between any  
58 licensee and any customer.

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

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

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

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

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

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

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

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

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

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

26    7. A pawnbroker, unless the pawnbroker operates a check-cashing  
27 service, deferred deposit loan service, short-term loan service or title loan  
28 service.

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

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

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

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

36    12. Any firm or corporation:

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

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

41     (c) Approved by the Department of Housing and Urban Development  
42 and the Department of Veterans Affairs.

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

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

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

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

53    ~~21.~~ The Commissioner may establish by regulation the fees that a  
54 licensee who provides check-cashing services may impose for cashing  
55 checks.

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

58    Sec. 29. 1. A person, including, without limitation, a person  
59 licensed pursuant to chapter 675 of NRS, shall not operate a check-

13 1 cashing service, deferred deposit loan service, ~~short-term loan service or~~  
 2 ~~title loan service unless the person is licensed with the Commissioner~~  
 3 ~~pursuant to the provisions of this chapter.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 2. The loan agreement must include, without limitation, the  
 48 following information:

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

50 (b) ~~The date of the loan;~~

51 (c) (b) The nature of the security for the loan, if any;

52 (d) (c) The date and amount of the loan obligation, including,  
 53 without limitation, an itemization of the interest, charges and fees the  
 54 customer must pay if the licensee makes a loan to the customer; amount  
 55 financed, annual percentage rate, finance charge, total of payments,  
 56 payment schedule, late fees and any other fees that are not required to be  
 57 included in the finance charge under the Truth in Lending Act and  
 58 Regulation Z;

~~(e) The description or schedule of payments on the loan;~~  
~~(f) (d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;~~  
~~(g) (e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;~~  
~~(h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and~~  
~~(i) Disclosures~~  
(f) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

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

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

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

**3.** Notwithstanding any provision of NRS 66.010 to the contrary, if:  
 (a) A licensee intends to commence a civil action in a justice's court against a customer to collect a debt; and  
 (b) The customer resides in the county where the loan was made,  
~~the licensee is required to commence the civil action in the justice's court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice's court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.~~

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

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

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

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

(a) Garnish 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:



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

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

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

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

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

22 (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.

23 Sec. 35. A licensee shall not:

24 1. Accept:

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

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

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

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

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

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

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

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

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

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

Sec. 36. A licensee shall not:

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

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

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22  
1 3. Make a title loan without requiring the customer to sign an  
2 affidavit which states that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 2. If a customer rescinds a loan pursuant to this section, the  
 5 licensee:

6 (a) Shall not charge the customer any fee for rescinding the loan;  
 7 and

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

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

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

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

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

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

25 (a) Give to the customer:

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

29 (2) ~~If the customer gave to the licensee a promissory note to~~  
 30 ~~initiate a short-term loan, the promissory note stamped "void" or a~~  
 31 ~~receipt stamped "paid in full"; 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.

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

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

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

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

52 (c) The date of the payment;

53 (d) The amount paid;

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

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

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

1     ~~Sec. 42. 1. The licensee and customer may enter into a repayment~~  
2 ~~plan if:~~  
3 ~~— (a) The customer defaults on the original loan, or any extension~~  
4 ~~thereof; or~~  
5 ~~— (b) Before such a default, the customer indicates that he is unable to~~  
6 ~~pay the original loan in full pursuant to the terms set forth in the~~  
7 ~~original loan agreement, or any extension thereof.~~  
8 ~~2. If the customer defaults on the original loan or any extension~~  
9 ~~thereof, or indicates that he is unable to pay in full the original loan or~~  
10 ~~any extension thereof, the licensee:~~  
11 ~~— (a) Shall provide written notice in English, if the initial transaction~~  
12 ~~was conducted in English, or in Spanish, if the initial transaction was~~  
13 ~~conducted in Spanish, to the customer of his right to enter into a~~  
14 ~~repayment plan; and~~  
15 ~~— (b) Shall not commence any civil action to collect on the outstanding~~  
16 ~~loan unless:~~  
17 ~~— (1) Such a notice has been sent to the customer; and~~  
18 ~~— (2) The customer fails to exercise his right to enter into a~~  
19 ~~repayment plan within 15 days after receipt of the notice.~~  
20 ~~3. If the licensee and customer enter into a repayment plan~~  
21 ~~pursuant to this section, the customer may pay the remaining balance on~~  
22 ~~the outstanding loan:~~  
23 ~~— (a) In four equal monthly installments; or~~  
24 ~~— (b) Under any other terms negotiated and agreed to by the licensee~~  
25 ~~and customer that comply with the provisions of this section.~~  
26 ~~4. If the licensee and customer enter into a repayment plan~~  
27 ~~pursuant to this section, the licensee shall:~~  
28 ~~— (a) Provide to the customer a document which confirms that the~~  
29 ~~customer has entered into a repayment plan and which states the date~~  
30 ~~and terms of the repayment plan; and~~  
31 ~~— (b) If the repayment plan is for a deferred deposit loan, return to the~~  
32 ~~customer the check or written authorization for an electronic transfer of~~  
33 ~~money that the customer used to initiate the deferred deposit loan, with~~  
34 ~~the check or written authorization stamped "void."~~  
35 ~~5. If the licensee and customer enter into a repayment plan~~  
36 ~~pursuant to this section, the licensee shall honor the terms of the~~  
37 ~~repayment plan, and the licensee shall not:~~  
38 ~~— (a) Charge any other amount to a customer, including, without~~  
39 ~~limitation, any amount or charge payable directly or indirectly by the~~  
40 ~~customer and imposed directly or indirectly by the licensee as an incident~~  
41 ~~to or as a condition of entering into a repayment plan. Such an amount~~  
42 ~~includes, without limitation:~~  
43 ~~— (1) Any interest, other than the interest charged pursuant to the~~  
44 ~~original loan agreement, regardless of the name given to the interest; or~~  
45 ~~— (2) Any origination fees, set-up fees, collection fees, transaction~~  
46 ~~fees, negotiation fees, handling fees, processing fees, late fees, default~~  
47 ~~fees or any other fees, regardless of the name given to the fee;~~  
48 ~~— (b) Accept any security or collateral from the customer to enter into~~  
49 ~~the repayment plan;~~  
50 ~~— (c) Sell to the customer any insurance or require the customer to~~  
51 ~~purchase insurance or any other goods or services to enter into the~~  
52 ~~repayment plan;~~  
53 ~~— (d) Make any other loan to the customer, unless the customer is~~  
54 ~~seeking multiple loans that do not exceed the limit set forth in subsection~~  
55 ~~1 of section 34 of this act; or~~  
56 ~~— (e) Commence a civil action against the customer during the term of~~  
57 ~~the repayment plan.~~

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

- ~~(a) The name and address of the licensee;~~
- ~~(b) The identification number assigned to the loan agreement or other information that identifies the loan;~~
- ~~(c) The date of the payment;~~
- ~~(d) The amount paid;~~
- ~~(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and~~
- ~~(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.~~

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

- (a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and
- (b) Is not required to make such an offer more than once for each loan.

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

- (a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;
- (b) State the date by which the customer must act to enter into a repayment plan;
- (c) Explain the procedures the customer must follow to enter into a repayment plan;
- (d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;
- (e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days from the date of default; and
- (f) Include the following amounts:
  - (1) The total of payments or the remaining balance on the original loan;
  - (2) Any payments made on the loan;
  - (3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and
  - (4) The total amount due if the customer enters a repayment plan.

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

- (a) The customer must enter into the repayment plan not later than 30 days from the date of default, unless the licensee allows a longer period;
- (b) The licensee must allow the period for repayment to extend at least 90 days from the date of default, unless the customer agrees to a shorter term;
- (c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;
- (d) For a deferred deposit loan:
  - (1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for the electronic transfer

1 of money which equal the total amount due under the terms of the  
 2 repayment plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (c) The date of the payment;

56 (d) The amount paid;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (a) The principal amount of the loan.

46 (b) The interest accrued before the expiration of the initial loan  
 47 period at the ~~annual percentage rate of interest~~ set forth in the disclosure  
 48 statement required by the ~~federal~~ Truth in Lending Act, ~~15 U.S.C. §§~~  
 49 ~~1601 et seq.~~ and Regulation Z that is provided to the customer. If there  
 50 is an extension or repayment plan relating to the loan, the licensee may  
 51 charge and collect interest pursuant to this paragraph for a period not to  
 52 exceed ~~8 weeks~~ 60 days after the expiration of the initial loan period.

53 (c) The interest accrued after the expiration of the initial loan period  
 54 or after any extension or repayment plan that is allowed pursuant to  
 55 paragraph (b), whichever is later, at ~~a rate of interest~~ an annual  
 56 percentage rate not to exceed the prime rate at the largest bank in  
 57 Nevada, as ascertained by the Commissioner, on January 1 or July 1, as  
 58 the case may be, immediately preceding the expiration of the initial loan  
 59 period, plus 10 percent. The licensee may charge and collect interest



1 pursuant to this paragraph for a period not to exceed ~~12 weeks~~ 90 days.  
 2 After that period, the licensee shall not charge or collect any interest on  
 3 the loan.

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

7 2. Except for the interest and fees permitted pursuant to subsection  
 8 1 and any other charges expressly permitted pursuant to this chapter, the  
 9 licensee shall not charge any other amount to a customer, including,  
 10 without limitation, any amount or charge payable directly or indirectly  
 11 by the customer and imposed directly or indirectly by the licensee as an  
 12 incident to or as a condition of the extension of the period for the  
 13 payment of the loan or the extension of credit. Such an amount includes,  
 14 without limitation:

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

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

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

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

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

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

32 Sec. 46. In addition to any other provision in this chapter, each  
 33 time a customer makes a payment to a licensee, the licensee shall give to  
 34 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. The balance due on the loan or, when the customer makes a final  
 41 payment, a statement that the loan is paid in full; and

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

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

48 2. The provisions of this section do not apply to the agent or  
 49 assistant to a state or federally chartered bank, thrift company, savings  
 50 and loan association or industrial loan company if the state or federally  
 51 chartered bank, thrift company, savings and loan association or  
 52 industrial loan company ~~AND~~ ~~INSTALLMENT~~ ~~LOAN~~ ~~AND~~

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

54 (b) Does not sell, assign or transfer a preponderant economic interest  
 55 in the loan to the agent or assistant or an affiliate or subsidiary of the  
 56 state or federally chartered bank, thrift company, savings and loan  
 57 association or industrial loan company, unless selling, assigning or  
 58 transferring a preponderant economic interest is expressly permitted by

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29 1 the primary regulator of the state or federally chartered bank, thrift  
2 company, savings and loan association or industrial loan company.\*

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

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

12 (a) If the applicant is a natural person, the name and address of the  
13 applicant.

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

16 (1) Partner;

17 (2) Officer;

18 (3) Director;

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

20 (5) Registered agent,

21 ↪ of the business entity.

22 (c) Such other information, as the Commissioner determines  
23 necessary, concerning the financial responsibility, background,  
24 experience and activities of the applicant and its:

25 (1) Partners;

26 (2) Officers;

27 (3) Directors; and

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

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

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

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

40 (a) A nonrefundable application fee;

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

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

45 ↪ All money received by the Commissioner pursuant to this subsection  
46 must be placed in the Investigative Account for Financial Institutions  
47 created by NRS 232.545.

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

50 4. The Commissioner shall consider an application to be withdrawn  
51 if the Commissioner has not received all information and fees required  
52 to complete the application within 6 months from the date the application  
53 is first submitted to the Commissioner or within such later period as the  
54 Commissioner determines in accordance with any existing policies of  
55 joint regulatory partners. If an application is deemed to be withdrawn  
56 pursuant to this subsection or if an applicant otherwise withdraws an  
57 application, the Commissioner may not issue a license to the applicant  
58 unless the applicant submits a new application and pays any required  
59 fees.

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

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

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

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

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

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

28 *(b) An endorsement, duly executed by the surety, reinstating the bond*  
29 *to the required principal sum.*

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

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

37 *(a) The death of the licensee or the dissolution or liquidation of his*  
38 *business; or*

39 *(b) The termination of the bond,*  
40 *whichever event occurs first.*

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

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

52 *(a) Interest-bearing stocks;*

53 *(b) Bills, bonds, notes, debentures or other obligations of the United*  
54 *States or any agency or instrumentality thereof, or guaranteed by the*  
55 *United States; or*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (b) The applicant has satisfied the requirements set forth in section  
 36 53.5 of this act.

37 2. If the Commissioner grants an application, the Commissioner  
 38 shall:

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

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

44 3. Each licensee shall prominently display his license at the location  
 45 where he does business. The Commissioner may issue additional licenses  
 46 to the same licensee for each branch location at which the licensee is  
 47 authorized to operate under the license, including, without limitation,  
 48 each branch location where the licensee is authorized to operate at a  
 49 kiosk, through the Internet, through any telephone, facsimile machine or  
 50 other telecommunication device or through any other machine, network,  
 51 system, device or means, except that the Commissioner shall not issue  
 52 any license that would authorize the licensee to operate through any  
 53 automated loan machine prohibited by section 29 of this act. Nothing in  
 54 this subsection requires a license for any place of business devoted to  
 55 accounting, recordkeeping or administrative purposes only.

56 4. Each license shall must:

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

58 (b) State fully:

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

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

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

5 5. A license is not transferable or assignable.

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

10 (a) A renewal fee; and

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

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

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

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

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

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

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

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

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

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

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

43 3. A licensee shall not:

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

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

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

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

56 (a) A mortgage broker if:

57 (I) The licensee and the mortgage broker:

58 (I) Maintain separate accounts, books and records;

59 (II) Are subsidiaries of the same parent corporation; and

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

(III) Maintain separate licenses; and

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

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12   (c) Be indebted to any licensee;

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

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

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

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

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

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

34   (a) Any licensee;

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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*  
 45 *order or judgment may be entered awarding a preliminary or final*  
 46 *injunction as may be deemed proper.*

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

57 **Sec. 68.** 1. *If the Commissioner has reason to believe that*  
 58 *grounds for revocation or suspension of a license exist, he shall give 20*

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

1 days' written notice to the licensee stating the contemplated action and,  
2 in general, the grounds therefor and set a date for a hearing.

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

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

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

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

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

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

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

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

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

25 (e) The licensee:

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

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

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

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

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

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

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

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

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

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

57 2. Personal service of summons upon a party outside this State is  
58 sufficient to confer upon a court of this State jurisdiction over the party  
59 so served if the service is made by delivering a copy of the summons,

1 together with a copy of the complaint, to the party served in the manner  
2 provided by statute or rule of court for service upon a person of like kind  
3 within this State.

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

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

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

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

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

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

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

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

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

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

29 Sec. 73.5. In addition to any other remedy or penalty, the  
30 Commissioner may impose an administrative fine of not more than  
31 \$10,000 upon a person who, without a license, conducts any business or  
32 activity for which a license is required pursuant to the provisions of this  
33 chapter.

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

39 1. (a) Actual and consequential damages;

40 2. (b) An additional amount, as statutory damages, which is equal to  
41 \$1,000 for each violation;

42 3. (c) Punitive damages, which are subject to the provisions of NRS  
43 42.005;

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

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

47 2. A licensee may not be held liable in any civil action brought  
48 pursuant to subsection 1 if the licensee proves, by a preponderance of  
49 evidence, that the violation:

50 (a) Was not intentional;

51 (b) Was technical in nature; and

52 (c) Resulted from a bona fide error, notwithstanding the  
53 maintenance of procedures reasonably adapted to avoid any such error.

54 3. For the purposes of subsection 2, a bona fide error includes,  
55 without limitation, clerical errors, calculation errors, computer  
56 malfunction and programming errors and printing errors, except that an  
57 error of legal judgment with respect to the licensee's obligations under  
58 this chapter is not a bona fide error.

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

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

Subsections 2 and 3 create an affirmative defense that is modeled after provisions in the federal Truth in Lending Act. See 15 U.S.C. § 1640(c).

1 598D.130 A mortgage, deed of trust or other instrument that  
 2 encumbers home property as security for repayment of a home loan must  
 3 expressly indicate in writing in *a size equal to at least 14-point bold type*  
 4 *on the front page of the mortgage, deed of trust or other instrument that*  
 5 *the home loan is a home loan as defined in NRS 598D.040 [and is*  
 6 *subject to the provisions of § 152 of the Home Ownership and Equity*  
 7 *Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations*  
 8 *adopted by the Board of Governors of the Federal Reserve System*  
 9 *pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.*

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

11 41.620 1. ~~Any~~ Except as otherwise provided in section 45 of this  
 12 act, any person who:

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

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

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

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

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

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

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

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

31 232.545 1. An Investigative Account for Financial Institutions is  
 32 hereby created in the State General Fund. The Account consists of money  
 33 which is:

34 (a) Received by the Department of Business and Industry in connection  
 35 with the licensing of financial institutions and the investigation of persons  
 36 associated with those institutions; and

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

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

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

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

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

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

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

53 1. Except as otherwise provided in this section, in a county whose  
 54 population is less than 100,000, each governing body shall adopt zoning  
 55 regulations which restrict to specific districts within the geographical  
 56 jurisdiction of the governing body the construction, reconstruction,  
 57 alteration, repair or use of buildings, structures or land of a business  
 58 that operates a check-cashing service, deferred deposit loan service,

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

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

32 (1) short-term loan service or title loan service pursuant to sections 2 to 74,  
 2 inclusive, of this act.

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

6 3. If, on July 1, 2005, a governing body has in effect zoning  
 7 regulations which include the type of restrictions described in subsection  
 8 1, the governing body shall be deemed to be in compliance with this  
 9 section so long as those zoning regulations remain in effect and are not  
 10 amended in manner that conflicts with this section.

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

12 278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive,  
 13 and section 76.3 of this act, the governing body may divide the city,  
 14 county or region into zoning districts of such number, shape and area as  
 15 are best suited to carry out the purposes of NRS 278.010 to 278.630,  
 16 inclusive ~~+~~, and section 76.3 of this act. Within the zoning district it may  
 17 regulate and restrict the erection, construction, reconstruction, alteration,  
 18 repair or use of buildings, structures or land.

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

- 21 (a) To preserve the quality of air and water resources.
- 22 (b) To promote the conservation of open space and the protection of
- 23 other natural and scenic resources from unreasonable impairment.
- 24 (c) To provide for recreational needs.
- 25 (d) To protect life and property in areas subject to floods, landslides
- 26 and other natural disasters.
- 27 (e) To conform to the adopted population plan, if required by NRS
- 28 278.170.

29 (f) To develop a timely, orderly and efficient arrangement of  
 30 transportation and public facilities and services, including facilities and  
 31 services for bicycles.

32 (g) To ensure that the development on land is commensurate with the  
 33 character and the physical limitations of the land.

34 (h) To take into account the immediate and long-range financial impact  
 35 of the application of particular land to particular kinds of development, and  
 36 the relative suitability of the land for development.

37 (i) To promote health and the general welfare.

38 (j) To ensure the development of an adequate supply of housing for the  
 39 community, including the development of affordable housing.

40 (k) To ensure the protection of existing neighborhoods and  
 41 communities, including the protection of rural preservation neighborhoods.

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

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

52 5. As used in this section:

53 (a) "Density bonus" means an incentive granted by a governing body  
 54 to a developer of real property that authorizes the developer to build at a  
 55 greater density than would otherwise be allowed under the master plan, in  
 56 exchange for an agreement by the developer to perform certain functions  
 57 that the governing body determines to be socially desirable, including,  
 58 without limitation, developing an area to include a certain proportion of  
 59 affordable housing.

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

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

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

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

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

(b) Any person primarily engaged in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) Investing; or

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

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

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

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

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

13 645B.0119 "Financial services license or registration" means any  
14 license or registration issued in this State or any other state, district or  
15 territory of the United States that authorizes the person who holds the  
16 license or registration to engage in any business or activity described in the  
17 provisions of this chapter, *title 55 or 56 of NRS or chapter 604,* 645,  
18 645A, 645C, 645E or 649 of NRS or ~~title 55 or 56 of NRS,~~ *sections 2 to*  
19 *74, inclusive, of this act.*

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

21 658.098 1. On a quarterly or other regular basis, the Commissioner  
22 shall collect an assessment pursuant to this section from each:

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

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

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

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

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

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

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

38 (h) Savings and loan association that is supervised pursuant to chapter  
39 673 of NRS;

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

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

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

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

47 2. The Commissioner shall determine the total amount of all  
48 assessments to be collected from the entities identified in subsection 1, but  
49 that amount must not exceed the amount necessary to recover the cost of  
50 legal services provided by the Attorney General to the Commissioner and  
51 to the Division of Financial Institutions. The total amount of all  
52 assessments collected must be reduced by any amounts collected by the  
53 Commissioner from an entity for the recovery of the costs of legal services  
54 provided by the Attorney General in a specific case.

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

57 (a) A portion of the total amount of all assessments as determined  
58 pursuant to subsection 2, such that the assessment collected from an entity  
59 identified in subsection 1 shall bear the same relation to the total amount of

1 all assessments as the total assets of that entity bear to the total of all assets  
2 of all entities identified in subsection 1; or

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

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

7 5. Money collected by the Commissioner pursuant to this section  
8 must be deposited in the State Treasury pursuant to the provisions of NRS  
9 658.091.

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

11 675.040 This chapter does not apply to:

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

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

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

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

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

24 6. Except as otherwise provided in this subsection, any firm or  
25 corporation:

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

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

30 (c) Approved by the Department of Housing and Urban Development  
31 and the Department of Veterans Affairs.

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

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

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

38 ~~10. A person licensed to do business pursuant to sections 2 to 74,~~  
39 ~~inclusive, of this act with regard to those services regulated pursuant to~~  
40 ~~sections 2 to 74, inclusive, of this act.~~

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

42 675.060 1. No person may engage in the business of lending in this  
43 State without first having obtained a license from the Commissioner  
44 pursuant to this chapter for each office or other place of business at which  
45 the person engages in such business ~~but~~, *except that if a person intends to*  
46 *engage in the business of lending in this State as a deferred deposit loan*  
47 *service, short-term loan service or title loan service, as those terms are*  
48 *defined in sections 2 to 74, inclusive, of this act, the person must obtain a*  
49 *license from the Commissioner pursuant to sections 2 to 74, inclusive, of*  
50 *this act before the person may engage in any such business.*

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

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

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



25  
1 **Sec. 82.** NRS 604.010, 604.020, 604.030, 604.040, 604.050,  
2 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130,  
3 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180  
4 and 604.190 are hereby repealed.

5 **Sec. 83.** 1. If a person:

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

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

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

17 2. A person described in subsection 1 shall:

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

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

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

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#### LEADLINES OF REPEALED SECTIONS

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- 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 snrety 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.

- 33 -

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\_R1\*

36

702-460-1113

**Attention: Chairman Senator Townsend**

**PROPOSED LEGISLATION REGARDING THE PAYDAY LOAN INDUSTRY**

Comments from Sandra Perry, Owner Money Express Catalog Sales, Inc/ Cash Express

**PROPOSED LEGISLATION REGARDING THE PAYDAY LOAN INDUSTRY Re: AB 384**

Comments from Money Express Catalog Sales, Inc/ Cash Express Points of Concern

**AB 384 Sec 39**

**Question Why in the world should our industry be forced to hand out FREE MONEY for a period of up to four days?**

I have read the profiles of those of you sitting on the committee and it is obvious that you are intelligent business minded people well aware of the challenges we, as small business owners, face in today's competitive market. For those of us operating under 675 and 604, we have our own unique challenges to try to weed out customers who intend to deceive us. Now are you asking us to give out free money for a period of up to four days in PARTY CITY?

If I were a customer I could pick up \$500.00 from Cash Express on Friday go to a couple of shows on the strip and a nice dinner at Roy's, then go to Fast Check on Monday, take out a loan for \$500. and pay Cash Express on Monday evening all interest free. I could continue this scenario, using money for free, until it finally caught up with me and I would finally have to pay someone, interest free, from my own pocket.

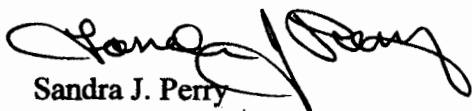
**Personally, since I prorate interest on a daily basis I have a lot of customers that borrow money for one or two days. Now, I will lose this income due to this bill. Lending money for a short term is something my customer is grateful for. It is a matter of giving good customer service and he is more than willing to pay for this convenience. Now with this law he can use this money for free and I lose my profit and the state loses it's taxes on it. This is totally unfair to everyone. Is any other financial institution in this city faced with this burden???**

**Possible Solution**

**The elimination of Section 39**

I spoke with Ms. Buckley last week and I found her to be sensitive to our needs and truly concerned with the elimination of the bad apples within the industry. I compliment her on her hard work and dedication. Yes, we need to weed out those among us who give our industry a bad name. Hopefully, those of you on the committee here today will give the bill your utmost consideration and vote only for the bill if it, indeed, eliminates the practices of the bad guys and leaves room for those of us who operate with integrity to continue giving good customer service and receiving a fair profit for our risk.

Respectfully submitted,

  
Sandra J. Perry

**KEYSTONE FINANCIAL GROUP LLC**

4821 Spring Mountain Road  
Las Vegas, Nevada 89102

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

May 11, 2005  
Fax 775-684-1341  
One Page

Senator Randolph J. Townsend  
401 South Carson Street  
Carson City, NV 89701

Re: AB 384

Dear Senator Townsend,

We are a long time NRS 675 Licensee in the Installment Loan business here in southern Nevada. AB 384 which was originally directed at NRS 604 Licensees (Payday Loan Companies), has now been amended to the point where it can have an extremely adverse impact on Installment Loan Companies, their employees and customers.

I am traveling to Reno today to attend the AB 384 hearing on Thursday, and I urge you to not let this Bill out of Committee prematurely. I hope to have an opportunity to speak with you tomorrow and I am available on my cell phone anytime at 702-496-8400.

Thank you for your consideration.

Sincerely,



Mark R. Mowatt  
President & CEO

**KEYSTONE FINANCIAL GROUP LLC**

4821 Spring Mountain Road  
Las Vegas, Nevada 89102

**COPY**

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

May 16, 2005

Chairman Townsend, Vice Chairman Hardy and  
Members of the Senate Commerce and Labor Committee  
Nevada Legislature  
Carson City, Nevada

Re: Testimony at Public Hearing for AB 384

Dear Senators:

I am here representing my Company and our employees and customers. We are an established NRS 675 Installment Loan Company with a large customer base in southern Nevada. My remarks today will be limited to my concerns with AB 384 as it effects NRS 675 Licensees, since that is the business we know and for which we are licensed.

AB 384, which has been widely promoted and represented in the Press and elsewhere as a Bill relating to NRS 604 Licensees(Check Cashers and Payday Loan Co's), actually proposes to merge the licensing and regulatory requirements of Check Cashers and Payday Loan Co's with all NRS 675 Loan and Finance Companies offering interest rates over 40% APR and payment terms less than 18 months. However, I respectfully submit that there is no logic what so ever in this proposed regulatory consolidation of these two types of licenses, which authorize and regulate very different types of financial products and services.

To illustrate just a few examples of the unreasonable, possibly unintended and potentially devastating effect AB 384 could have on many NRS 675 Licensees, their employees and customers, let me use our own business as an example. We offer installment loans, personal credit lines, consolidation loans, and equipment financing, to both personal and small business customers. We service the B/C credit market, which is not the lowest end of the market, but still typically includes personal customers and small businesses that for one reason or another either don't qualify for conventional bank financing, or prefer not to use conventional bank financing. Most of our personal customers are in the medium income range between \$35,000 and \$65,000 per year, and most

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of our small business customers are owner/operators, with under \$2 million in sales. Our loan period can vary from a per diem revolving credit line up to a 48 month repayment schedule. We don't offer check cashing, payday loans or deferred deposit loans. Most of our personal loan volume is in loans between \$1,000 and \$10,000. We also offer small business equipment financing up to \$30,000. These are obviously quite different markets from those served by the NRS 604 Licensees. I think you will be surprised to find out, I know I was, that these types and sizes of NRS 675 loans that have served our market and our customers so well for many years, would be outlawed by AB 384, as it's proposed!

Let me explain. First of all, AB 384 does effectively include an exemption for NRS 675 Licensees offering interest rates of not more than 40% APR. That takes care of credit card companies and the conventional consumer credit companies who cater to high credit customers. While many of our customers have fair credit, typically they still can't qualify with the higher end conventional lenders, and at the same time, short term rates for unsecured loans have to be somewhat above 40% APR in order for any lender to serve this middle market, and stay in business. While there is much language in AB 384 which would be highly inappropriate for regulating the wide variety of loan products offered by NRS 675 Licensees, I will give you just a few examples that will illustrate that this Bill as proposed would unreasonably and dramatically impact many NRS 675 Licensees such as us, as well as hundreds of NRS 675 employees and the thousands of regular NRS 675 customers, who rely from time to time, on this financing to meet their personal or small business needs.

First of all AB 384 would limit the size of any short term loan to 25% of the customer's monthly gross income (384.34.1). That would mean that for any personal customer to qualify for an NRS 675 loan of \$2,000, they would be required to have a minimum of \$8,000 in monthly income. For a \$5,000 loan, the customer would be required to have \$20,000 in monthly income, etc. Obviously, that income requirement is neither reasonable or possible and would deny not only new applicants a loan, but also prevent many of our existing long term NRS 675 customers from using their established credit line.

As a second example, AB 384 would prohibit any NRS 675 Licensee from accepting collateral for a loan other than a vehicle title(384.35.1(a)). That provision, in one fell swoop, would wipe out all NRS 675 small business equipment financing, because of course, without using the equipment as

May 16, 2005  
Chairman Townsend, et al  
Page Three

collateral, along with their personal guarantee, the customer typically could not qualify for any type of equipment loan. This restriction would also eliminate the financing of mobile homes by NRS 675 Licensees, which is currently an approved loan product. It would also eliminate most all home appliance and home furniture financing by NRS 675 Licensees, as well as any type of small business financing where collateral, as well as a personal guarantee, is required to qualify for the loan, and where the customer can't qualify for an APR less than 40.

In summary, I would submit that the existing NRS 675 Statute as administered and enforced by our Financial Institutions Division has served the State and the public very well. Furthermore, I think it is clear that any particular issues or concerns that may have been the impetus for AB 384 were not derived from any shortcomings in NRS 675. From time to time over the years, NRS 675 has been amended through the legislative process, and that can certainly be the case in the future, if it is deemed that changes are needed.

What I urge you not to do, is to allow NRS 675 to be arbitrarily rolled into AB 384. As noted above, this could have an unanticipated, wide ranging and very negative impact on the many dozens of NRS 675 Licensees, their hundreds of employees and thousands of both long term and new customers and small businesses, who rely on the wide variety of financing products and services that only the NRS 675 Licensees provide.

Marked copies of the May 12<sup>th</sup> reprint of AB 384 deleting the references to NRS 675 have been provided to you, and I urge you to remove any reference to NRS 675 from this proposed bill.

I would be happy to answer any questions. Thank you.

Sincerely,



Mark R. Mowatt  
President & CEO

cc: Committee members  
Assemblywoman Barbara Buckley

H-4

# MOCK-UP

## PROPOSED AMENDMENT TO ASSEMBLY BILL NO. 186 SECOND REPRINT

PREPARED FOR SENATE COMMITTEE ON COMMERCE AND LABOR  
MAY 13, 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.** NRS 616A.430 is hereby amended to read as follows:
- 2 616A.430 1. There is hereby established in the State Treasury the
- 3 Uninsured Employers' Claim Account in the Fund for Workers'
- 4 Compensation and Safety, which may be used only for the purpose of
- 5 making payments in accordance with the provisions of NRS 616C.220
- 6 ~~[and 617.401.]~~, *617.401 and section 2 of this act.* The Administrator shall
- 7 administer the Account and shall credit any excess money toward the
- 8 assessments of the insurers for the succeeding years.
- 9 2. All assessments, penalties, bonds, securities and all other properties
- 10 received, collected or acquired by the Administrator for the Uninsured
- 11 Employers' Claim Account must be delivered to the custody of the State
- 12 Treasurer.
- 13 3. All money and securities in the Account must be held by the State
- 14 Treasurer as custodian thereof to be used solely for workers'
- 15 compensation.
- 16 4. The State Treasurer may disburse money from the Account only
- 17 upon written order of the State Controller.

**\*PROPOSED**

EXHIBIT I Senate Committee on Commerce/Labor  
Date: 5-16-05 Page 1 of 4



1 5. The State Treasurer shall invest money of the Account in the same  
 2 manner and in the same securities in which he is authorized to invest  
 3 money of the State General Fund. Income realized from the investment of  
 4 the assets of the Account must be credited to the Account.

5 6. The Administrator shall assess each insurer, including each  
 6 employer who provides accident benefits for injured employees pursuant  
 7 to NRS 616C.265, an amount to be deposited in the Uninsured Employers'  
 8 Claim Account. To establish the amount of the assessment, the  
 9 Administrator shall determine the amount of money necessary to maintain  
 10 an appropriate balance in the Account for each fiscal year ~~including,~~  
 11 ~~without limitation, any amount of money that the Administrator has~~  
 12 ~~determined is required to fund the payments required pursuant to section~~  
 13 ~~2 of this act,~~ and shall allocate a portion of that amount to be payable by  
 14 private carriers, a portion to be payable by self-insured employers, a  
 15 portion to be payable by associations of self-insured public or private  
 16 employers and a portion to be payable by the employers who provide  
 17 accident benefits pursuant to NRS 616C.265, based upon the expected  
 18 annual expenditures for claims of each group of insurers. ~~[After]~~ *Except as*  
 19 *otherwise provided in section 2 of this act, after* allocating the amounts  
 20 payable, the Administrator shall apply an assessment rate to the:

21 (a) Private carriers that reflects the relative hazard of the employments  
 22 covered by the private carriers, results in an equitable distribution of costs  
 23 among the private carriers and is based upon expected annual premiums to  
 24 be received;

25 (b) Self-insured employers that results in an equitable distribution of  
 26 costs among the self-insured employers and is based upon expected annual  
 27 expenditures for claims;

28 (c) Associations of self-insured public or private employers that results  
 29 in an equitable distribution of costs among the associations of self-insured  
 30 public or private employers and is based upon expected annual  
 31 expenditures for claims; and

32 (d) Employers who provide accident benefits pursuant to NRS  
 33 616C.265 that reflects the relative hazard of the employments covered by  
 34 those employers, results in an equitable distribution of costs among the  
 35 employers and is based upon expected annual expenditures for claims.

36 ➤ The Administrator shall adopt regulations for the establishment and  
 37 administration of the assessment rates, payments and any penalties that the  
 38 Administrator determines are necessary to carry out the provisions of this  
 39 subsection. As used in this subsection, the term "group of insurers"  
 40 includes the group of employers who provide accident benefits for injured  
 41 employees pursuant to  
 42 NRS 616C.265.

43 7. The Commissioner shall assign an actuary to review the  
 44 establishment of assessment rates. The rates must be filed with the  
 45 Commissioner 30 days before their effective date. Any insurer who wishes

- 3 -

1 to appeal the rate so filed must do so pursuant to  
2 NRS 679B.310.

3 **Sec. 2.** Chapter 616C of NRS is hereby amended by adding thereto a  
4 new section to read as follows:

5 **1. If a claimant or a dependent of a claimant is entitled to receive**  
6 **compensation pursuant to chapters 616A to 617, inclusive, of NRS for a**  
7 **permanent total disability and the claimant or dependent is not entitled to**  
8 **an annual increase in that compensation pursuant to NRS 616C.473, the**  
9 **claimant or dependent is entitled to an annual payment for that**  
10 **permanent total disability in an amount determined by the Administrator**  
11 **pursuant to subsection 4, but such annual payments may not exceed**  
12 **\$1,200 per claimant or dependent. The total payments made pursuant to**  
13 **this section may not exceed \$500,000 per year.**

14 **2. Each year the Administrator shall withdraw from the Uninsured**  
15 **Employers' Claim Account established pursuant to NRS 616A.430 an**  
16 **amount of the income realized from the investment of the assets in the**  
17 **Account that is necessary to fund the payments calculated pursuant to**  
18 **subsection 43. ~~If there is not sufficient income realized from the~~**  
19 **~~investment of the assets in the Account to fund all the payments for the~~**  
20 **~~year, the Administrator shall assess to each insurer, including each~~**  
21 **~~employer who provides accident benefits for injured employees pursuant~~**  
22 **~~to NRS 616C.265, an amount that, as determined by the Administrator, is~~**  
23 **~~required to obtain the amount necessary to fund the payments when such~~**  
24 **~~assessments are combined with the income realized from the investment~~**  
25 **~~of the assets in the Account. Any money collected by the Administrator~~**  
26 **~~from the assessment must be accounted for separately by the~~**  
27 **~~Administrator.~~**

28 **~~3. An insurer who pays an assessment pursuant to this section shall~~**  
29 **~~charge and collect from each policyholder of the insurer a fee to cover~~**  
30 **~~the amount of the assessment. Such a fee is in addition to any premium~~**  
31 **~~charged to the policyholder for industrial insurance and must not be~~**  
32 **~~included in the amount of any such premium. The insurer shall bill the~~**  
33 **~~policyholder separately for the fee or include the fee as a separate charge~~**  
34 **~~on the policy. The Administrator may reduce the amount of the~~**  
35 **~~assessment that an insurer must pay to the Uninsured Employers' Claim~~**  
36 **~~Account pursuant to NRS 616A.430 by the amount assessed by the~~**  
37 **~~Administrator to the insurer pursuant to this section.~~**

38 **43. The Administrator shall adopt regulations establishing a method**  
39 **for the equitable distribution of the money collected from the assessment**  
40 **interest income withdrawn pursuant to this section. The regulations must**  
41 **provide for payments that result in the largest proportional share of the**  
42 **money collected from the assessment being paid to claimants and**  
43 **dependents who receive the lowest amount of compensation pursuant to**  
44 **chapters 616A to 617, inclusive, of NRS for the permanent total**

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1 *disability. The Administrator may adopt any other regulations that are*  
2 *necessary to carry out the provisions of this section.*

3 *5. The Administrator shall make the payment required by this*  
4 *section to each claimant and dependent of the claimant who is entitled to*  
5 *the payment not later than October 1 of each year. Any payment received*  
6 *by the claimant or dependent of the claimant pursuant to this section is*  
7 *in addition to any compensation to which the claimant or dependent of*  
8 *the claimant is otherwise entitled by law.*

9 **Sec. 3.** This act becomes effective on July 1, 2005.

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**\*PROPOSED AMENDMENT TO AB186\_R2\***

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

**Seventy-third Session  
May 18, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:04 a.m. on Wednesday, May 18, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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

**STAFF MEMBERS PRESENT:**

Kelly S. Gregory, Committee Policy Analyst  
Kevin Powers, Committee Counsel  
Donna Winter, Committee Secretary  
Scott Young, Committee Policy Analyst  
Jeanine M. Wittenberg, Committee Secretary

**OTHERS PRESENT:**

Fred L. Hillerby, MasterCard International, Incorporated; Washoe County  
Regional Transportation Commission  
Michael Tanchek, Labor Commissioner, Office of Labor Commissioner,  
Department of Business and Industry

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CHAIR TOWNSEND:

Senator Carlton, would it make you more comfortable to put in an application fee of "not more than" with a higher number and letting the SBOC establish a higher renewable fee of "not more than"?

SENATOR CARLTON:

Those numbers will be fine and I do not think we should treat one group of people differently.

CHAIR TOWNSEND:

We know what we are trying to accomplish with this bill.

MR. POWERS:

"I will work on the language."

SENATOR CARLTON:

We did not discuss section 2, subsection 1. I want to point out those language changes to the Committee. If A.B. 250 passes, there will be a conflict with that language.

CHAIR TOWNSEND:

We should leave it and deal with the conflict amendment if we need to do so.

SENATOR TIFFANY MOVED TO AMEND AND DO PASS A.B. 496.

SENATOR HECK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:

We will now hear A.B. 384. We have four mock-up amendments (Exhibit P), (Exhibit Q), (Exhibit R) and (Exhibit S). I have a recommended change for Exhibit P. I do not like the 18 months and would recommend that we go back to one year. Are there any more amendments for this bill?

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

MR. POWERS:

... The two documents we have, one is a larger document dated May 16, 2005 [Exhibit P] and one is a smaller mini mock-up dated May 16, 2005 [Exhibit Q]. We will call these the purple changes. ... What you are being passed out are two other documents, one done in pink [Exhibit R] and one done in orange [Exhibit S]. ... What the pink represents is an additional proposed revision that [Assemblywoman] Buckley worked out with members of the industry. What the orange represents is Keith Lee's proposed revisions based on his discussions with the auto-title loan industry. ... [Assemblywoman] Buckley has seen and approved those as well. ... Just for the record, all four documents could be fused together without any difficulty ... .

CHAIR TOWNSEND:

I would like Assemblywoman Buckley to explain the amendments to the Committee.

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

There are two types of lenders still working on this bill: those who are convinced that change is necessary and those who continue to obfuscate.

Those convinced that change is necessary continue to work with us and legal counsel to ensure well-crafted bill language. That is what is represented in Exhibit Q and Exhibit R. These amendments do not conflict. We have worked arduously on this with the interested parties and that is why there are so many continued refinements to the original bill.

SENATOR HARDY:

You spoke about Exhibit R, and we also have one from Mr. Lee, Exhibit S. Did you want to address Mr. Lee's exhibit, or do you want him to explain it?

ASSEMBLYWOMAN BUCKLEY:

I worked with Mr. Lee and support his amendment.

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KEITH LEE (Consumer Lending Alliance):

My clients have signed off on the amendments that Assemblywoman Buckley has presented today.

CHAIR TOWNSEND:

Ms. Tidd, have you had time to review the amendments proposed by Assemblywoman Buckley?

CAROL TIDD (Commissioner, Division of Financial Institutions, Department of Business and Industry):

I was just now given a copy and have not had time to review the amendments.

CHAIR TOWNSEND:

When this bill is processed and reprinted, we would like you to provide us with your opinion on your role and how things will be dealt with based on the new policy.

MS. TIDD:

I have no problem supporting that.

CHAIR TOWNSEND:

There was also another mock-up amendment (Exhibit T) brought forth from another faction of the industry. I have not reviewed that. Assemblywoman Buckley, have you seen that amendment?

ASSEMBLYWOMAN BUCKLEY:

I did receive a copy of Exhibit T yesterday. This gentleman had two issues. His first issue was that he thought the loan-to-value ratio on the income was not clear or could hurt his business. That was already corrected in Exhibit R. The second issue was that he loans to small businesses and manufactured homes in excess of 40 percent. He felt this would hurt the ability to do high-cost loans. I believe this individual was invited to our meetings throughout the last 18 months and never attended. To him I say: do not pile on illegal charges, offer a written agreement that states terms and do not threaten to imprison or criminalize someone when they cannot pay their debt.

Our working group has met over the last 18 months and has addressed every legitimate concern raised.

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CHAIR TOWNSEND:

People work very diligently on bills like this in the 18-month interim period. We will always try to be respectful and considerate to those who bring forth amendments in the last hour, but there has been a process going on for two years.

Ms. Tidd, the goal is for you to tell us exactly how you plan to deal with this for the future. We need to make sure your Division implements and uses the law to benefit the public.

MS. TIDD:

That was one of the reasons that S.B. 431 came forward. It would give us some authority for fining capability and we are considering personnel changes to allow us to get out into the field. We have had some breakthroughs on hiring. Right now we are budgeted for additional staff and I think the fining capability will help things immensely.

**SENATE BILL 431 (1st Reprint):** Makes various changes to provisions governing financial institutions and related business entities. (BDR55-361)

CHAIR TOWNSEND:

You know who are the bad actors. If there is a trend, you need to exercise your authority. We want people to change behavior and play by the rules.

ASSEMBLYWOMAN BUCKLEY:

I have meetings scheduled with someone from the Office of the Governor and Ms. Tidd on the topic of enforcement.

SENATOR CARLTON:

We are substituting the word "licensee" with "person" under section 74 of Exhibit P. Is that person really the licensee and we are just changing the name?

MR. POWERS:

... The change from licensee to person was done as a drafting change by the Legal Division in this mock-up. ... The reason being is that one of the sections that section 74 covers, ... section 29, deals with unlicensed activity and so a person who is engaging in unlicensed activity would not be a licensee. ... The change to person was too broad in scope to



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make sure because a licensee is a person. There is no escaping that. ... If the Committee is more comfortable, I certainly could return to any licensee or other person. ... Person captures the licensee and the idea was to make sure, since section 29 dealt with unlicensed individuals, that the term person captured those individuals as well.

ASSEMBLYWOMAN BUCKLEY:

I do not have a problem with the language "person."

CHAIR TOWNSEND:

I think it is better.

ASSEMBLYWOMAN BUCKLEY:

If you are working with Exhibit P, we could go through the eggplant colored changes that I had never seen before. Basically, there was an addition of a \$25 bad-check fee to people who do not use checks. I did not approve of that. Twenty five dollars is for bad checks and if you do not use a bad check, you do not get the money. That seemed very clear to me. In the damaged section which is section 74, this was one of the most contested sections of the bill. The original section that everybody had agreed on, two days later no one agreed on it. This is when the substituted eggplant colored language in Exhibit P was submitted. I watered it down so much; I do not think it is effective anymore. We met again yesterday and had e-mail correspondences this morning and I think we have come to an agreement to combine Exhibit P and Exhibit Q in a way that will work for us and the good lenders.

CHAIR TOWNSEND:

Would it be your intention to offer that so we could put that as an amendment on the floor or would you want to do that in conference?

ASSEMBLYWOMAN BUCKLEY:

However you prefer to do it.

CHAIR TOWNSEND:

The reason I want to move this bill today is to give Mr. Powers the necessary time to complete this. We may later find some technical things we would want to adjust after all of the amendments come together in the bill.

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SENATOR TIFFANY:

In section 74, it appears as if in a civil penalty there can be actual consequential damages. There is also a statutory damage. Could you explain those?

ASSEMBLYWOMAN BUCKLEY:

Actual and consequential damages usually reflect out-of-pocket expenses. Punitive damages follow our punitive-damages statutes. If it is an intentional, willful action and you can prove that, you will be awarded damages. If the court deems legal and equitable relief, it would be related to garnishing wages. Statutory damages are utilized by the Legislature when sometimes those other damages are elusive.

MR. POWERS:

I agree with ... [Assemblywoman] Buckley's assessment that the type of damages that you are talking about, Senator Tiffany, flow from tort to personal injuries. ... These damages flow from a contract. Essentially, what consequential damages are under a contract action are damages that were reasonably foreseeable from the contractual relationship. For example: If you ... had a construction contract and one party breached the construction contract requiring the other party to go out and get a new contractor and pay a higher price, that would be a foreseeable consequence of the breach of contract and therefore be consequential damages. In the case of these types of lenders, [they] would be any damages that were reasonably foreseeable from the lender's actions. So if the lender was engaging in abusive credit practices that resulted in the loss of the employee's ability to go to work for a few days, those would be a reasonably foreseeable consequence of the abusive lender's practices.

SENATOR TIFFANY:

Can it go as far as he loses his car, gets a divorce and the whole family is disrupted on consequential damages?

ASSEMBLYWOMAN BUCKLEY:

No. That is a different type of damage that is not applicable here.

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SENATOR TIFFANY:

It appears that no matter what happens, if you go to court, you would end up paying.

ASSEMBLYWOMAN BUCKLEY:

These items are available in most actions. They are specified in this bill.

SENATOR TIFFANY:

Will there be changes to section 74?

ASSEMBLYWOMAN BUCKLEY:

Yes, we are going to see the amendments melded together. We want the penalties to be used as a tool to weed out the bad actors.

CHAIR TOWNSEND:

Legal counsel has indicated that Exhibit P, Exhibit Q, Exhibit R and Exhibit S do not conflict, and we would anticipate language from the sponsor of the bill regarding section 74. I still think one year is sufficient under the definition of a short-term loan. Eighteen months starts to get into a gray area.

SENATOR CARLTON:

I do not think we discussed Exhibit Q.

CHAIR TOWNSEND:

Assemblywoman Buckley brought Exhibit Q for purposes of clarifying a number of areas; I think she did an excellent job.

ASSEMBLYWOMAN BUCKLEY:

Exhibit Q is what I presented at a previous hearing, and I agreed with and approved those changes.

The only other question I have is in Exhibit P, section 44.5, which allows the onetime late fee and the insufficient-funds fee of \$25. I believe everyone has agreed to remove that.

CHAIR TOWNSEND:

We are talking about removing section 44.5 from the mock-up amendment Exhibit P. Assemblywoman Buckley and the industry will bring back language

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on section 74. We will meld Exhibit P, Exhibit Q, Exhibit R, and Exhibit S into this as well as the change in section 17 under definition of a short-term loan.

MR. POWERS:

... There is just one more change discussed ... in the larger purple mock-up [Exhibit P] for the [section] 16. That is page 32, and it is the change in the transitory language. ... I just want the Committee to be aware that this language here changes the transitory [language] slightly allowing an individual licensee to request approval from the commissioner to extend compliance deadlines to January 1, 2006, for certain components of the bill.

CHAIR TOWNSEND:

That has to do with, "requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner"?

MR. POWERS:

"That is correct."

ASSEMBLYWOMAN BUCKLEY:

I am supportive of that as long as it is understood that substantive portions of the bill and the consumer protections are going into effect July 1, 2006, but also allow a company to present their case if there is a major problem.

CHAIR TOWNSEND:

Is there someone who the State is comfortable with when they read a Hispanic contract? Is it the same as one that is presented in English? How do we deal with that?

ASSEMBLYWOMAN BUCKLEY:

It will be more difficult because we have a uniform retail-installment contract that is set forth in the *Nevada Administrative Code* with regard to vehicles. We found someone to translate and everyone felt comfortable with it. I tried to get a uniform contract on payday loans, because it would prevent the imaginative variations, but the industry was not willing to agree to that. That is not required and I think will be problematic in that we will still have 175 different versions of payday loan contracts. It will be tougher for the commissioner of financial institutions. My guess is, in a practical sense, what will happen is the

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company will utilize its best efforts to have an interpreter translate. It will be up to the consumer to complain to the commissioner if it does not meet acceptable standards.

CHAIR TOWNSEND:

In the interim, we can encourage the industry to do what the vehicle industry does, because it is good for consumers and there is no misunderstanding over what is in the contract.

I would recommend that we take the three amendments from Assemblywoman Buckley, remove section 42.5, wait for the language on section 74 and change the short-term loan from 18 months to 1 year.

SENATOR SCHNEIDER MOVED TO AMEND AND DO PASS A.B. 384.

SENATOR LEE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

SENATOR SCHNEIDER:

I do not know why, when we have the lowest interest rates in three generations, these businesses are so profitable. I think over the interim we need to look at the real estate market softening, the possible rate of foreclosure and the impact of that to this industry.

CHAIR TOWNSEND:

We will now hear A.B. 540. The mock-up amendment (Exhibit U) before us deals with a narrowing of standards and procedures of operating a crane. The language change begins on the bottom of page 1, subsection 2. I would like the definition of this lifting device.

**ASSEMBLY BILL 540 (1st Reprint)**: Revises provisions governing certification of crane operators. (BDR 53-1341)

## DISCLAIMER

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Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

## REVISED MOCK-UP

# PROPOSED AMENDMENT TO ASSEMBLY BILL NO. 384 FIRST REPRINT

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

PREPARED BY THE LEGAL DIVISION

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

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

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

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

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

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

*(a) Is automated;*

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

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

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

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

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

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

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

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

## Important Notes

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

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

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

EXHIBIT P Senate Committee on Commerce/Labor

Date: 5-18-05 Page 1 of 33

\*PROPOSED AMENDMENT TO AB384\_R1\*

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

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

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

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

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

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

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

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

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

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

29     1. A customer tenders to another person:

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

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

33     2. The other person:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

31 2. The term does not include:

32 (a) A deferred deposit loan; ~~or~~

33 (b) A title loan; ~~or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

14    2. The term includes, without limitation:

15    (a) Passenger vehicles;

16    (b) Recreational vehicles; and

17    (c) House trailers and travel trailers.

18    3. The term does not include:

19    (a) Farm vehicles;

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

21    (c) Commercial vehicles;

22    (d) Construction vehicles;

23    (e) Military vehicles;

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

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

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

31    (a) "Amount financed."

32    (b) "Annual percentage rate."

33    (c) "Finance charge."

34    (d) "Payment schedule."

35    (e) "Total of payments."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Any firm or corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) The date of the loan;~~

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

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

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

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

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

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

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

~~(i) Disclosures~~

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

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

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

(a) Court costs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 35. A licensee shall not:

1. Accept:

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

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

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

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

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

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

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

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

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

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

**Sec. 36. A licensee shall not:**

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

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

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

4. Include in any written agreement:

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

(b) A confession of judgment by the customer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(a) The name and address of the licensee;

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

(c) The date of the payment;

(d) The amount paid;

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

(f) The balance due on the loan; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(d) The amount paid;~~

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

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

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

The licensee:

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

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

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

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

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

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

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

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

(f) Include the following amounts:

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

(2) Any payments made on the loan;

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

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

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

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

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

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

(d) For a deferred deposit loan:

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

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

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

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

16 (a) Except as otherwise provided by this chapter, charge any other  
17 amount to a customer, including, without limitation, any amount or  
18 charge payable directly or indirectly by the customer and imposed  
19 directly or indirectly by the licensee as an incident to or as a condition of  
20 entering into a repayment plan. Such an amount includes, without  
21 limitation:

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

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

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

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

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

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

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

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

43 (a) Prepare a written agreement establishing the repayment plan;  
44 and

45 (b) Give the customer a copy of the written agreement. The written  
46 agreement must:

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

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

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

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

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

57 (c) The date of the payment;

58 (d) The amount paid;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The principal amount of the loan.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The name and address of the licensee;

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

3. The date of the payment;

4. The amount paid;

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

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

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

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

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

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

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

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

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

15 (a) If the applicant is a natural person, the name and address of the  
16 applicant.

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

19 (1) Partner;

20 (2) Officer;

21 (3) Director;

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

23 (5) Registered agent,

24 ↪ of the business entity.

25 (c) Such other information, as the Commissioner determines  
26 necessary, concerning the financial responsibility, background,  
27 experience and activities of the applicant and its:

28 (1) Partners;

29 (2) Officers;

30 (3) Directors; and

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

32 (d) The address of each location at which the applicant proposes to  
33 do business under the license, including, without limitation, each  
34 location where the applicant will operate at a kiosk, through the Internet,  
35 through any telephone, facsimile machine or other telecommunication  
36 device or through any other machine, network, system, device or means,  
37 except that the applicant shall not propose to do business through any  
38 automated loan machine prohibited by section 29 of this act.

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

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

43 (a) A nonrefundable application fee;

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

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

48 ↪ All money received by the Commissioner pursuant to this subsection  
49 must be placed in the Investigative Account for Financial Institutions  
50 created by NRS 232.545.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 *(a) Interest-bearing stocks;*

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*4. Each license ~~shall~~ must:*

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

(b) State fully:

(1) The name and address of the licensee;

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

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

5. A license is not transferable or assignable.

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

(a) A renewal fee; and

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

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

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

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

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

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

3. As used in this section, "change of control" means:

(a) A transfer of voting stock, partnership or member interests which results in giving a person, directly or indirectly, the power to direct the management and policy of a licensee; or

(b) A transfer of at least 25 percent of the outstanding voting stock, partnership or member interests of the licensee.

Sec. 57. 1. A licensee shall not conduct the business of making loans under any name, at any place or by any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except as permitted in the license or branch license issued to the licensee.

2. A licensee must obtain the approval of the Commissioner before using or changing a business name.

3. A licensee shall not:

(a) Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.

(b) Use any printed forms which may mislead or confuse the public.

Sec. 58. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

The provisions of subsections 2 and 3 are based on language from Sec. 38 of S.B. 431-R1 (Division of Financial Institutions).

(1) *The licensee and the mortgage broker:*

(I) *Maintain separate accounts, books and records;*

(II) *Are subsidiaries of the same parent corporation; and*

(III) *Maintain separate licenses; and*

(2) *The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

(b) *A mortgage banker if:*

(1) *The licensee and the mortgage banker:*

(I) *Maintain separate accounts, books and records;*

(II) *Are subsidiaries of the same parent corporation; and*

(III) *Maintain separate licenses; and*

(2) *The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

3. *If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.*

Sec. 59. 1. *A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. *Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.*

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$500.*

4. *This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act.*

Sec. 60. 1. *Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.*

2. *Each licensee shall maintain a separate written or electronic record or ledger card for the account of each customer and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.*

3. *Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.*

4. *Each licensee who operates outside this State an office or other place of business that is licensed pursuant to provisions of this chapter shall:*

(a) *Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during*

1 any investigation or examination made at the office or place of business  
2 located outside this State.

3 ↪ The licensee must be allowed to choose between the provisions of  
4 paragraph (a) or (b) in complying with this subsection.

5 5. As used in this section, "amount of cash advance" means the  
6 amount of cash or its equivalent actually received by a customer or paid  
7 out at his direction or in his behalf.

8 Sec. 61. 1. Except as otherwise provided in subsection 3, an  
9 officer or employee of the Division of Financial Institutions of the  
10 Department of Business and Industry shall not:

11 (a) Be directly or indirectly interested in or act on behalf of any  
12 licensee;

13 (b) Receive, directly or indirectly, any payment from any licensee;

14 (c) Be indebted to any licensee;

15 (d) Engage in the negotiation of loans for others with any licensee;  
16 or

17 (e) Obtain credit or services from a licensee conditioned upon a  
18 fraudulent practice or undue or unfair preference over other customers.

19 2. An employee of the Division of Financial Institutions in the  
20 unclassified service of the State shall not obtain new extensions of credit  
21 from a licensee while in office.

22 3. Any officer or employee of the Division of Financial Institutions  
23 may be indebted to a licensee on the same terms as are available to the  
24 public generally.

25 4. If an officer or employee of the Division of Financial Institutions  
26 has a service, a preferred consideration, an interest or a relationship  
27 prohibited by this section at the time of his appointment or employment,  
28 or obtains it during his employment, he shall terminate it within 120 days  
29 after the date of his appointment or employment or the discovery of the  
30 prohibited act.

31 Sec. 62. 1. For the purpose of discovering violations of this  
32 chapter or of securing information lawfully required under this chapter,  
33 the Commissioner or his duly authorized representatives may at any time  
34 investigate the business and examine the books, accounts, papers and  
35 records used therein of:

36 (a) Any licensee;

37 (b) Any other person engaged in the business of making loans or  
38 participating in such business as principal, agent, broker or otherwise;  
39 and

40 (c) Any person who the Commissioner has reasonable cause to  
41 believe is violating or is about to violate any provision of this chapter,  
42 whether or not the person claims to be within the authority or beyond the  
43 scope of this chapter.

44 2. For the purpose of examination, the Commissioner or his  
45 authorized representatives shall have and be given free access to the  
46 offices and places of business, and the files, safes and vaults of such  
47 persons.

48 3. For the purposes of this section, any person who advertises for,  
49 solicits or holds himself out as willing to make any deferred deposit loan,  
50 short-term loan or title loan is presumed to be engaged in the business of  
51 making loans.

52 Sec. 63. 1. The Commissioner may require the attendance of any  
53 person and examine him under oath regarding:

54 (a) Any check-cashing service or loan service regulated pursuant to  
55 the provisions of this chapter; or

56 (b) The subject matter of any audit, examination, investigation or  
57 hearing.

1     2. The Commissioner may require the production of books,  
2 accounts, papers and records for any audit, examination, investigation or  
3 hearing.

4     Sec. 64. 1. At least once each year, the Commissioner or his  
5 authorized representatives shall make an examination of the place of  
6 business of each licensee and of the loans, transactions, books, accounts,  
7 papers and records of the licensee so far as they pertain to the business  
8 for which he is licensed pursuant to the provisions of this chapter.

9     2. If, after auditing one or more branch locations of the licensee,  
10 the Commissioner or his authorized representatives conclude that the  
11 loans, disclosures, loan practices, computer processes, filing systems and  
12 records are identical at each branch location, the Commissioner may  
13 make an examination of only those branch locations he deems  
14 necessary.

15     Sec. 65. 1. The Commissioner shall charge and collect from each  
16 licensee a fee of \$40 per hour for any supervision, audit, examination,  
17 investigation or hearing conducted pursuant to this chapter or any  
18 regulations adopted pursuant thereto.

19     2. The Commissioner shall bill each licensee upon the completion  
20 of the activity for the fee established pursuant to subsection 1. The  
21 licensee shall pay the fee within 30 days after the date the bill is received.  
22 Except as otherwise provided in this subsection, any payment received  
23 after the date due must include a penalty of 10 percent of the fee plus an  
24 additional 1 percent of the fee for each month, or portion of a month,  
25 that the fee is not paid. The Commissioner may waive the penalty for  
26 good cause.

27     3. The failure of a licensee to pay the fee required pursuant to  
28 subsection 1 as provided in this section constitutes grounds for  
29 revocation of the license of the licensee.

30     Sec. 65.5. In addition to any other lawful reasons, the  
31 Commissioner may suspend or revoke a license if the licensee has  
32 engaged in any act that would be grounds for denying a license pursuant  
33 this chapter.

34     Sec. 66. If the Commissioner finds that probable cause for  
35 revocation of any license exists and that enforcement of the provisions of  
36 this chapter requires immediate suspension of a license pending  
37 investigation, he may, upon 5 days' written notice and a hearing, enter  
38 an order suspending a license for a period not exceeding 20 days,  
39 pending a hearing upon the revocation.

40     Sec. 67. 1. Whenever the Commissioner has reasonable cause to  
41 believe that any person is violating or is threatening to or intends to  
42 violate any provision of this chapter, he may, in addition to all actions  
43 provided for in this chapter and without prejudice thereto, enter an order  
44 requiring the person to desist or to refrain from such violation.

45     2. The Attorney General or the Commissioner may bring an action  
46 to enjoin a person from engaging in or continuing a violation or from  
47 doing any act or acts in furtherance thereof. In any such action, an  
48 order or judgment may be entered awarding a preliminary or final  
49 injunction as may be deemed proper.

50     3. In addition to all other means provided by law for the  
51 enforcement of a restraining order or injunction, the court in which an  
52 action is brought may impound, and appoint a receiver for, the property  
53 and business of the defendant, including books, papers, documents and  
54 records pertaining thereto, or so much thereof as the court may deem  
55 reasonably necessary to prevent violations of this chapter through or by  
56 means of the use of property and business. A receiver, when appointed  
57 and qualified, has such powers and duties as to custody, collection,  
58 administration, winding up and liquidation of such property and  
59 business as may from time to time be conferred upon him by the court.

The provisions of Sec. 65.5  
are based on language from  
Sec. 37 of S.B. 431-R1  
(Division of Financial  
Institutions).

1     *Sec. 68. 1. If the Commissioner has reason to believe that*  
2 *grounds for revocation or suspension of a license exist, he shall give 20*  
3 *days' written notice to the licensee stating the contemplated action and,*  
4 *in general, the grounds therefor and set a date for a hearing.*

5     *2. At the conclusion of a hearing, the Commissioner shall:*

6     *(a) Enter a written order either dismissing the charges, revoking the*  
7 *license or suspending the license for a period of not more than 60 days,*  
8 *which period must include any prior temporary suspension. The*  
9 *Commissioner shall send a copy of the order to the licensee by registered*  
10 *or certified mail.*

11     *(b) Impose upon the licensee a fine of \$500 for each violation by the*  
12 *licensee of any provision of this chapter or any regulation adopted*  
13 *pursuant thereto.*

14     *(c) If a fine is imposed pursuant to this section, enter such order as is*  
15 *necessary to recover the costs of the proceeding, including his*  
16 *investigative costs and attorney's fees.*

17     *3. The grounds for revocation or suspension of a license are that:*

18     *(a) The licensee has failed to pay the annual license fee;*

19     *(b) The licensee, either knowingly or without any exercise of due*  
20 *care to prevent it, has violated any provision of this chapter or any lawful*  
21 *regulation adopted pursuant thereto;*

22     *(c) The licensee has failed to pay a tax as required pursuant to the*  
23 *provisions of chapter 363A of NRS;*

24     *(d) Any fact or condition exists which would have justified the*  
25 *Commissioner in denying the licensee's original application for a license*  
26 *pursuant to the provisions of this chapter; or*

27     *(e) The licensee:*

28     *(1) Failed to open an office for the conduct of the business*  
29 *authorized by his license within 180 days after the date his license was*  
30 *issued; or*

31     *(2) Has failed to remain open for the conduct of the business for a*  
32 *period of 180 days without good cause therefor.*

33     *4. Any revocation or suspension applies only to the license granted*  
34 *to a person for the particular office for which grounds for revocation or*  
35 *suspension exist.*

36     *5. An order suspending or revoking a license becomes effective 5*  
37 *days after being entered unless the order specifies otherwise or a stay is*  
38 *granted.*

39     *Sec. 69. A licensee may surrender any license issued pursuant to*  
40 *the provisions of this chapter by delivering it to the Commissioner with*  
41 *written notice of its surrender, but a surrender does not affect his civil or*  
42 *criminal liability for acts committed prior thereto.*

43     *Sec. 70. A revocation, suspension, expiration or surrender of any*  
44 *license does not impair or affect the obligation of any preexisting lawful*  
45 *loan agreement between the licensee and any customer. Such a loan*  
46 *agreement and all lawful charges thereon may be collected by the*  
47 *licensee, its successors or assigns.*

48     *Sec. 71. 1. Annually, on or before April 15, each licensee shall*  
49 *file with the Commissioner a report of operations of the licensed*  
50 *business for the preceding calendar year.*

51     *2. The licensee shall make the report under oath and on a form*  
52 *prescribed by the Commissioner.*

53     *3. If any person or affiliated group holds more than one license in*  
54 *this State, it may file a composite annual report.*

55     *Sec. 72. 1. A court of this State may exercise jurisdiction over a*  
56 *party to a civil action arising under the provisions of this chapter on any*  
57 *basis not inconsistent with the Constitution of the State of Nevada or the*  
58 *Constitution of the United States.*

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 73. 1. Except as otherwise provided in this section, if a licensee willfully:

(a) Enters into a loan agreement for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;

(b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or

(c) Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,

the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

2. The provisions of this section do not apply if:

(a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and

(b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter.

Sec. 74. ~~1. Except as otherwise provided in subsection 2 3, in addition to any other remedy or penalty, if a licensee person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee person for any or all of the following relief:~~

~~(a) Actual and consequential damages;~~

~~(b) An additional amount, as statutory damages, which is equal to \$1,000 for each violation;~~

~~(c) Punitive damages, which are subject to the provisions of NRS 42.005;~~

~~(d) Reasonable attorney's fees and costs; and~~

~~(e) Any other legal or equitable relief that the court deems appropriate.~~

2. Except as otherwise provided in subsection 3, in addition to any other remedy or penalty, if a customer brings a civil action pursuant to subsection 1 against a person who has committed a material violation of any provision of section 29 or 44 of this act, the customer is entitled to recover an additional amount, as statutory damages, which is equal to \$1,000 for each such violation.

3. A licensee person may not be held liable in any civil action brought pursuant to subsection 1 this section if the licensee person proves, by a preponderance of evidence, that the violation:

(a) Was not intentional;

The provisions of Sec. 73.5 are based on language from Sec. 40 of S.B. 431-R1 (Division of Financial Institutions).

Subsections 3 and 4 create an affirmative defense that is modeled after provisions in the federal Truth in Lending Act. See 15 U.S.C. § 1640(c).



(b) Was technical in nature; and  
 (c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.  
~~3- 4. For the purposes of subsection 2 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the licensee's obligations under this chapter is not a bona fide error.~~

Sec. 75. NRS 598D.130 is hereby amended to read as follows:

598D.130 A mortgage, deed of trust or other instrument that encumbers home property as security for repayment of a home loan must expressly indicate in writing in **a size equal to at least 14-point bold type on the front page of** the mortgage, deed of trust or other instrument that the home loan is a home loan as defined in NRS 598D.040 ~~and is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.~~

Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~Any~~ *Except as otherwise provided in section 45 of this act, any person who:*

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,

↪ and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. As used in this section, unless the context otherwise requires:

(a) "Credit card" has the meaning ascribed to it in NRS 205.630;

(b) "Debit card" has the meaning ascribed to it in NRS 205.635; and

(c) "Issuer" has the meaning ascribed to it in NRS 205.650.

Sec. 76. NRS 232.545 is hereby amended to read as follows:

232.545 1. An Investigative Account for Financial Institutions is hereby created in the State General Fund. The Account consists of money which is:

(a) Received by the Department of Business and Industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The Director of the Department of Business and Industry or his designee may authorize expenditures from the Investigative Account to pay the expenses incurred:

(a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;

(b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and

(c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, "financial institution" means an institution for which licensing or registration is required by the provisions of titles 55 and 56 ~~and chapters 604 and 649~~ of NRS ~~and chapter 649 of NRS and sections 2 to 74, inclusive, of this act.~~

Section 75.5 is added to further clarify that NRS 41.620 does not apply to loan transactions governed by this bill.

1     Sec. 76.3. Chapter 278 of NRS is hereby amended by adding thereto  
2     a new section to read as follows:

3     ~~1. Except as otherwise provided in this section, in a county whose~~  
4     ~~population is less than 100,000, each governing body shall adopt zoning~~  
5     ~~regulations which restrict to specific districts within the geographical~~  
6     ~~jurisdiction of the governing body the construction, reconstruction,~~  
7     ~~alteration, repair or use of buildings, structures or land of a business~~  
8     ~~that operates a check-cashing service, deferred deposit loan service,~~  
9     ~~short term loan service or title loan service pursuant to sections 2 to 74,~~  
10    ~~inclusive, of this act.~~

11    ~~2. The provisions of this section do not apply to any place of~~  
12    ~~business devoted to accounting, recordkeeping or administrative~~  
13    ~~purposes only.~~

14    ~~3. If, on July 1, 2005, a governing body has in effect zoning~~  
15    ~~regulations which include the type of restrictions described in subsection~~  
16    ~~1, the governing body shall be deemed to be in compliance with this~~  
17    ~~section so long as those zoning regulations remain in effect and are not~~  
18    ~~amended in manner that conflicts with this section.~~

19    Sec. 76.6. NRS 278.250 is hereby amended to read as follows:

20    ~~278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive,~~  
21    ~~and section 76.3 of this act, the governing body may divide the city,~~  
22    ~~county or region into zoning districts of such number, shape and area as~~  
23    ~~are best suited to carry out the purposes of NRS 278.010 to 278.630,~~  
24    ~~inclusive [ ], and section 76.3 of this act. Within the zoning district it may~~  
25    ~~regulate and restrict the erection, construction, reconstruction, alteration,~~  
26    ~~repair or use of buildings, structures or land.~~

27    ~~2. The zoning regulations must be adopted in accordance with the~~  
28    ~~master plan for land use and be designed:~~

29    ~~(a) To preserve the quality of air and water resources;~~  
30    ~~(b) To promote the conservation of open space and the protection of~~  
31    ~~other natural and scenic resources from unreasonable impairment;~~  
32    ~~(c) To provide for recreational needs;~~

33    ~~(d) To protect life and property in areas subject to floods, landslides~~  
34    ~~and other natural disasters;~~

35    ~~(e) To conform to the adopted population plan, if required by NRS~~  
36    ~~278.170;~~

37    ~~(f) To develop a timely, orderly and efficient arrangement of~~  
38    ~~transportation and public facilities and services, including facilities and~~  
39    ~~services for bicycles;~~

40    ~~(g) To ensure that the development on land is commensurate with the~~  
41    ~~character and the physical limitations of the land;~~

42    ~~(h) To take into account the immediate and long range financial impact~~  
43    ~~of the application of particular land to particular kinds of development, and~~  
44    ~~the relative suitability of the land for development;~~

45    ~~(i) To promote health and the general welfare;~~

46    ~~(j) To ensure the development of an adequate supply of housing for the~~  
47    ~~community, including the development of affordable housing;~~

48    ~~(k) To ensure the protection of existing neighborhoods and~~  
49    ~~communities, including the protection of rural preservation neighborhoods;~~

50    ~~3. The zoning regulations must be adopted with reasonable~~  
51    ~~consideration, among other things, to the character of the area and its~~  
52    ~~peculiar suitability for particular uses, and with a view to conserving the~~  
53    ~~value of buildings and encouraging the most appropriate use of land~~  
54    ~~throughout the city, county or region;~~

55    ~~4. In exercising the powers granted in this section, the governing~~  
56    ~~body may use any controls relating to land use or principles of zoning that~~  
57    ~~the governing body determines to be appropriate, including, without~~  
58    ~~limitation, density bonuses, inclusionary zoning and minimum density~~  
59    ~~zoning;~~

Sec. 76.3 and Sec. 76.6  
are based on Sec. 2 and  
Sec. 4 of A.B. 340-R1  
(Ms. Giunchigliani).

1 ~~5. As used in this section:~~

2 ~~(a) "Density bonus" means an incentive granted by a governing body~~  
 3 ~~to a developer of real property that authorizes the developer to build at a~~  
 4 ~~greater density than would otherwise be allowed under the master plan, in~~  
 5 ~~exchange for an agreement by the developer to perform certain functions~~  
 6 ~~that the governing body determines to be socially desirable, including,~~  
 7 ~~without limitation, developing an area to include a certain proportion of~~  
 8 ~~affordable housing.~~

9 ~~(b) "Inclusionary zoning" means a type of zoning pursuant to which a~~  
 10 ~~governing body requires or provides incentives to a developer who builds~~  
 11 ~~residential dwellings to build a certain percentage of those dwellings as~~  
 12 ~~affordable housing.~~

13 ~~(c) "Minimum density zoning" means a type of zoning pursuant to~~  
 14 ~~which development must be carried out at or above a certain density to~~  
 15 ~~maintain conformance with the master plan.~~

16 **Sec. 77.** NRS 363A.050 is hereby amended to read as follows:

17 363A.050 1. Except as otherwise provided in subsection 2,  
 18 "financial institution" means:

19 (a) An institution licensed, registered or otherwise authorized to do  
 20 business in this State pursuant to the provisions of *title 55 or 56 of NRS or*  
 21 *chapter [604.] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS.]*  
 22 *sections 2 to 74, inclusive, of this act*, or a similar institution chartered or  
 23 licensed pursuant to federal law and doing business in this State;

24 (b) Any person primarily engaged in:

25 (1) The purchase, sale and brokerage of securities;  
 26 (2) Originating, underwriting and distributing issues of securities;  
 27 (3) Buying and selling commodity contracts on either a spot or  
 28 future basis for the person's own account or for the account of others, if  
 29 the person is a member or is associated with a member of a recognized  
 30 commodity exchange;

31 (4) Furnishing space and other facilities to members for the purpose  
 32 of buying, selling or otherwise trading in stocks, stock options, bonds or  
 33 commodity contracts;

34 (5) Furnishing investment information and advice to others  
 35 concerning securities on a contract or fee basis;

36 (6) Furnishing services to holders of or brokers or dealers in  
 37 securities or commodities;

38 (7) Holding or owning the securities of banks for the sole purpose  
 39 of exercising some degree of control over the activities of the banks whose  
 40 securities the person holds;

41 (8) Holding or owning securities of companies other than banks, for  
 42 the sole purpose of exercising some degree of control over the activities of  
 43 the companies whose securities the person holds;

44 (9) Issuing shares, other than unit investment trusts and face-  
 45 amount certificate companies, whose shares contain a provision requiring  
 46 redemption by the company upon request of the holder of the security;

47 (10) Issuing shares, other than unit investment trusts and face-  
 48 amount certificate companies, whose shares contain no provision requiring  
 49 redemption by the company upon request by the holder of the security;

50 (11) Issuing unit investment trusts or face-amount certificates;

51 (12) The management of the money of trusts and foundations  
 52 organized for religious, educational, charitable or nonprofit research  
 53 purposes;

54 (13) The management of the money of trusts and foundations  
 55 organized for purposes other than religious, educational, charitable or  
 56 nonprofit research;

57 (14) Investing in oil and gas royalties or leases, or fractional  
 58 interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(16) Closed-end investments in real estate or related mortgage assets operating in such a manner as to meet the requirements of the Real Estate Investment Trust Act of 1960, as amended;

(17) Investing; or

(18) Any combination of the activities described in this paragraph,

↳ who is doing business in this State;

(c) Any other person conducting loan or credit card processing activities in this State; and

(d) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this State.

2. The term does not include a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.

**Sec. 78.** NRS 645B.0119 is hereby amended to read as follows:

645B.0119 "Financial services license or registration" means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, *title 55 or 56 of NRS or chapter [604,] 645, 645A, 645C, 645E or 649 of NRS or [title 55 or 56 of NRS.] sections 2 to 74, inclusive, of this act.*

**Sec. 79.** NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit *loan* service that is supervised pursuant to ~~chapter 604 of NRS;~~ *sections 2 to 74, inclusive, of this act;*

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

(g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

(i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

(k) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(l) Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all

assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

**Sec. 80.** NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. A person doing business under the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

**10. A person licensed to do business pursuant to sections 2 to 74, inclusive, of this act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act.**

**Sec. 81.** NRS 675.060 is hereby amended to read as follows:

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business ~~[-], except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in sections 2 to 74, inclusive, of this act, the person must obtain a license from the Commissioner pursuant to sections 2 to 74, inclusive, of this act before the person may engage in any such business.~~

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

**Sec. 82.** NRS 604.010, 604.020, 604.030, 604.040, 604.050, 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180 and 604.190 are hereby repealed.

**Sec. 83.** 1. If a person:

(a) On July 1, 2005, holds a valid certificate of registration or license that was issued by the Commissioner of Financial Institutions pursuant to chapter 604 or 675 of NRS before July 1, 2005; and

(b) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in the provisions of sections 2 to 74, inclusive, of this act,

the person's certificate of registration or license shall be deemed to be a license issued by the Commissioner of Financial Institutions pursuant to the provisions of sections 2 to 74, inclusive, of this act until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

2. **Except as otherwise provided in subsections 3 and 4, a person described in subsection 1 shall:**

(a) On and after July 1, 2005, comply with all provisions of sections 2 to 74, inclusive, of this act relating to transactions with customers, including, without limitation, all provisions relating to loans, extensions, repayment plans, interest, fees, charges and collections; and

(b) On and after October 1, 2005, comply with all other provisions of sections 2 to 74, inclusive, of this act, except that the person does not have to renew his certificate of registration or license until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

**3. A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:**

(a) **Any provision requiring the use of the Spanish language; and**

(b) **Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.**

**4. If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:**

(a) **Is not economically feasible;**

(b) **Is prevented by factors beyond the control of the person; or**

(c) **Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension.**

**Sec. 84.** This act becomes effective on July 1, 2005.

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## LEADLINES OF REPEALED SECTIONS

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604.010 Definitions.

– 33 –

- 604.020 “Cashing” defined.
- 604.030 “Check” defined.
- 604.040 “Check-cashing service” defined.
- 604.050 “Commissioner” defined.
- 604.060 “Deferred deposit” defined.
- 604.070 “Deferred deposit service” defined.
- 604.080 “Licensee” defined.
- 604.090 Registration required; applicability of chapter.
- 604.100 Application for registration: Contents; fee.
- 604.110 Surety bond.
- 604.120 Deposit of securities in lieu of surety bond.
- 604.130 Certificate of registration: Issuance; form and size; contents; display.
- 604.140 Expiration and renewal of certificate of registration.
- 604.150 Change of control of licensee: Notification and application to Commissioner.
- 604.160 Licensee to post and give written notice of fees charged; signature of customer required on notice.
- 604.162 Limitations on fees for check not paid upon presentment because of insufficient funds.
- 604.164 Licensee deferring deposits to provide each customer with written agreement; contents.
- 604.166 Licensee may pursue collection proceedings upon default on loan made in form of deferred deposit; charges and interest.
- 604.170 Regulations.
- 604.180 Prohibited acts by licensee relating to deferred deposit.
- 604.190 Commissioner to charge licensee fee for supervision, examination, audit, investigation or hearing; billing and payment; penalty for late payment; failure to pay grounds for revocation of certificate of registration.

H

# PROPOSED REVISIONS TO THE MOCK-UP FOR ASSEMBLY BILL NO. 384 FIRST REPRINT

PREPARED FOR ASSEMBLYWOMAN BUCKLEY  
MAY 16, 2005

PREPARED BY THE LEGAL DIVISION

## **IMPORTANT NOTE:** THE REVISIONS ARE SHOWN IN **PURPLE**

### **Sec. 23 of the Mock-Up would be further revised as follows:**

Sec. 23. *The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan or an extension of a loan, except that the licensee shall not charge the customer:*

1. *Any fees for granting such a grace period; or*
2. *Any additional fees or additional interest on the outstanding loan during such a grace period.*

### **Sec. 31 of the Mock-Up would be further revised as follows:**

Sec. 31. 1. *Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:*

- (a) *English, if the transaction is conducted in English; or*
- (b) *Spanish, if the transaction is conducted in Spanish.*

2. *The loan agreement must include, without limitation, the following information:*

- (a) *The name and address of the licensee and the customer;*
- ~~(b) The date of the loan;~~
- ~~(c) The nature of the security for the loan, if any;~~
- ~~(d) (c) The date and amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer, amount financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;~~

~~(e) The description or schedule of payments on the loan;~~

~~(f) (d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;~~

~~(g) (e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;~~

~~(h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and~~

~~(i) Disclosures~~

~~(f) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the~~



1 licensee must offer the repayment plan to the customer before the  
 2 licensee commences any civil action or process of alternative dispute  
 3 resolution or, if appropriate for the loan, before the licensee repossesses  
 4 a vehicle; and

5 (g) Any other disclosures required under the Truth in Lending Act  
 6 and Regulation Z or under any other applicable federal or state statute  
 7 or regulation.

10 Sec. 34 of the Mock-Up would be further revised as follows:

11 Sec. 34. A licensee shall not:

12 1. Make a deferred deposit loan or short-term loan that exceeds 25  
 13 percent of the expected gross monthly income of the customer during the  
 14 term of the loan unless justified by particular circumstances, when the  
 15 loan is made. A licensee is not in violation of the provisions of this  
 16 subsection if the customer presents evidence of his gross monthly income  
 17 to the licensee and represents to the licensee in writing that the loan does  
 18 not exceed 25 percent of the expected gross monthly income of the  
 19 customer, during the term of the loan.

20 2. Make more than one deferred deposit loan or short-term loan to  
 21 the same customer at one time or before any outstanding balance is paid  
 22 in full on an existing loan made by that licensee to the customer unless:

23 (a) The customer is seeking multiple loans that do not exceed the  
 24 limit set forth in subsection 1;

25 (b) The licensee charges the same rate of interest or a lower annual  
 26 percentage rate for any additional loans as he charged for the initial  
 27 loan;

28 (c) Except for the interest charged pursuant to paragraph (b), that  
 29 part of the finance charge which consists of interest only, the licensee  
 30 does not impose any other charge or fee to initiate any additional loans,  
 31 except that a licensee who makes deferred deposit loans or short-term  
 32 loans in accordance with the provisions of subsection 2 of section 43 of  
 33 this act may charge a reasonable fee for preparing documents in an  
 34 amount that does not exceed \$50, in the aggregate, for all the additional  
 35 loans combined; and

36 (d) If the additional loans are deferred deposit loans and the  
 37 customer provides one or more additional checks that are not paid upon  
 38 presentment, the licensee does not charge any fees to the customer  
 39 pursuant to section 45 of this act, except for the fees allowed pursuant to  
 40 that section for the first check that is not paid upon presentment.  
 41  
 42  
 43

**Sec. 35 of the Mock-Up would be further revised as follows:**

**Sec. 35. A licensee shall not:**

**1. Accept:**

(a) Collateral as security for a loan, except that a title to a ~~motor~~ vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a short-term loan or title loan.

(d) More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the ~~amount of~~ total of payments set forth in the disclosure statement required by the federal Truth in Lending Act, ~~15 U.S.C. §§ 1601 et seq., and Regulation Z~~ that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, ~~a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer.~~ amount financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z constitutes compliance with this subsection.

3. Take any instrument, including a check or written authorization for the electronic transfer of money, in which blanks are left to be filled in after the loan is made.

4. Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.

5. Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.

6. Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.

Sec. 43 of the Mock-Up would be further revised as follows:

Sec. 43. ~~If~~ 1. Except as otherwise provided in subsection 2, if a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond ~~8 weeks~~ 60 days after the expiration of the initial loan period.

2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:

(a) Makes the deferred deposit loan or short-term loan to a customer pursuant to a loan agreement which, under its original terms;

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full ~~within~~ in not less than 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the deferred deposit loan or short-term loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is ~~accredited~~ :

(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and

~~(f) Is a~~ (2) A member of the National Foundation for Credit Counseling, or its successor organization; and

~~(f)~~ (f) Does not commence a civil action or any process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

Sec. 44 of the Mock-Up would be further revised as follows:

Sec. 44. 1. ~~If Except as otherwise provided in this chapter section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:~~

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate of interest set forth in the disclosure statement required by the ~~federal~~ Truth in Lending Act, ~~15 U.S.C. §§ 1601 et seq., and Regulation Z~~ that is provided to the customer. If there is an extension ~~or repayment plan~~ relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~8 weeks~~ 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to ~~paragraph (b) this chapter~~, whichever is later, at ~~a rate of interest an~~ annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~12 weeks~~ 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to section 45 of this act for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to this chapter sections 34, 36.5 and 42 of this act, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

# ADDITIONAL PROPOSED REVISIONS TO THE MOCK-UP FOR ASSEMBLY BILL NO. 384 FIRST REPRINT

PREPARED FOR ASSEMBLYWOMAN BUCKLEY  
MAY 18, 2005

PREPARED BY THE LEGAL DIVISION

## **IMPORTANT NOTE:**

THE ADDITIONAL REVISIONS ARE SHOWN IN PINK

The Mock-Up would be further revised by adding  
a new section, designated Sec. 33.5, to read as follows:

Sec. 33.5. 1. A licensee shall not:

(a) Make a deferred deposit loan that exceeds 25 percent of the  
expected gross monthly income of the customer when the loan is made;  
or

(b) Make a short-term loan which, under the terms of the loan  
agreement, requires any monthly payment that exceeds 25 percent of the  
expected gross monthly income of the customer.

2. A licensee is not in violation of the provisions of this section if the  
customer presents evidence of his gross monthly income to the licensee  
and represents to the licensee in writing that:

(a) For a deferred deposit loan, the loan does not exceed 25 percent  
of his expected gross monthly income when the loan is made; or

(b) For a short-term loan, the monthly payment required under the  
terms of the loan agreement does not exceed 25 percent of his expected  
gross monthly income.

Sec. 33.5 was taken, in  
substantial part, from  
subsection 1 of sec. 34  
and further revised here.

Sec. 34 of the Mock-Up would be further revised as follows:

Sec. 34. A licensee shall not:

~~1. Make a deferred deposit loan or short-term loan that exceeds 25  
percent of the expected gross monthly income of the customer during the  
term of the loan unless justified by particular circumstances when the  
loan is made. A licensee is not in violation of the provisions of this  
subsection if the customer presents evidence of his gross monthly income  
to the licensee and represents to the licensee in writing that the loan does  
not exceed 25 percent of the expected gross monthly income of the  
customer during the term of the loan.~~

~~2. Make more than one deferred deposit loan or short-term  
loan to the same customer at one time or before any outstanding balance  
is paid in full on an existing loan made by that licensee to the customer  
unless:~~

~~(a) 1. The customer is seeking multiple loans that do not exceed  
the limit limits set forth in subsection 1 section 33.5 of this act;~~

~~(b) 2. The licensee charges the same rate of interest or a lower  
annual percentage rate for any additional loans as he charged for the  
initial loan;~~

~~(c) 3. Except for the interest charged pursuant to paragraph (b),  
that part of the finance charge which consists of interest only, the  
licensee does not impose any other charge or fee to initiate any~~

1 additional loans, except that a licensee who makes deferred deposit loans  
2 or short-term loans in accordance with the provisions of subsection 2 of  
3 section 43 of this act may charge a reasonable fee for preparing  
4 documents in an amount that does not exceed \$50, in the aggregate, for  
5 all the additional loans combined; and  
6 ~~(d)~~ 4. If the additional loans are deferred deposit loans and the  
7 customer provides one or more additional checks that are not paid upon  
8 presentment, the licensee does not charge any fees to the customer  
9 pursuant to section 45 of this act, except for the fees allowed pursuant to  
10 that section for the first check that is not paid upon presentment.

# ADDITIONAL PROPOSED REVISIONS TO THE MOCK-UP FOR ASSEMBLY BILL NO. 384 FIRST REPRINT

PREPARED FOR KEITH LEE

MAY 18, 2005

PREPARED BY THE LEGAL DIVISION

## **IMPORTANT NOTE:**

THE ADDITIONAL REVISIONS ARE SHOWN IN ORANGE

### **Sec. 38 of the Mock-Up would be further revised as follows:**

Sec. 38. 1. Except where in conflict with the provisions of this ~~chapter~~ section, the provisions of chapter 104 of NRS apply to any title loan between a licensee and a customer.

2. Except as otherwise provided in this section, if a customer defaults on a title loan, or on any extension or repayment plan relating to the title loan, the sole remedy of the licensee who made the title loan is to ~~commence a legal action to seek repossession and sale of the motor~~ vehicle which the customer used to secure the title loan. The licensee may not pursue the customer personally for:

(a) Payment of the loan, unless the licensee proves the customer prevented the repossession and sale of the ~~motor~~ vehicle by any means, including, without limitation, hiding the ~~motor~~ vehicle; or

(b) Any deficiency after repossession and sale of the ~~motor~~ vehicle which the customer used to secure the title loan, unless the licensee proves the customer damaged or otherwise committed or permitted waste on the ~~motor~~ vehicle. For the purposes of this paragraph, it shall not be deemed waste for the customer to continue to use the ~~motor~~ vehicle in the same manner it was used before he entered into the title loan, ~~or to make necessary repairs to the motor vehicle.~~

~~3. After repossession and sale of the motor vehicle securing the title loan, the licensee shall return to the customer any proceeds from the sale of the motor vehicle which exceed the amount owed on the title loan.~~

3. If a vehicle is repossessed pursuant to this section:

(a) By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or

(b) By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.

4. If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:

(a) The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;

(b) Reasonable attorney's fees and costs; and

(c) Any other legal or equitable relief that the court deems appropriate.

5. As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a ~~motor~~ vehicle which does not belong to the customer.

**Sec. 42 of the Mock-Up would be further revised as follows:**

**Sec. 42. 1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing a civil action or any process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:**

**(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and**

**(b) Is not required to make such an offer more than once for each loan.**

**2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:**

**(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;**

**(b) State the date by which the customer must act to enter into a repayment plan;**

**(c) Explain the procedures the customer must follow to enter into a repayment plan;**

**(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;**

**(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days from the date of default; and**

**(f) Include the following amounts:**

**(1) The total of payments or the remaining balance on the original loan;**

**(2) Any payments made on the loan;**

**(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and**

**(4) The total amount due if the customer enters a repayment plan.**

**3. Under the terms of any repayment plan pursuant to this section:**

**(a) The customer must enter into the repayment plan not later than 30 days from the date of default, unless the licensee allows a longer period;**

**(b) The licensee must allow the period for repayment to extend at least 90 days from the date of default, unless the customer agrees to a shorter term;**

**(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;**

**(d) For a deferred deposit loan:**

**(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for the electronic transfer of money which equal the total amount due under the terms of the repayment plan;**

**(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that**



1 payment, return to the customer the check or written authorization  
 2 stamped "void" or destroy the check or written authorization; and

3 (3) The licensee shall not charge any fee to the customer pursuant  
 4 to section 45 for a check which is provided as security during the  
 5 repayment plan and which is not paid upon presentment if, in connection  
 6 with that loan, the licensee has previously charged at least one such fee.

7 4. If the licensee and customer enter into a repayment plan  
 8 pursuant to this section, the licensee shall honor the terms of the  
 9 repayment plan, and the licensee shall not:

10 (a) Except as otherwise provided by this chapter, charge any other  
 11 amount to a customer, including, without limitation, any amount or  
 12 charge payable directly or indirectly by the customer and imposed  
 13 directly or indirectly by the licensee as an incident to or as a condition of  
 14 entering into a repayment plan. Such an amount includes, without  
 15 limitation:

16 (1) Any interest, regardless of the name given to the interest, other  
 17 than the interest charged pursuant to the original loan agreement at a  
 18 rate which does not exceed the annual percentage rate charged during  
 19 the term of the original loan agreement, regardless of the name given to  
 20 the interest; or

21 (2) Any origination fees, set-up fees, collection fees, transaction  
 22 fees, negotiation fees, handling fees, processing fees, late fees, default  
 23 fees or any other fees, regardless of the name given to the fee;

24 (b) Except as otherwise provided in this section, accept any  
 25 additional security or collateral from the customer to enter into the  
 26 repayment plan;

27 (c) Sell to the customer any insurance or require the customer to  
 28 purchase insurance or any other goods or services to enter into the  
 29 repayment plan;

30 (d) Make any other loan to the customer, unless the customer is  
 31 seeking multiple loans that do not exceed the limit set forth in subsection  
 32 1 of section 34 of this act;

33 (e) During the term of the repayment plan, attempt to collect the  
 34 outstanding balance by commencing a civil action or any process of  
 35 alternative dispute resolution or by repossessing a vehicle, unless the  
 36 customer defaults on the repayment plan; or

37 (f) Attempt to collect an amount that is greater than the amount owed  
 38 under the terms of the repayment plan.

39 5. If the licensee and customer enter into a repayment plan  
 40 pursuant to this section, the licensee shall:

41 (a) Prepare a written agreement establishing the repayment plan;  
 42 and

43 (b) Give the customer a copy of the written agreement. The written  
 44 agreement must:

45 (1) Be signed by the licensee and customer; and

46 (2) Contain all of the terms of the repayment plan, including,  
 47 without limitation, the total amount due under the terms of the  
 48 repayment plan.

49 6. Each time a customer makes a payment pursuant to a repayment  
 50 plan, the licensee shall give to the customer a receipt with the following  
 51 information:

52 (a) The name and address of the licensee;

53 (b) The identification number assigned to the loan agreement or  
 54 other information that identifies the loan;

55 (c) The date of the payment;

56 (d) The amount paid;

57 (e) The balance due on the loan or, when the customer makes the  
 58 final payment, a statement that the loan is paid in full; and

1 (f) If more than one loan made by the licensee to the customer was  
2 outstanding at the time the payment was made, a statement indicating to  
3 which loan the payment was applied.  
4 7. If the customer defaults on the repayment plan, the licensee may,  
5 to collect the outstanding balance, commence a civil action or any  
6 process of alternative dispute resolution or repossess a vehicle as  
7 otherwise authorized pursuant to this chapter.

**KEYSTONE FINANCIAL GROUP LLC**

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May 17, 2005

Fax 775-684-1341

36 Pages

Senator Randolph J. Townsend  
Chair, Commerce and Labor  
Nevada Legislature  
Carson City, Nevada

RE: New Red Line Mock-Up for AB 384

Dear Senator,

As per your request, this fax includes a new red line Mock-Up to remove NRS 675 from this Bill, and correspondingly, add NRS 675 to the list of entities which AB 384 does not apply to (Section 27, new Item #16). It also includes a copy of my AB 384 Testimony dated yesterday, May 16.

As per my Testimony, if the references to NRS 675 are not removed, AB 384 could have far reaching, unanticipated, and potentially devastating consequences to many long time NRS 675 Licensees, their employees and customers. My Testimony highlights how serious this impact could be.

Also, it is very important to note that our Commissioner of Financial Institutions, Carol J. Tidd, has no problem with NRS 675 being removed from AB 384. I have discussed this at length with Commissioner Tidd, as I know you have. The Commissioner is concerned, that from an enforcement standpoint, this proposed Bill would create serious confusion. As it's currently written, AB 384 would include some NRS 675 Licensees and not others, while some 675's would have to have both Licenses, depending on what types of loan products they offer. That situation could be an enforcement boondoggle. With the removal of NRS 675 from AB 384, the 675 Licensees would continue to be regulated by the existing NRS 675 statute, which is clearly enforceable.

Once again, thank you for your consideration. I will be there for the Work Session at 8:00 tomorrow morning. In the meantime, you can reach me anytime at 702-496-8400.

Sincerely,



Mark R. Mowatt  
President & CEO

PS: Tomorrow morning I will deliver you and the Committee colored copies of the red line Mock-Up

cc: Carol J. Tidd, Commissioner, FII EXHIBIT T Senate Committee on Commerce/Labor  
Date: 5-18-05 Page 1 of 33

## REVISED MOCK-UP

PROPOSED AMENDMENT TO  
ASSEMBLY BILL NO. 384  
FIRST REPRINTPREPARED FOR THE SENATE COMMITTEE ON COMMERCE AND LABOR  
MAY 16, 2005

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~green bold-double-strikethrough~~ is language proposed to be deleted in this amendment and (5) *green bold dashed underlining* is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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 2.5 to 24, 21.5,*  
6 *inclusive, of this act have the meanings ascribed to them in those*  
7 *sections.*

8 **Sec. 2.5.** *1. "Automated loan machine" means any machine or*  
9 *other device, regardless of the name given to it or the technology used,*  
10 *that:*

11 *(a) Is automated;*

12 *(b) Is designed or intended to allow a customer, without any*  
13 *additional assistance from another person, to receive or attempt to*  
14 *receive a deferred deposit loan or short-term loan through the machine*  
15 *or other device; and*

16 *(c) Is set up, installed, operated or maintained by or on behalf of the*  
17 *person making the loan or any agent, affiliate or subsidiary of the*  
18 *person.*

19 **2.** *The term does not include any machine or other device used*  
20 *directly by a customer to access the Internet unless the machine or other*  
21 *device is made available to the customer by the person making the loan*  
22 *or any agent, affiliate or subsidiary of the person.*

23 **Sec. 3.** *"Cashing" means providing currency or a negotiable*  
24 *instrument in exchange for a check.*

25 **Sec. 4.** *1. "Check" means:*

26 *(a) A draft, other than a documentary draft, payable on demand and*  
27 *drawn on a bank; or*

28 *(b) A cashier's check or teller's check.*

29 **2.** *An instrument may be a check even though it is described on its*  
30 *face by another term, such as "money order."*

Revised Mock-Up  
as of 5/17/05

2:15 pm

M. Mowatt

Note

Changes are only  
on pages 5, 6,  
30, 31 & 32**Important Notes**

The revisions in this Revised Mock-Up are shown in **Purple**.

The following sections have been revised: 15.5, 17, 27, 44.5, 74, 76.3, 76.6 and 83.

Sec. 2.5 is based on the intent of Sec. 2 of A.B. 340-R1 (Ms. Giunchigliani).

1 Sec. 5. "Check-cashing service" means any person engaged in the  
2 business of cashing checks for a fee, service charge or other  
3 consideration.

4 Sec. 6. "Commissioner" means the Commissioner of Financial  
5 Institutions.

6 Sec. 7. "Customer" means any person who receives or attempts to  
7 receive check-cashing services, deferred deposit loan services, short-term  
8 loan services or title loan services from another person.

9 Sec. 8. 1. "Default" means the failure of a customer to:

10 (a) Make a scheduled payment on a loan on or before the due date  
11 for the payment under the terms of a lawful loan agreement and any  
12 grace period that complies with the provisions of section 23 of this act or  
13 under the terms of any lawful extension or repayment plan relating to  
14 the loan and any grace period that complies with the provisions of  
15 section 23 of this act; or

16 (b) Pay a loan in full on or before:

17 (1) The expiration of the initial loan period as set forth in a lawful  
18 loan agreement and any grace period that complies with the provisions  
19 of section 23 of this act; or

20 (2) The due date of any lawful extension or repayment plan  
21 relating to the loan and any grace period that complies with the  
22 provisions of section 23 of this act, provided that the due date of the  
23 extension or repayment plan ~~is not later than 8 weeks after the expiration~~  
24 ~~of the initial loan period.~~ does not violate the provisions of this chapter.

25 2. A default occurs on the day immediately following the date of the  
26 customer's failure to perform as described in subsection 1.

27 Sec. 9. "Deferred deposit loan" means a transaction in which,  
28 pursuant to a ~~written~~ loan agreement:

29 1. A customer tenders to another person:

30 (a) A personal check drawn upon the account of the customer; or

31 (b) Written authorization for an electronic transfer of money for a  
32 specified amount from the account of the customer; and

33 2. The other person:

34 (a) Provides to the customer an amount of money that is equal to the  
35 face value of the check or the amount specified in the written  
36 authorization for an electronic transfer of money, less any fee charged  
37 for the transaction; and

38 (b) Agrees, for a specified period, not to cash the check or execute  
39 the electronic transfer of money for the amount specified in the written  
40 authorization.

41 Sec. 10. "Deferred deposit loan service" means any person engaged  
42 in the business of making deferred deposit loans for a fee, service charge  
43 or other consideration.

44 Sec. 11. "Electronic transfer of money" means any transfer of  
45 money, other than a transaction initiated by a check or other similar  
46 instrument, that is initiated through an electronic terminal, telephone,  
47 computer or magnetic tape for the purpose of ordering, instructing or  
48 authorizing a financial institution to debit or credit an account.

9 Sec. 12. 1. "Extension" means any extension or rollover of a loan  
0 beyond the date on which the loan is required to be paid in full under the  
1 original terms of the loan agreement, regardless of the name given to the  
2 extension or rollover.

3 2. The term does not include a grace period.

4 Sec. 13. "Grace period" means any period of deferment offered  
5 gratuitously by a licensee to a customer if the licensee complies with the  
6 provisions of section 23 of this act.

7 Sec. 14. "Licensee" means any person who has been issued one or  
8 more licenses to operate a check-cashing service, deferred deposit loan.

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1 service, short-term loan service or title loan service pursuant to the  
2 provisions of this chapter.

3 Sec. 15. "Loan" means any deferred deposit loan, short-term loan  
4 or title loan, or any extension or repayment plan relating to such a loan,  
5 made at any location or through any method, including, without  
6 limitation, at a kiosk, through the Internet, through any telephone,  
7 facsimile machine or other telecommunication device or through any  
8 other machine, network, system, device or means.

9 Sec. 15.5. ~~"Loan which is secured by a tax refund" means a~~  
10 ~~transaction in which, pursuant to a written agreement:~~

11 ~~1. The customer agrees to give to another person any amount due to~~  
12 ~~the customer from a tax refund from the Internal Revenue Service of the~~  
13 ~~United States Department of the Treasury or from any state or local~~  
14 ~~governmental entity; and~~

15 ~~2. The person makes a loan to the customer in that amount, less any~~  
16 ~~fees charged for the transaction.~~

17 "Refund anticipation loan" means a loan offered or made to a  
18 taxpayer by a lender or through a facilitator based on the taxpayer's  
19 anticipated federal income tax refund.

20 Sec. 16. ~~"Motor vehicle" has the meaning ascribed to it by the~~  
21 ~~Commissioner pursuant to section 28 of this act.~~

22 "Regulation Z" means the federal regulations, as amended, 12 C.F.R.  
23 Part 226, adopted pursuant to the Truth in Lending Act and commonly  
24 known as Regulation Z.

25 Sec. 17. 1. "Short-term loan" means a loan made to a customer  
26 pursuant to a loan agreement which, under its original terms:

27 (a) ~~Charges fees or a rate of interest, or any combination thereof,~~  
28 ~~that when calculated as an annualized percentage rate is an annual~~  
29 ~~percentage rate of more than 40 percent; and~~

30 (b) ~~Requires the loan to be paid in full in less than 4 year, 18 months.~~

31 2. The term does not include:

32 (a) A deferred deposit loan; or

33 (b) A title loan; or

34 (c) ~~A loan which is secured by a tax refund anticipation loan.~~

35 Sec. 18. "Short-term loan service" means any person engaged in  
36 the business of providing short-term loans for a fee, service charge or  
37 other consideration.

38 Sec. 19. 1. "Title loan" means a loan made to a customer ~~who~~  
39 ~~secures the loan with the title to a motor vehicle and who gives pursuant~~  
40 ~~to a loan agreement which, under its original terms:~~

41 (a) ~~Charges an annual percentage rate of more than 35 percent; and~~

42 (b) ~~Requires the customer to secure the loan by giving possession of~~  
43 ~~the title to a vehicle legally owned by the customer to the person making~~  
44 ~~the loan, or to any agent, affiliate or subsidiary of the person, whether or~~  
45 ~~not the person making the loan or taking possession of the title perfects a~~  
46 ~~security interest in the vehicle by having the person's name noted on the~~  
47 ~~title as a lienholder.~~

48 2. The term does not include: ~~a loan which is secured by a lien or~~  
49 ~~other security interest that attaches to a motor vehicle or appears on its~~  
50 ~~title, including, without limitation, a loan to finance the purchase of the~~  
51 ~~motor vehicle;~~

52 (a) ~~A loan which creates a purchase money security interest in a~~  
53 ~~vehicle or the refinancing of any such loan; or~~

54 (b) ~~Any other loan for which a vehicle is used as security or~~  
55 ~~collateral if the person making the loan, or any agent, affiliate or~~  
56 ~~subsidiary of the person, does not take possession of the title.~~

Based on the testimony before the Committee, this bill is not intended to apply to refund anticipation loans. Thus, those loans are defined in Sec. 15.5 (a similar definition is used in Sec. 6 of the Revised Mock-Up for AB340-R1), and persons making such loans are exempted from the chapter in Sec. 17 and Sec. 27.

1 Sec. 20. "Title loan service" means any person engaged in the  
2 business of providing title loans for a fee, service charge or other  
3 consideration.

4 Sec. 21. "Title to a ~~motor~~ vehicle" or "title" means a certificate of  
5 title or ownership issued by the ~~Department of Motor Vehicles~~ pursuant  
6 to the laws of this State that identifies the legal owner of a ~~motor~~ vehicle  
7 or any similar document issued pursuant to the laws of another  
8 jurisdiction.

9 Sec. 21.2. "Truth in Lending Act" means the federal Truth in  
10 Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.

11 Sec. 21.5. 1. "Vehicle" means any vehicle, whether or not self-  
12 propelled, that is designed or intended for land transportation if the legal  
13 owner of the vehicle is required to have a title.

14 2. The term includes, without limitation:

- 15 (a) Passenger vehicles;
- 16 (b) Recreational vehicles; and
- 17 (c) House trailers and travel trailers.

18 3. The term does not include:

- 19 (a) Farm vehicles;
- 20 (b) Vehicles of a common or contract carrier;
- 21 (c) Commercial vehicles;
- 22 (d) Construction vehicles;
- 23 (e) Military vehicles;
- 24 (f) Vehicles used exclusively upon stationary rails or tracks; or
- 25 (g) Any other vehicles which are similar in nature to the vehicles  
26 listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by  
27 regulation, excludes from the definition of "vehicle."

28 Sec. 21.8. 1. As used in this chapter, unless the context otherwise  
29 requires, the following terms have the meanings ascribed to them in the  
30 Truth in Lending Act and Regulation Z:

- 31 (a) "Amount financed."
- 32 (b) "Annual percentage rate."
- 33 (c) "Finance charge."
- 34 (d) "Payment schedule."
- 35 (e) "Total of payments."

36 2. For the purposes of this chapter, proper calculation of the  
37 amount financed, annual percentage rate and finance charge for a loan  
38 must be made in accordance with the Truth in Lending Act and  
39 Regulation Z.

40 Sec. 22. The provisions of this chapter apply to any person who  
41 seeks to evade its application by any device, subterfuge or pretense,  
42 including, without limitation, calling a loan by any other name or using  
43 any agents, affiliates or subsidiaries in an attempt to avoid the  
44 application of the provisions of this chapter.

45 Sec. 23. The provisions of this chapter do not prohibit a licensee  
46 from offering a customer a grace period on the repayment of a loan,  
47 except that the licensee shall not charge the customer:

- 48 1. Any fees for granting such a grace period; or
- 49 2. Any additional fees or additional interest on the outstanding loan  
50 during such a grace period.

51 Sec. 24. 1. The provisions of this chapter must be interpreted so  
52 as to effectuate their general purpose to provide for, to the extent  
53 practicable, uniform regulation of the loans and transactions that are  
54 subject to the provisions of this chapter.

55 2. If there is a conflict between the provisions of this chapter and  
56 the provisions of any other general law regulating loans and similar  
57 transactions, the provisions of this chapter control.

58 Sec. 25. This chapter or any part thereof may be modified,  
59 amended or repealed by the Legislature so as to effect a cancellation or  
60 alteration of any license or right of a licensee under this chapter,

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1 provided that such cancellation or alteration shall not impair or affect  
2 the obligation of any preexisting lawful loan agreement between any  
3 licensee and any customer.

4 Sec. 26. Any loan lawfully made outside this State as permitted by  
5 the laws of the state in which the loan was made may be collected or  
6 otherwise enforced in this State in accordance with its terms.

7 Sec. 27. The provisions of this chapter do not apply to:

8 1. A person doing business pursuant to the authority of any law of  
9 this State or of the United States relating to banks, savings banks, trust  
10 companies, savings and loan associations, credit unions, development  
11 corporations, mortgage brokers, mortgage bankers, thrift companies or  
12 insurance companies.

13 2. A person who is primarily engaged in the retail sale of goods or  
14 services who:

15 (a) As an incident to or independently of a retail sale or service, from  
16 time to time cashes checks for a fee or other consideration of not more  
17 than \$2; and

18 (b) Does not hold himself out as a check-cashing service.

19 3. A person while performing any act authorized by a license issued  
20 pursuant to chapter 671 of NRS.

21 4. A person who holds a nonrestricted gaming license issued  
22 pursuant to chapter 463 of NRS while performing any act in the course  
23 of that licensed operation.

24 5. A person who is exclusively engaged in a check-cashing service  
25 relating to out-of-state checks.

26 6. A corporation organized pursuant to the laws of this State that  
27 has been continuously and exclusively engaged in a check-cashing  
28 service in this State since July 1, 1973.

29 7. A pawnbroker, unless the pawnbroker operates a check-cashing  
30 service, deferred deposit loan service, short-term loan service or title loan  
31 service.

32 8. A real estate investment trust, as defined in 26 U.S.C. § 856.

33 9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if  
34 the loan is made directly from money in the plan by the plan's trustee.

35 10. An attorney at law rendering services in the performance of his  
36 duties as an attorney at law if the loan is secured by real property.

37 11. A real estate broker rendering services in the performance of his  
38 duties as a real estate broker if the loan is secured by real property.

39 12. Any firm or corporation:

40 (a) Whose principal purpose or activity is lending money on real  
41 property which is secured by a mortgage;

42 (b) Approved by the Federal National Mortgage Association as a  
43 seller or servicer; and

44 (c) Approved by the Department of Housing and Urban Development  
45 and the Department of Veterans Affairs.

46 13. A person who provides money for investment in loans secured  
47 by a lien on real property, on his own account.

48 14. A seller of real property who offers credit secured by a mortgage  
49 of the property sold.

50 15. A person who makes a loan which is secured by a tax refund  
51 anticipation loan, unless the person operates a check-cashing service,  
52 deferred deposit loan service, short-term loan service or title loan service.

53 ~~Sec. 28. 1. The Commissioner shall adopt by regulation a~~  
54 ~~definition of the term "motor vehicle" as that term is used in the~~  
55 ~~definition of "title loan" for the purposes of this chapter.~~

56 21. The Commissioner may establish by regulation the fees that a  
57 licensee who provides check-cashing services may impose for cashing  
58 checks.

authorized by a license  
issued pursuant to  
Chapter 675 of NRS.



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1 ~~32.~~ The Commissioner shall adopt any other regulations as are  
2 necessary to carry out the provisions of this chapter.

3 Sec. 29. 1. A person, ~~including, without limitation, a person~~  
4 ~~licensed pursuant to chapter 675 of NRS,~~ shall not operate a check-  
5 cashing service, deferred deposit loan service, short-term loan service or  
6 title loan service unless the person is licensed with the Commissioner  
7 pursuant to the provisions of this chapter.

8 2. A person must have a license regardless of the location or method  
9 that the person uses to operate such a service, including, without  
10 limitation, at a kiosk, through the Internet, through any telephone,  
11 facsimile machine or other telecommunication device or through any  
12 other machine, network, system, device or means, except that the person  
13 shall not operate such a service through any automated loan machine in  
14 violation of the provisions of subsection 3.

15 3. A person shall not operate a deferred deposit loan service or  
16 short-term loan service through any automated loan machine, and the  
17 Commissioner shall not issue a license that authorizes the licensee to do  
18 business through any automated loan machine.

19 Sec. 30. 1. A licensee shall post in a conspicuous place in every  
20 location at which he conducts business under his license ~~as~~ :

21 (a) A notice that states the fees he charges for providing check-  
22 cashing services, deferred deposit loan services, short-term loan services  
23 or title loan services.

24 (b) A notice that states a toll-free telephone number to the Office of  
25 the Commissioner to handle concerns or complaints of customers.

26 ~~2.~~ The Commissioner shall adopt regulations prescribing the form and  
27 size of the notices required by this subsection.

28 2. If a licensee offers loans to customers at a kiosk, through the  
29 Internet, through any telephone, facsimile machine or other  
30 telecommunication device or through any other machine, network,  
31 system, device or means, except for an automated loan machine  
32 prohibited by section 29 of this act, the licensee shall, as appropriate to  
33 the location or method for making the loan, post in a conspicuous place  
34 where customers will see it before they enter into a loan, or disclose in an  
35 open and obvious manner to customers before they enter into a loan, a  
36 notice that states:

37 (a) The types of loans the licensee offers and the fees he charges for  
38 making each type of loan; and

39 (b) A list of the states where the licensee is licensed or authorized to  
40 conduct business from outside this State with customers located in this  
41 State.

42 3. A licensee who provides check-cashing services shall give written  
43 notice to each customer of the fees he charges for cashing checks. The  
44 customer must sign the notice before the licensee provides the check-  
45 cashing service.

46 Sec. 31. 1. Before making any loan to a customer, a licensee shall  
47 provide to the customer a written loan agreement which may be kept by  
48 the customer and which must be written in:

49 (a) English, if the transaction is conducted in English; or

50 (b) Spanish, if the transaction is conducted in Spanish.

51 2. The loan agreement must include, without limitation, the  
52 following information:

53 (a) The name and address of the licensee and the customer;

54 ~~(b) The date of the loan;~~

55 ~~(c) (b)~~ The nature of the security for the loan, if any;

56 ~~(d) (c)~~ The date and amount of the loan obligation, including,  
57 without limitation, an itemization of the interest, charges and fees the  
58 customer must pay if the licensee makes a loan to the customer; , amount

Subsection 3 is based on the  
intent of Sec. 2 of A.B. 340-R1  
(Ms. Giunchigliani).

Paragraph (b) is based on Sec. 1  
and Sec. 6 of A.B. 340-R1 (Ms.  
Giunchigliani).

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financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

~~(c) The description or schedule of payments on the loan;~~

~~(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;~~

~~(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;~~

~~(f) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and~~

~~(i) Disclosures~~

(f) Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.

**Sec. 32. 1. If a customer defaults on a loan, the licensee may collect the debt owed to the licensee only in a professional, fair and lawful manner. When collecting such a debt, the licensee must act in accordance with and must not violate sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, as amended, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the licensee is not otherwise subject to the provisions of that Act.**

**2. If a licensee ~~initiates~~ commences a civil action against a customer to collect a debt, the court may award:**

**(a) Court costs;**

**(b) Costs of service of process, except that the costs must not exceed the amount of the fees charged by the sheriff or constable for service of process in the county where the action was brought or, if the customer ~~is~~ was not served in that county, in the county where the customer was served; and**

**(c) Reasonable attorney's fees. In determining the amount of the attorney's fees and whether they are reasonable, the court shall consider the complexity of the case, the amount of the debt and whether the licensee could have used less costly means to collect the debt.**

**3. Notwithstanding any provision of NRS 66.010 to the contrary, if:**

**(a) A licensee intends to commence a civil action in a justice's court against a customer to collect a debt; and**

**(b) The customer resides in the county where the loan was made, ~~the licensee is required to commence the civil action in the justice's court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice's court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.~~**

**Sec. 33. 1. If a customer is called to active duty in the military, a licensee shall:**

**(a) Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and**

**(b) Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.**

**2. When collecting any defaulted loan, a licensee shall not:**

**(a) Garnish 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 loan or short-term loan that exceeds 25 percent of the expected gross monthly income of the customer during the term of the loan unless justified by particular circumstances, when the loan is made. A licensee is not in violation of the provisions of this subsection if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that the loan does not exceed 25 percent of the expected gross monthly income of the customer, during the term of the loan.

2. Make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:

(a) The customer is seeking multiple loans that do not exceed the limit set forth in subsection 1;

(b) The licensee charges the same rate of interest or a lower annual percentage rate for any additional loans as he charged for the initial loan;

(c) Except for the interest charged pursuant to paragraph (b), that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50, in the aggregate, for all the additional loans combined; and

(d) If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment, the licensee does not charge any fees to the customer pursuant to section 45 of this act, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.

Sec. 35. A licensee shall not:

1. Accept:

(a) Collateral as security for a loan, except that a title to a motor vehicle may be accepted as security for a title loan.

(b) An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.

(c) A check as security for a short-term loan or title loan.

(d) More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.

(e) A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the amount of total of payments set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z that is provided to the customer.

2. Take any note or promise to pay which does not disclose the date and amount of the loan, a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer, amount financed, annual percentage rate, finance charge, total of payments, payment schedule, late fees and any other fees that are not required to be included in the finance charge under the Truth in Lending Act and Regulation Z. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z constitutes compliance with this subsection.

\*PROPOSED AMENDMENT TO AB384\_R1\*

1 3. Take any instrument, including a check or written authorization  
2 for the electronic transfer of money, in which blanks are left to be filled  
3 in after the loan is made.

4 4. Make any transaction contingent on the purchase of insurance or  
5 any other goods or services or sell any insurance to the customer with  
6 the loan.

7 5. Fail to comply with a payment plan which is negotiated and  
8 agreed to by the licensee and customer.

9 6. Charge any fee to cash a check representing the proceeds of a  
10 loan made by the licensee or any agent, affiliate or subsidiary of the  
11 licensee.

12 **Sec. 36. A licensee shall not:**

13 1. Use or threaten to use the criminal process in this State or any  
14 other state, or any civil process not available to creditors generally, to  
15 collect on a loan made to a customer.

16 2. Commence a civil action or any process of alternative dispute  
17 resolution or repossess a vehicle before the customer defaults ~~expiration~~  
18 ~~of under the original term of a loan agreement or before the expiration~~  
19 ~~of customer defaults under any repayment plan, extension or grace~~  
20 ~~period negotiated and agreed to by the licensee and customer, unless~~  
21 ~~otherwise authorized pursuant to this chapter.~~

22 3. Take any confession of judgment or any power of attorney  
23 running to himself or to any third person to confess judgment or to  
24 appear for the customer in a judicial proceeding.

25 4. Include in any written agreement:

26 (a) A promise by the customer to hold the licensee harmless;

27 (b) A confession of judgment by the customer;

28 (c) An assignment or order for payment of wages or other  
29 compensation due the customer; or

30 (d) A waiver of any claim or defense arising out of the loan  
31 agreement or a waiver of any provision of this chapter. The provisions of  
32 this paragraph do not apply to the extent preempted by federal law.

33 5. Engage in any deceptive trade practice, as defined in chapter 598  
34 of NRS, including, without limitation, making a false representation.

35 6. Advertise or permit to be advertised in any manner any false,  
36 misleading or deceptive statement or representation with regard to the  
37 rates, terms or conditions for loans.

38 7. Use or attempt to use any agent, affiliate or subsidiary to avoid  
39 the requirements or prohibitions of this chapter.

40 **Sec. 36.5. Notwithstanding any other provision of this chapter to**  
41 **the contrary:**

42 1. The original term of a title loan must not exceed 30 days.

43 2. The title loan may be extended for not more than six additional  
44 periods of extension, with each such period not to exceed 30 days, if:

45 (a) Any interest or charges accrued during the original term of the  
46 title loan or any period of extension of the title loan are not capitalized or  
47 added to the principal amount of the title loan during any subsequent  
48 period of extension;

49 (b) The annual percentage rate charged on the title loan during any  
50 period of extension is not more than the annual percentage rate charged  
51 on the title loan during the original term; and

52 (c) No additional origination fees, set-up fees, collection fees,  
53 transaction fees, negotiation fees, handling fees, processing fees, late  
54 fees, default fees or any other fees, regardless of the name given to the  
55 fees, are charged in connection with any extension of the title loan.

56 **Sec. 37. A licensee who makes title loans shall not:**

57 1. Make a title loan that exceeds the fair market value of the ~~motor~~  
58 vehicle securing the title loan.

2. Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.

3. Make a title loan without requiring the customer to sign an affidavit which states that:

(a) The customer has provided the licensee with true and correct information concerning the customer's income, obligations, ~~and employment and ownership of the vehicle~~; and

(b) The customer has the ability to repay the title loan.

Sec. 38. 1. Except where in conflict with the provisions of this chapter, the provisions of chapter 104 of NRS apply to any title loan between a licensee and a customer.

2. Except as otherwise provided in this section, if a customer defaults on a title loan, or on any extension or repayment plan relating to the title loan, the sole remedy of the licensee who made the title loan is to ~~commence a legal action to seek repossession and sale of the motor vehicle which the customer used to secure the title loan.~~ The licensee may not pursue the customer personally for:

(a) Payment of the loan, unless the licensee proves the customer prevented the repossession and sale of the ~~motor~~ vehicle by any means, including, without limitation, hiding the ~~motor~~ vehicle; or

(b) Any deficiency after repossession and sale of the ~~motor~~ vehicle which the customer used to secure the title loan, unless the licensee proves the customer damaged or otherwise committed or permitted waste on the ~~motor~~ vehicle. For the purposes of this paragraph, it shall not be deemed waste for the customer to continue to use the ~~motor~~ vehicle in the same manner it was used before he entered into the title loan, ~~or to make necessary repairs to the motor vehicle.~~

~~3. After repossession and sale of the motor vehicle securing the title loan, the licensee shall return to the customer any proceeds from the sale of the motor vehicle which exceed the amount owed on the title loan.~~

3. If a vehicle is repossessed pursuant to this section:

(a) By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or

(b) By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.

4. If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:

(a) The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;

(b) Reasonable attorney's fees and costs; and

(c) Any other legal or equitable relief that the court deems appropriate.

5. As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a ~~motor~~ vehicle which does not belong to the customer.

Sec. 39. 1. A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:

1 (a) A sum of money equal to the face value of the loan, less any fee  
2 charged to the customer to initiate the loan; or

3 (b) The original check, if any, which the licensee gave to the  
4 customer pursuant to the loan. Upon receipt of the original check, the  
5 licensee shall refund any fee charged to the customer to initiate the loan.

6 2. If a customer rescinds a loan pursuant to this section, the  
7 licensee;

8 (a) Shall not charge the customer any fee for rescinding the loan;  
9 and

0 (b) Upon receipt of the sum of money or check pursuant to  
1 subsection 1, shall give to the customer a receipt showing the account  
2 paid in full and:

3 (1) If the customer gave to the licensee a check or a written  
4 authorization for an electronic transfer of money to initiate a deferred  
5 deposit loan, the check or written authorization stamped "void";

6 (2) If the customer gave to the licensee a promissory note to  
7 initiate a short-term loan, a copy of the promissory note stamped "void"  
8 or the receipt stamped "paid in full"; or

9 (3) If the customer gave to the licensee a title to a ~~motor~~ vehicle to  
0 initiate the title loan, the title.

1 Sec. 40. 1. A customer may pay a loan, or any extension thereof,  
2 in full at any time, without an additional charge or fee, before the date  
3 his final payment on the loan, or any extension thereof, is due.

4 2. If a customer pays the loan in full, including all interest, charges  
5 and fees negotiated and agreed to by the licensee and customer as  
6 permitted under this chapter, the licensee shall:

7 (a) Give to the customer:

8 (1) If the customer gave to the licensee a check or a written  
9 authorization for an electronic transfer of money to initiate a deferred  
0 deposit loan, the check or the written authorization stamped "void";

1 (2) If the customer gave to the licensee a promissory note to  
2 initiate a short-term loan, the promissory note stamped "void" or a  
3 receipt stamped "paid in full"; or

4 (3) If the customer gave to the licensee a title to a ~~motor~~ vehicle to  
5 initiate a title loan, the title; and

6 (b) Give to the customer a receipt with the following information:

7 (1) The name and address of the licensee;

8 (2) The identification number assigned to the loan agreement or  
9 other information that identifies the loan;

0 (3) The date of the payment;

1 (4) The amount paid;

2 (5) An itemization of interest, charges and fees;

3 (6) A statement that the loan is paid in full; and

4 (7) If more than one loan made by the licensee to the customer  
5 was outstanding at the time the payment was made, a statement  
6 indicating to which loan the payment was applied.

7 Sec. 41. 1. A customer may make a partial payment on a loan, or  
8 any extension thereof, at any time without an additional charge or fee.

9 2. If a customer makes such a partial payment, the licensee shall  
0 give to the customer a receipt with the following information:

1 (a) The name and address of the licensee;

2 (b) The identification number assigned to the loan agreement or  
3 other information that identifies the loan;

4 (c) The date of the payment;

5 (d) The amount paid;

6 (e) An itemization of interest, charges and fees;

7 (f) The balance due on the loan; and

(g) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 42. ~~1. The licensee and customer may enter into a repayment plan if:~~

~~(a) The customer defaults on the original loan, or any extension thereof; or~~

~~(b) Before such a default, the customer indicates that he is unable to pay the original loan in full pursuant to the terms set forth in the original loan agreement, or any extension thereof.~~

~~2. If the customer defaults on the original loan or any extension thereof, or indicates that he is unable to pay in full the original loan or any extension thereof, the licensee:~~

~~(a) Shall provide written notice in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish, to the customer of his right to enter into a repayment plan; and~~

~~(b) Shall not commence any civil action to collect on the outstanding loan unless:~~

~~(1) Such a notice has been sent to the customer; and~~

~~(2) The customer fails to exercise his right to enter into a repayment plan within 15 days after receipt of the notice.~~

~~3. If the licensee and customer enter into a repayment plan pursuant to this section, the customer may pay the remaining balance on the outstanding loan:~~

~~(a) In four equal monthly installments; or~~

~~(b) Under any other terms negotiated and agreed to by the licensee and customer that comply with the provisions of this section.~~

~~4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:~~

~~(a) Provide to the customer a document which confirms that the customer has entered into a repayment plan and which states the date and terms of the repayment plan; and~~

~~(b) If the repayment plan is for a deferred deposit loan, return to the customer the check or written authorization for an electronic transfer of money that the customer used to initiate the deferred deposit loan, with the check or written authorization stamped "void."~~

~~5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:~~

~~(a) Charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:~~

~~(1) Any interest, other than the interest charged pursuant to the original loan agreement, regardless of the name given to the interest; or~~

~~(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees.~~

~~(b) Accept any security or collateral from the customer to enter into the repayment plan;~~

~~(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;~~

~~(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in subsection 1 of section 34 of this act; or~~

- 1 ~~(e) Commence a civil action against the customer during the term of~~  
2 ~~the repayment plan.~~  
3 ~~6. Each time a customer makes a payment pursuant to a repayment~~  
4 ~~plan, the licensee shall give to the customer a receipt with the following~~  
5 ~~information:~~  
6 ~~(a) The name and address of the licensee;~~  
7 ~~(b) The identification number assigned to the loan agreement or~~  
8 ~~other information that identifies the loan;~~  
9 ~~(c) The date of the payment;~~  
0 ~~(d) The amount paid;~~  
1 ~~(e) The balance due on the loan or, when the customer makes the~~  
2 ~~final payment, a statement that the loan is paid in full; and~~  
3 ~~(f) If more than one loan made by the licensee to the customer was~~  
4 ~~outstanding at the time the payment was made, a statement indicating to~~  
5 ~~which loan the payment was applied.~~  
6  
7 1. Before a licensee attempts to collect the outstanding balance on a  
8 loan in default by commencing a civil action or any process of  
9 alternative dispute resolution or by repossessing a vehicle, the licensee  
0 shall offer the customer an opportunity to enter into a repayment plan.  
1 The licensee:  
2 (a) Is required to make the offer available to the customer for a  
3 period of at least 30 days after the date of default; and  
4 (b) Is not required to make such an offer more than once for each  
5 loan.  
6 2. Not later than 15 days after the date of default, the licensee shall  
7 provide to the customer written notice of the opportunity to enter into a  
8 repayment plan. The written notice must:  
9 (a) Be in English, if the initial transaction was conducted in English,  
0 or in Spanish, if the initial transaction was conducted in Spanish;  
1 (b) State the date by which the customer must act to enter into a  
2 repayment plan;  
3 (c) Explain the procedures the customer must follow to enter into a  
4 repayment plan;  
5 (d) If the licensee requires the customer to make an initial payment  
6 to enter into a repayment plan, explain the requirement and state the  
7 amount of the initial payment and the date the initial payment must be  
8 made;  
9 (e) State that the customer has the opportunity to enter into a  
0 repayment plan with a term of at least 90 days from the date of default;  
1 and  
2 (f) Include the following amounts:  
3 (1) The total of payments or the remaining balance on the  
4 original loan;  
5 (2) Any payments made on the loan;  
6 (3) Any charges added to the loan amount allowed pursuant to the  
7 provisions of this chapter; and  
8 (4) The total amount due if the customer enters a repayment plan.  
9 3. Under the terms of any repayment plan pursuant to this section:  
0 (a) The customer must enter into the repayment plan not later than  
1 30 days from the date of default, unless the licensee allows a longer  
2 period;  
3 (b) The licensee must allow the period for repayment to extend at  
4 least 90 days from the date of default, unless the customer agrees to a  
5 shorter term;  
6 (c) The licensee may require the customer to make an initial payment  
7 of not more than 20 percent of the total amount due under the terms of  
8 the repayment plan;  
9 (d) For a deferred deposit loan:



(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for the electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

(3) The licensee shall not charge any fee to the customer pursuant to section 45 for a check which is provided as security during the repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, 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) Except as otherwise provided in this section, 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;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing a civil action or any process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan.

6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:

(a) The name and address of the licensee;

(b) The identification number assigned to the loan agreement or other information that identifies the loan;

(c) The date of the payment;

(d) The amount paid;

(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence a civil action or any process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter.

Sec. 43. ~~§~~ 1. Except as otherwise provided in subsection 2, if a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or short-term loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond ~~8 weeks~~ 60 days after the expiration of the initial loan period.

2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:

(a) Makes the deferred deposit loan or short-term loan to a customer pursuant to a loan agreement which, under its original terms:

(1) Charges an annual percentage rate of less than 200 percent;

(2) Requires the customer to make a payment on the loan at least once every 30 days;

(3) Requires the loan to be paid in full within 150 days; and

(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;

(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;

(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;

(d) Gives the customer the right to rescind the deferred deposit loan or short-term loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;

(e) Participates in good faith with a counseling agency that is accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization;

(f) Is a member of the National Foundation for Credit Counseling or its successor organization; and

(g) Does not commence a civil action or any process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.

Sec. 44. 1. ~~§~~ Except as otherwise provided in this chapter, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer:

(a) The principal amount of the loan.

(b) The interest accrued before the expiration of the initial loan period at the ~~annual percentage rate of interest~~ set forth in the disclosure statement required by the federal Truth in Lending Act, ~~15 U.S.C. §§ 1601 et seq.~~ and Regulation Z that is provided to the customer. If there is an extension or repayment plan relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~8 weeks~~ 60 days after the expiration of the initial loan period.

(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to paragraph (b), whichever is later, at ~~a rate of interest~~ an annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as

the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed ~~12 weeks~~ 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

(d) Any fees allowed pursuant to section 45 of this act for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to this chapter, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:

(a) Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or

(b) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.

Sec. 44.5. If a customer defaults on a short-term loan, the licensee may charge a one-time late fee of not more than \$25.

Sec. 45. 1. A licensee may collect a fee of not more than \$25 if a check is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.

2. If the account of the customer contains insufficient funds, the licensee may collect only two fees of \$25 each regardless of the number of times the check is presented for payment.

3. If the account of the customer has been closed, the licensee may collect only one fee of \$25 regardless of the number of times the check is presented for payment.

4. A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.

Sec. 46. In addition to any other provision in this chapter, each time a customer makes a payment to a licensee, the licensee shall give to the customer a receipt with the following information:

1. The name and address of the licensee;
2. The identification number assigned to the loan agreement or other information that identifies the loan;
3. The date of the payment;
4. The amount paid;
5. The balance due on the loan or, when the customer makes a final payment, a statement that the loan is paid in full; and
6. If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 47. 1. A person shall not act as an agent for or assist a licensee in the making of a loan unless the licensee complies with all applicable federal and state laws, regulations and guidelines.

2. The provisions of this section do not apply to the agent or assistant to a state or federally chartered bank, thrift company, savings and loan association or industrial loan company if the state or federally chartered bank, thrift company, savings and loan association or industrial loan company:

- (a) Initially advances the loan proceeds to the customer; and
- (b) Does not sell, assign or transfer a preponderant economic interest in the loan to the agent or assistant or an affiliate or subsidiary of the

1 state or federally chartered bank, thrift company, savings and loan  
2 association or industrial loan company, unless selling, assigning or  
3 transferring a preponderant economic interest is expressly permitted by  
4 the primary regulator of the state or federally chartered bank, thrift  
5 company, savings and loan association or industrial loan company.

6 3. If a licensee acts as an agent for or assists a state or federally  
7 chartered bank, thrift company, savings and loan association or  
8 industrial loan company in the making of a loan and the licensee can  
9 show that the standards set forth in subsection 2 are satisfied, the  
0 licensee must comply with all other provisions in this chapter to the  
1 extent they are not preempted by other state or federal law.

2 Sec. 48. 1. An application for a license pursuant to the provisions  
3 of this chapter must be made in writing, under oath and on a form  
4 prescribed by the Commissioner. The application must include:

5 (a) If the applicant is a natural person, the name and address of the  
6 applicant.

7 (b) If the applicant is a business entity, the name and address of  
8 each:

9 (1) Partner;

0 (2) Officer;

1 (3) Director;

2 (4) Manager or member who acts in a managerial capacity; and

3 (5) Registered agent,

4 ↳ of the business entity.

5 (c) Such other information, as the Commissioner determines  
6 necessary, concerning the financial responsibility, background,  
7 experience and activities of the applicant and its:

8 (1) Partners;

9 (2) Officers;

0 (3) Directors; and

1 (4) Managers or members who act in a managerial capacity.

2 (d) The address of each location at which the applicant proposes to  
3 do business under the license, including, without limitation, each  
4 location where the applicant will operate at a kiosk, through the Internet,  
5 through any telephone, facsimile machine or other telecommunication  
6 device or through any other machine, network, system, device or means,  
7 except that the applicant shall not propose to do business through any  
8 automated loan machine prohibited by section 29 of this act.

9 (e) If the applicant is or intends to be licensed to provide more than  
0 one type of service pursuant to the provisions of this chapter, a statement  
1 of that intent and which services he provides or intends to provide.

2 2. Each application for a license must be accompanied by:

3 (a) A nonrefundable application fee;

4 (b) Such additional expenses incurred in the process of investigation  
5 as the Commissioner deems necessary; and

6 (c) A fee of not less than \$100 or more than \$500, prorated on the  
7 basis of the licensing year.

8 ↳ All money received by the Commissioner pursuant to this subsection  
9 must be placed in the Investigative Account for Financial Institutions  
0 created by NRS 232.545.

1 3. The Commissioner shall adopt regulations establishing the  
2 amount of the fees required pursuant to this section.

3 4. The Commissioner shall consider an application to be withdrawn  
4 if the Commissioner has not received all information and fees required  
5 to complete the application within 6 months from the date the application  
6 is first submitted to the Commissioner or within such later period as the  
7 Commissioner determines in accordance with any existing policies of  
8 joint regulatory partners. If an application is deemed to be withdrawn  
9 pursuant to this subsection or if an applicant otherwise withdraws an

The provisions of  
subsection 4 are based  
on language from Sec.  
43 of S.B. 431-R1  
(Division of Financial  
Institutions).

application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

**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 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license.

**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.

**5.** The liability of the surety on the bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.

**6.** The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:

(a) The death of the licensee or the dissolution or liquidation of his business; or

(b) The termination of the bond,  
→ whichever event occurs first.

**7.** A licensee or his surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.

**Sec. 50. 1.** In lieu of any surety bond, or any portion of the principal sum thereof as required pursuant to the provisions of this chapter, a licensee may deposit with the State Treasurer or with any bank, credit union or trust company authorized to do business in this State as the licensee may select, with the approval of the Commissioner:

(a) Interest-bearing stocks;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

1 (c) Any obligation of this State or any city, county, town, township,  
2 school district or other instrumentality of this State or guaranteed by this  
3 State,

4 ➡ in an aggregate amount of, based upon principal amount or market  
5 value, whichever is lower, of not less than the amount of the required  
6 surety bond or portion thereof.

7 2. The securities must be held to secure the same obligation as  
8 would the surety bond, but the depositor may receive any interest or  
9 dividends and, with the approval of the Commissioner, substitute other  
10 suitable securities for those deposited.

11 Sec. 51. 1. A person may apply for a license for an office or other  
12 place of business located outside this State from which the applicant will  
13 conduct business in this State if the applicant or a subsidiary or affiliate  
14 of the applicant has a license issued pursuant to this chapter for an  
15 office or other place of business located in this State and if the applicant  
16 submits with the application for a license a statement signed by the  
17 applicant which states that the applicant agrees to:

18 (a) Make available at a location within this State the books, accounts,  
19 papers, records and files of the office or place of business located outside  
20 this State to the Commissioner or a representative of the Commissioner;  
21 or

22 (b) Pay the reasonable expenses for travel, meals and lodging of the  
23 Commissioner or a representative of the Commissioner incurred during  
24 any investigation or examination made at the office or place of business  
25 located outside this State.

26 ➡ The person must be allowed to choose between the provisions of  
27 paragraph (a) or (b) in complying with the provisions of this subsection.

28 2. This section applies, without limitation, to any office or other  
29 place of business located outside this State from which the applicant will  
30 conduct business in this State at a kiosk, through the Internet, through  
31 any telephone, facsimile machine or other telecommunication device or  
32 through any other machine, network, system, device or means, except  
33 that the applicant shall not conduct business in this State through any  
34 automated loan machine prohibited by section 29 of this act.

35 Sec. 52. 1. Upon the filing of the application and the payment of  
36 the fees required pursuant to section 48 of this act,  
37 the Commissioner shall investigate the facts concerning the application  
38 and the requirements provided for in ~~section~~ sections 53.5 and 54 of this  
39 act.

40 2. The Commissioner may hold a hearing on the application at a  
41 time not less than 30 days after the date the application was filed or not  
42 more than 60 days after that date. The hearing must be held in the Office  
43 of the Commissioner or such other place as he may designate. Notice in  
44 writing of the hearing must be sent to the applicant and to any licensee to  
45 which a notice of the application has been given and to such other  
46 persons as the Commissioner may see fit, at least 10 days before the date  
47 set for the hearing.

48 3. The Commissioner shall make his order granting or denying the  
49 application within 10 days after the date of the closing of the hearing,  
50 unless the period is extended by written agreement between the applicant  
51 and the Commissioner.

52 Sec. 53. If the Commissioner finds that any applicant does not  
53 possess the requirements specified in this chapter, he shall:

54 1. Enter an order denying the application and notify the applicant  
55 of the denial.

56 2. Within 10 days after the entry of such an order, file his findings  
57 and a summary of the evidence supporting those findings and deliver a  
58 copy thereof to the applicant.

The provisions of Sec. 53.5 are based on language from Sec. 36 of S.B. 431-R1 (Division of Financial Institutions).

**Sec. 53.5. 1. In addition to any other requirements set forth in this chapter, each applicant must submit proof satisfactory to the Commissioner that the applicant:**

**(a) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.**

**(b) Has not made a false statement of material fact on the application for the license.**

**(c) Has not committed any of the acts specified in subsection 2.**

**(d) Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.**

**(e) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.**

**(f) If the applicant is a natural person:**

**(1) Is at least 21 years of age; and**

**(2) Is a citizen of the United States or lawfully entitled to remain and work in the United States.**

**2. In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:**

**(a) Has committed or participated in any act which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.**

**(b) Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.**

**(c) Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.**

**(d) Has falsified any of the information submitted to the Commissioner in support of the application for the license.**

**Sec. 54. 1. The Commissioner shall enter an order granting an application if he finds that ~~the~~ :**

**(a) The financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently;**

**(b) The applicant has satisfied the requirements set forth in section 53.5 of this act.**

**2. If the Commissioner grants an application, the Commissioner shall:**

**(a) File his findings of fact together with the transcript of any hearing held pursuant to the provisions of this chapter; and**

**(b) Issue to the licensee a license in such form and size as is prescribed by the Commissioner for each location at which the licensee proposes to do business.**

**3. Each licensee shall prominently display his license at the location where he does business. The Commissioner may issue additional licenses to the same licensee for each branch location at which the licensee is authorized to operate under the license, including, without limitation, each branch location where the licensee is authorized to operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the Commissioner shall not issue any license that would authorize the licensee to operate through any automated loan machine prohibited by section 29 of this act. Nothing in this subsection requires a license for any place of business devoted to accounting, recordkeeping or administrative purposes only.**

**4. Each license ~~shall~~ must:**

(a) State the address at which the business is to be conducted; and

(b) State fully:

(1) The name and address of the licensee;

(2) If the licensee is a copartnership or association, the names of its members; and

(3) If the licensee is a corporation, the date and place of its incorporation.

5. A license is not transferable or assignable.

Sec. 55. 1. A license issued pursuant to the provisions of this chapter expires annually on the anniversary of the issuance of the license. A licensee must renew his license on or before the date on which the license expires by paying:

(a) A renewal fee; and

(b) An additional fee for each branch location at which the licensee is authorized to operate under the license.

2. A licensee who fails to renew his license within the time required by this section is not licensed pursuant to the provisions of this chapter.

3. The Commissioner may reinstate an expired license upon receipt of the renewal fee and a fee for reinstatement.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 56. 1. A licensee shall immediately notify the Commissioner of any change of control of the licensee.

2. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be satisfied, he may deny the application and forbid the applicant from participating in the business of the licensee.

3. As used in this section, "change of control" means:

(a) A transfer of voting stock, partnership or member interests which results in giving a person, directly or indirectly, the power to direct the management and policy of a licensee; or

(b) A transfer of at least 25 percent of the outstanding voting stock, partnership or member interests of the licensee.

Sec. 57. 1. A licensee shall not conduct the business of making loans under any name, at any place or by any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except as permitted in the license or branch license issued to the licensee.

2. A licensee must obtain the approval of the Commissioner before using or changing a business name.

3. A licensee shall not:

(a) Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.

(b) Use any printed forms which may mislead or confuse the public.

Sec. 58. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

The provisions of subsections 2 and 3 are based on language from Sec. 38 of S.B. 431-R1 (Division of Financial Institutions).



(1) *The licensee and the mortgage broker:*

(I) *Maintain separate accounts, books and records;*

(II) *Are subsidiaries of the same parent corporation; and*

(III) *Maintain separate licenses; and*

(2) *The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

(b) *A mortgage banker if:*

(1) *The licensee and the mortgage banker:*

(I) *Maintain separate accounts, books and records;*

(II) *Are subsidiaries of the same parent corporation; and*

(III) *Maintain separate licenses; and*

(2) *The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.*

3. *If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.*

Sec. 59. 1. *A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. *Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.*

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$500.*

4. *This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act.*

Sec. 60. 1. *Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.*

2. *Each licensee shall maintain a separate written or electronic record or ledger card for the account of each customer and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.*

3. *Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.*

4. *Each licensee who operates outside this State an office or other place of business that is licensed pursuant to provisions of this chapter shall:*

(a) *Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner;*  
or

(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during*

1 any investigation or examination made at the office or place of business  
2 located outside this State.

3 ↳ The licensee must be allowed to choose between the provisions of  
4 paragraph (a) or (b) in complying with this subsection.

5 5. As used in this section, "amount of cash advance" means the  
6 amount of cash or its equivalent actually received by a customer or paid  
7 out at his direction or in his behalf.

8 Sec. 61. 1. Except as otherwise provided in subsection 3, an  
9 officer or employee of the Division of Financial Institutions of the  
10 Department of Business and Industry shall not:

11 (a) Be directly or indirectly interested in or act on behalf of any  
12 licensee;

13 (b) Receive, directly or indirectly, any payment from any licensee;

14 (c) Be indebted to any licensee;

15 (d) Engage in the negotiation of loans for others with any licensee;  
16 or

17 (e) Obtain credit or services from a licensee conditioned upon a  
18 fraudulent practice or undue or unfair preference over other customers.

19 2. An employee of the Division of Financial Institutions in the  
20 unclassified service of the State shall not obtain new extensions of credit  
21 from a licensee while in office.

22 3. Any officer or employee of the Division of Financial Institutions  
23 may be indebted to a licensee on the same terms as are available to the  
24 public generally.

25 4. If an officer or employee of the Division of Financial Institutions  
26 has a service, a preferred consideration, an interest or a relationship  
27 prohibited by this section at the time of his appointment or employment,  
28 or obtains it during his employment, he shall terminate it within 120 days  
29 after the date of his appointment or employment or the discovery of the  
30 prohibited act.

31 Sec. 62. 1. For the purpose of discovering violations of this  
32 chapter or of securing information lawfully required under this chapter,  
33 the Commissioner or his duly authorized representatives may at any time  
34 investigate the business and examine the books, accounts, papers and  
35 records used therein of:

36 (a) Any licensee;

37 (b) Any other person engaged in the business of making loans or  
38 participating in such business as principal, agent, broker or otherwise;  
39 and

40 (c) Any person who the Commissioner has reasonable cause to  
41 believe is violating or is about to violate any provision of this chapter,  
42 whether or not the person claims to be within the authority or beyond the  
43 scope of this chapter.

44 2. For the purpose of examination, the Commissioner or his  
45 authorized representatives shall have and be given free access to the  
46 offices and places of business, and the files, safes and vaults of such  
47 persons.

48 3. For the purposes of this section, any person who advertises for,  
49 solicits or holds himself out as willing to make any deferred deposit loan,  
50 short-term loan or title loan is presumed to be engaged in the business of  
51 making loans.

52 Sec. 63. 1. The Commissioner may require the attendance of any  
53 person and examine him under oath regarding:

54 (a) Any check-cashing service or loan service regulated pursuant to  
55 the provisions of this chapter; or

56 (b) The subject matter of any audit, examination, investigation or  
57 hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 64. 1. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary.

Sec. 65. 1. The Commissioner shall charge and collect from each licensee a fee of \$40 per hour for any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted thereto.

2. The Commissioner shall bill each licensee upon the completion of the activity for the fee established pursuant to subsection 1. The licensee shall pay the fee within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.

Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant to this chapter.

Sec. 66. If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.

Sec. 67. 1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

The provisions of Sec. 65.5 are based on language from Sec. 37 of S.B. 431-R1 (Division of Financial Institutions).

1     **Sec. 68. 1. If the Commissioner has reason to believe that**  
2 **grounds for revocation or suspension of a license exist, he shall give 20**  
3 **days' written notice to the licensee stating the contemplated action and,**  
4 **in general, the grounds therefor and set a date for a hearing.**

5     **2. At the conclusion of a hearing, the Commissioner shall:**

6     **(a) Enter a written order either dismissing the charges, revoking the**  
7 **license or suspending the license for a period of not more than 60 days,**  
8 **which period must include any prior temporary suspension. The**  
9 **Commissioner shall send a copy of the order to the licensee by registered**  
10 **or certified mail.**

11     **(b) Impose upon the licensee a fine of \$500 for each violation by the**  
12 **licensee of any provision of this chapter or any regulation adopted**  
13 **pursuant thereto.**

14     **(c) If a fine is imposed pursuant to this section, enter such order as is**  
15 **necessary to recover the costs of the proceeding, including his**  
16 **investigative costs and attorney's fees.**

17     **3. The grounds for revocation or suspension of a license are that:**

18     **(a) The licensee has failed to pay the annual license fee;**

19     **(b) The licensee, either knowingly or without any exercise of due**  
20 **care to prevent it, has violated any provision of this chapter or any lawful**  
21 **regulation adopted pursuant thereto;**

22     **(c) The licensee has failed to pay a tax as required pursuant to the**  
23 **provisions of chapter 363A of NRS;**

24     **(d) Any fact or condition exists which would have justified the**  
25 **Commissioner in denying the licensee's original application for a license**  
26 **pursuant to the provisions of this chapter; or**

27     **(e) The licensee:**

28     **(1) Failed to open an office for the conduct of the business**  
29 **authorized by his license within 180 days after the date his license was**  
30 **issued; or**

31     **(2) Has failed to remain open for the conduct of the business for a**  
32 **period of 180 days without good cause therefor.**

33     **4. Any revocation or suspension applies only to the license granted**  
34 **to a person for the particular office for which grounds for revocation or**  
35 **suspension exist.**

36     **5. An order suspending or revoking a license becomes effective 5**  
37 **days after being entered unless the order specifies otherwise or a stay is**  
38 **granted.**

39     **Sec. 69. A licensee may surrender any license issued pursuant to**  
40 **the provisions of this chapter by delivering it to the Commissioner with**  
41 **written notice of its surrender, but a surrender does not affect his civil or**  
42 **criminal liability for acts committed prior thereto.**

43     **Sec. 70. A revocation, suspension, expiration or surrender of any**  
44 **license does not impair or affect the obligation of any preexisting lawful**  
45 **loan agreement between the licensee and any customer. Such a loan**  
46 **agreement and all lawful charges thereon may be collected by the**  
47 **licensee, its successors or assigns.**

48     **Sec. 71. 1. Annually, on or before April 15, each licensee shall**  
49 **file with the Commissioner a report of operations of the licensed**  
50 **business for the preceding calendar year.**

51     **2. The licensee shall make the report under oath and on a form**  
52 **prescribed by the Commissioner.**

53     **3. If any person or affiliated group holds more than one license in**  
54 **this State, it may file a composite annual report.**

55     **Sec. 72. 1. A court of this State may exercise jurisdiction over a**  
56 **party to a civil action arising under the provisions of this chapter on any**  
57 **basis not inconsistent with the Constitution of the State of Nevada or the**  
58 **Constitution of the United States.**

1 2. Personal service of summons upon a party outside this State is  
 2 sufficient to confer upon a court of this State jurisdiction over the party  
 3 so served if the service is made by delivering a copy of the summons,  
 4 together with a copy of the complaint, to the party served in the manner  
 5 provided by statute or rule of court for service upon a person of like kind  
 6 within this State.

7 3. In all cases of such service, the defendant has 40 days, exclusive  
 8 of the day of service, within which to answer or plead.

9 4. This section provides an additional manner of serving process  
 10 and does not invalidate any other service.

11 Sec. 73. 1. Except as otherwise provided in this section, if a  
 12 licensee willfully:

13 (a) Enters into a loan agreement for an amount of interest or any  
 14 other charge or fee that violates the provisions of this chapter or any  
 15 regulation adopted pursuant thereto;

16 (b) Demands, collects or receives an amount of interest or any other  
 17 charge or fee that violates the provisions of this chapter or any  
 18 regulation adopted pursuant thereto; or

19 (c) Commits any other act or omission that violates the provisions of  
 20 this chapter or any regulation adopted pursuant thereto,  
 21 the loan is void and the licensee is not entitled to collect, receive or  
 22 retain any principal, interest or other charges or fees with respect to the  
 23 loan.

24 2. The provisions of this section do not apply if:

25 (a) A licensee shows by a preponderance of the evidence that the  
 26 violation was not intentional and resulted from a bona fide error of  
 27 computation, notwithstanding the maintenance of procedures reasonably  
 28 adapted to avoid that error; and

29 (b) Within 60 days after discovering the error, the licensee notifies  
 30 the customer of the error and makes whatever adjustments in the  
 31 account are necessary to correct the error.

32 Sec. 73.5. In addition to any other remedy or penalty, the  
 33 Commissioner may impose an administrative fine of not more than  
 34 \$10,000 upon a person who, without a license, conducts any business or  
 35 activity for which a license is required pursuant to the provisions of this  
 36 chapter.

37 Sec. 74. ~~In 1.~~ Except as otherwise provided in subsection ~~2~~ 3, in  
 38 addition to any other remedy or penalty, if a ~~licensee~~ person violates any  
 39 provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or  
 40 any regulation adopted pursuant thereto, the customer may bring a civil  
 41 action against the ~~licensee~~ person for any or all of the following relief:

42 ~~1. (a)~~ Actual and consequential damages;

43 ~~2. (b)~~ ~~An additional amount, as statutory damages, which is equal to~~  
 44 ~~\$1,000 for each violation;~~

45 ~~3. (c)~~ (b) Punitive damages, which are subject to the provisions of  
 46 NRS 42.005;

47 ~~4. (d)~~ (c) Reasonable attorney's fees and costs; and

48 ~~5. (e)~~ (d) Any other legal or equitable relief that the court deems  
 49 appropriate.

50 2. Except as otherwise provided in subsection 3, in addition to any  
 51 other remedy or penalty, if a customer brings a civil action pursuant to  
 52 subsection 1 against a person who has committed a material violation of  
 53 any provision of section 29 or 44 of this act, the customer is entitled to  
 54 recover an additional amount, as statutory damages, which is equal to  
 55 \$1,000 for each such violation.

56 3. A ~~licensee~~ person may not be held liable in any civil action  
 57 brought pursuant to ~~subsection 1~~ this section if the ~~licensee~~ person  
 58 proves, by a preponderance of evidence, that the violation:

59 (a) Was not intentional;

The provisions of Sec. 73.5 are based on language from Sec. 40 of S.B. 431-R1 (Division of Financial Institutions).

Subsections 3 and 4 create an affirmative defense that is modeled after provisions in the federal Truth in Lending Act. See 15 U.S.C. § 1640(c).

*(b) Was technical in nature; and*

*(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.*

~~*3. 4. For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the licensee's obligations under this chapter is not a bona fide error.*~~

**Sec. 75.** NRS 598D.130 is hereby amended to read as follows:

598D.130 A mortgage, deed of trust or other instrument that encumbers home property as security for repayment of a home loan must expressly indicate in writing *in a size equal to at least 14-point bold type on the front page of the mortgage, deed of trust or other instrument* that the home loan is a home loan as defined in NRS 598D.040 ~~and is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.~~

**Sec. 75.5.** NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~Any~~ *Except as otherwise provided in section 45 of this act, any person who:*

(a) Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or

(b) Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,

and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.

2. As used in this section, unless the context otherwise requires:

(a) "Credit card" has the meaning ascribed to it in NRS 205.630;

(b) "Debit card" has the meaning ascribed to it in NRS 205.635; and

(c) "Issuer" has the meaning ascribed to it in NRS 205.650.

**Sec. 76.** NRS 232.545 is hereby amended to read as follows:

232.545 1. An Investigative Account for Financial Institutions is hereby created in the State General Fund. The Account consists of money which is:

(a) Received by the Department of Business and Industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The Director of the Department of Business and Industry or his designee may authorize expenditures from the Investigative Account to pay the expenses incurred:

(a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;

(b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and

(c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, "financial institution" means an institution for which licensing or registration is required by the provisions of titles 55 and 56 ~~and chapters 604 and 649~~ of NRS ~~and chapter 649 of NRS and sections 2 to 74, inclusive, of this act.~~

Section 75.5 is added to further clarify that NRS 41.620 does not apply to loan transactions governed by this bill.

1 Sec. 76.3. Chapter 278 of NRS is hereby amended by adding thereto  
2 a new section to read as follows:

3 ~~1. Except as otherwise provided in this section, in a county whose~~  
4 ~~population is less than 100,000, each governing body shall adopt zoning~~  
5 ~~regulations which restrict to specific districts within the geographical~~  
6 ~~jurisdiction of the governing body the construction, reconstruction,~~  
7 ~~alteration, repair or use of buildings, structures or land of a business~~  
8 ~~that operates a check cashing service, deferred deposit loan service,~~  
9 ~~short term loan service or title loan service pursuant to sections 2 to 74,~~  
10 ~~inclusive, of this act.~~

11 ~~2. The provisions of this section do not apply to any place of~~  
12 ~~business devoted to accounting, recordkeeping or administrative~~  
13 ~~purposes only.~~

14 ~~3. If, on July 1, 2005, a governing body has in effect zoning~~  
15 ~~regulations which include the type of restrictions described in subsection~~  
16 ~~1, the governing body shall be deemed to be in compliance with this~~  
17 ~~section so long as those zoning regulations remain in effect and are not~~  
18 ~~amended in manner that conflicts with this section.~~

19 Sec. 76.6. NRS 278.250 is hereby amended to read as follows:

20 ~~278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive,~~  
21 ~~and section 76.3 of this act, the governing body may divide the city,~~  
22 ~~county or region into zoning districts of such number, shape and area as~~  
23 ~~are best suited to carry out the purposes of NRS 278.010 to 278.630,~~  
24 ~~inclusive [.] , and section 76.3 of this act. Within the zoning district it may~~  
25 ~~regulate and restrict the erection, construction, reconstruction, alteration,~~  
26 ~~repair or use of buildings, structures or land.~~

27 ~~2. The zoning regulations must be adopted in accordance with the~~  
28 ~~master plan for land use and be designed:~~

- 29 ~~(a) To preserve the quality of air and water resources;~~  
30 ~~(b) To promote the conservation of open space and the protection of~~  
31 ~~other natural and scenic resources from unreasonable impairment;~~  
32 ~~(c) To provide for recreational needs;~~  
33 ~~(d) To protect life and property in areas subject to floods, landslides~~  
34 ~~and other natural disasters;~~  
35 ~~(e) To conform to the adopted population plan, if required by NRS~~  
36 ~~278.170;~~

37 ~~(f) To develop a timely, orderly and efficient arrangement of~~  
38 ~~transportation and public facilities and services, including facilities and~~  
39 ~~services for bicycles;~~

40 ~~(g) To ensure that the development on land is commensurate with the~~  
41 ~~character and the physical limitations of the land;~~

42 ~~(h) To take into account the immediate and long-range financial impact~~  
43 ~~of the application of particular land to particular kinds of development, and~~  
44 ~~the relative suitability of the land for development;~~

45 ~~(i) To promote health and the general welfare;~~

46 ~~(j) To ensure the development of an adequate supply of housing for the~~  
47 ~~community, including the development of affordable housing;~~

48 ~~(k) To ensure the protection of existing neighborhoods and~~  
49 ~~communities, including the protection of rural preservation neighborhoods;~~

50 ~~3. The zoning regulations must be adopted with reasonable~~  
51 ~~consideration, among other things, to the character of the area and its~~  
52 ~~peculiar suitability for particular uses, and with a view to conserving the~~  
53 ~~value of buildings and encouraging the most appropriate use of land~~  
54 ~~throughout the city, county or region;~~

55 ~~4. In exercising the powers granted in this section, the governing~~  
56 ~~body may use any controls relating to land use or principles of zoning that~~  
57 ~~the governing body determines to be appropriate, including, without~~  
58 ~~limitation, density bonuses, inclusionary zoning and minimum density~~  
59 ~~zoning;~~

Sec. 76.3 and Sec. 76.6  
are based on Sec. 2 and  
Sec. 4 of A.B. 340-R1  
(Ms. Giunchigliani).

1 ~~5. As used in this section:~~

2 ~~(a) "Density bonus" means an incentive granted by a governing body~~  
 3 ~~to a developer of real property that authorizes the developer to build at a~~  
 4 ~~greater density than would otherwise be allowed under the master plan, in~~  
 5 ~~exchange for an agreement by the developer to perform certain functions~~  
 6 ~~that the governing body determines to be socially desirable, including,~~  
 7 ~~without limitation, developing an area to include a certain proportion of~~  
 8 ~~affordable housing.~~

9 ~~(b) "Inclusionary zoning" means a type of zoning pursuant to which a~~  
 10 ~~governing body requires or provides incentives to a developer who builds~~  
 11 ~~residential dwellings to build a certain percentage of those dwellings as~~  
 12 ~~affordable housing.~~

13 ~~(c) "Minimum density zoning" means a type of zoning pursuant to~~  
 14 ~~which development must be carried out at or above a certain density to~~  
 15 ~~maintain conformance with the master plan.~~

16 Sec. 77. NRS 363A.050 is hereby amended to read as follows:

17 363A.050 1. Except as otherwise provided in subsection 2,  
 18 "financial institution" means:

19 (a) An institution licensed, registered or otherwise authorized to do  
 20 business in this State pursuant to the provisions of *title 55 or 56 of NRS or*  
 21 *chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,]*  
 22 *sections 2 to 74, inclusive, of this act,* or a similar institution chartered or  
 23 licensed pursuant to federal law and doing business in this State;

24 (b) Any person primarily engaged in:

25 (1) The purchase, sale and brokerage of securities;  
 26 (2) Originating, underwriting and distributing issues of securities;  
 27 (3) Buying and selling commodity contracts on either a spot or  
 28 future basis for the person's own account or for the account of others, if  
 29 the person is a member or is associated with a member of a recognized  
 30 commodity exchange;

31 (4) Furnishing space and other facilities to members for the purpose  
 32 of buying, selling or otherwise trading in stocks, stock options, bonds or  
 33 commodity contracts;

34 (5) Furnishing investment information and advice to others  
 35 concerning securities on a contract or fee basis;

36 (6) Furnishing services to holders of or brokers or dealers in  
 37 securities or commodities;

38 (7) Holding or owning the securities of banks for the sole purpose  
 39 of exercising some degree of control over the activities of the banks whose  
 40 securities the person holds;

41 (8) Holding or owning securities of companies other than banks, for  
 42 the sole purpose of exercising some degree of control over the activities of  
 43 the companies whose securities the person holds;

44 (9) Issuing shares, other than unit investment trusts and face-  
 45 amount certificate companies, whose shares contain a provision requiring  
 46 redemption by the company upon request of the holder of the security;

47 (10) Issuing shares, other than unit investment trusts and face-  
 48 amount certificate companies, whose shares contain no provision requiring  
 49 redemption by the company upon request by the holder of the security;

50 (11) Issuing unit investment trusts or face-amount certificates;

51 (12) The management of the money of trusts and foundations  
 52 organized for religious, educational, charitable or nonprofit research  
 53 purposes;

54 (13) The management of the money of trusts and foundations  
 55 organized for purposes other than religious, educational, charitable or  
 56 nonprofit research;

57 (14) Investing in oil and gas royalties or leases, or fractional  
 58 interests therein;



- 30 -

1 (15) Owning or leasing franchises, patents and copyrights which the  
2 person in turn licenses others to use;

3 (16) Closed-end investments in real estate or related mortgage  
4 assets operating in such a manner as to meet the requirements of the Real  
5 Estate Investment Trust Act of 1960, as amended;

6 (17) Investing; or

7 (18) Any combination of the activities described in this paragraph,  
8 who is doing business in this State;

9 (c) Any other person conducting loan or credit card processing  
10 activities in this State; and

11 (d) Any other bank, bank holding company, national bank, savings  
12 association, federal savings bank, trust company, credit union, building  
13 and loan association, investment company, registered broker or dealer in  
14 securities or commodities, finance company, dealer in commercial paper or  
15 other business entity engaged in the business of lending money, providing  
16 credit, securitizing receivables or fleet leasing, or any related business  
17 entity, doing business in this State.

18 2. The term does not include a credit union organized under the  
19 provisions of chapter 678 of NRS or the Federal Credit Union Act.

20 Sec. 78. NRS 645B.0119 is hereby amended to read as follows:

21 645B.0119 "Financial services license or registration" means any  
22 license or registration issued in this State or any other state, district or  
23 territory of the United States that authorizes the person who holds the  
24 license or registration to engage in any business or activity described in the  
25 provisions of this chapter, *title 55 or 56 of NRS or chapter {604,} 645,*  
26 *645A, 645C, 645E or 649 of NRS or {title 55 or 56 of NRS,} sections 2 to*  
27 *74, inclusive, of this act.*

28 Sec. 79. NRS 658.098 is hereby amended to read as follows:

29 658.098 1. On a quarterly or other regular basis, the Commissioner  
30 shall collect an assessment pursuant to this section from each:

31 (a) Check-cashing service or deferred deposit *loan* service that is  
32 supervised pursuant to *{chapter 604 of NRS,} sections 2 to 74, inclusive,*  
33 *of this act;*

34 (b) Collection agency that is supervised pursuant to chapter 649 of  
35 NRS;

36 (c) Bank that is supervised pursuant to chapters 657 to 668, inclusive,  
37 of NRS;

38 (d) Trust company that is supervised pursuant to chapter 669 of NRS;

39 (e) Development corporation that is supervised pursuant to chapter 670  
40 of NRS;

41 (f) Corporation for economic revitalization and diversification that is  
42 supervised pursuant to chapter 670A of NRS;

43 (g) Person engaged in the business of selling or issuing checks or of  
44 receiving for transmission or transmitting money or credits that is  
45 supervised pursuant to chapter 671 of NRS;

46 (h) Savings and loan association that is supervised pursuant to chapter  
47 673 of NRS;

48 ~~(i) Person engaged in the business of lending that is supervised~~  
49 ~~pursuant to chapter 675 of NRS;~~

50 (j) Person engaged in the business of debt adjusting that is supervised  
51 pursuant to chapter 676 of NRS;

52 (k) Thrift company that is supervised pursuant to chapter 677 of NRS;  
53 and

54 (l) Credit union that is supervised pursuant to chapter 678 of NRS.

55 2. The Commissioner shall determine the total amount of all  
56 assessments to be collected from the entities identified in subsection 1, but  
57 that amount must not exceed the amount necessary to recover the cost of  
58 legal services provided by the Attorney General to the Commissioner and  
59 to the Division of Financial Institutions. The total amount of all

assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

~~Sec. 80. NRS 675.040 is hereby amended to read as follows:~~

~~675.040 This chapter does not apply to:~~

~~1. A person doing business under the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.~~

~~2. A real estate investment trust, as defined in 26 U.S.C. § 856.~~

~~3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.~~

~~4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.~~

~~5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.~~

~~6. Except as otherwise provided in this subsection, any firm or corporation:~~

~~(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;~~

~~(b) Approved by the Federal National Mortgage Association as a seller or servicer; and~~

~~(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.~~

~~7. A person who provides money for investment in loans secured by a lien on real property, on his own account.~~

~~8. A seller of real property who offers credit secured by a mortgage of the property sold.~~

~~9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.~~

~~10. A person licensed to do business pursuant to sections 2 to 74, inclusive, of this act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act.~~

~~Sec. 81. NRS 675.060 is hereby amended to read as follows:~~

~~675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business [ ], except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in sections 2 to 74, inclusive, of this act, the person must obtain a license from the Commissioner pursuant to sections 2 to 74, inclusive, of this act before the person may engage in any such business.~~

1 ~~2. For the purpose of this section, a person engages in the business of~~  
 2 ~~lending in this State if he:~~

3 ~~(a) Solicits loans in this State or makes loans to persons in this State,~~  
 4 ~~unless these are isolated, incidental or occasional transactions; or~~  
 5 ~~(b) Is located in this State and solicits loans outside of this State or~~  
 6 ~~makes loans to persons located outside of this State, unless these are~~  
 7 ~~isolated, incidental or occasional transactions.~~

8 Sec. 82. NRS 604.010, 604.020, 604.030, 604.040, 604.050,  
 9 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130,  
 10 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180  
 11 and 604.190 are hereby repealed.

12 Sec. 83. 1. If a person:

13 (a) On July 1, 2005, holds a valid certificate of registration or license  
 14 that was issued by the Commissioner of Financial Institutions pursuant to  
 15 chapter 604 ~~or 675~~ of NRS before July 1, 2005; and

16 (b) Operates a check-cashing service, deferred deposit loan service,  
 17 short-term loan service or title loan service, as those terms are defined in  
 18 the provisions of sections 2 to 74, inclusive, of this act,  
 19 the person's certificate of registration or license shall be deemed to be a  
 20 license issued by the Commissioner of Financial Institutions pursuant to  
 21 the provisions of sections 2 to 74, inclusive, of this act until the date on  
 22 which the person would have been required to renew his certificate of  
 23 registration or license pursuant to chapter 604 or 675 of NRS.

24 2. **Except as otherwise provided in subsections 3 and 4, a person**  
 25 **described in subsection 1 shall:**

26 (a) On and after July 1, 2005, comply with all provisions of sections 2  
 27 to 74, inclusive, of this act relating to transactions with customers,  
 28 including, without limitation, all provisions relating to loans, extensions,  
 29 repayment plans, interest, fees, charges and collections; and

30 (b) On and after October 1, 2005, comply with all other provisions of  
 31 sections 2 to 74, inclusive, of this act, except that the person does not have  
 32 to renew his certificate of registration or license until the date on which the  
 33 person would have been required to renew his certificate of registration or  
 34 license pursuant to chapter 604 or 675 of NRS.

35 3. **A person described in subsection 1 is not required to comply**  
 36 **with the following provisions of sections 2 to 74, inclusive, of this act**  
 37 **sooner than October 1, 2005, or the date of any extension granted by**  
 38 **the Commissioner of Financial Institutions pursuant to subsection 4:**

39 (a) **Any provision requiring the use of the Spanish language; and**  
 40 (b) **Any provision requiring changes to or replacement of existing**  
 41 **computer software or major modifications to existing business**  
 42 **processes, as determined by the Commissioner.**

43 4. **If the person is unable to comply with any provision described**  
 44 **in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person**  
 45 **may request an extension from the Commissioner. The Commissioner**  
 46 **may grant such an extension, to a date not later than January 1, 2006,**  
 47 **if the person establishes that compliance by October 1, 2005:**

48 (a) **Is not economically feasible;**  
 49 (b) **Is prevented by factors beyond the control of the person; or**  
 50 (c) **Is prevented by any other factors that the Commissioner deems**  
 51 **to be an appropriate justification for an extension.**

52 Sec. 84. This act becomes effective on July 1, 2005.

#### LEADLINES OF REPEALED SECTIONS

604.010 Definitions.

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE AND LABOR**

**Seventy-third Session  
May 20, 2005**

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 8:16 a.m. on Friday, May 20, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Randolph J. Townsend, Chair  
Senator Warren B. Hardy II, Vice Chair  
Senator Sandra J. Tiffany  
Senator Joe Heck  
Senator Michael Schneider  
Senator Maggie Carlton  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Barbara E. Buckley, Assembly District No. 8  
Assemblywoman Debbie Smith, Assembly District No. 30

**STAFF MEMBERS PRESENT:**

Kevin Powers, Committee Counsel  
Donna Winter, Committee Secretary  
Scott Young, Committee Policy Analyst  
Lynn Hendricks, Committee Secretary

**OTHERS PRESENT:**

Ernie Adler, American Massage Therapy Association  
Carol Tidd, Commissioner, Division of Financial Institutions, Department of  
Business and Industry  
Kenneth T. Scruggs, The HSBC Group

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May 20, 2005  
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Robert A. Ostrovsky, Cox Communications  
Judy Stokey, Nevada Power Company; Sierra Pacific Power Company  
Scott M. Craigie, Sprint

CHAIR TOWNSEND:

I have an amendment to distribute regarding Assembly Bill (A.B.) 384, which we passed earlier this week.

**ASSEMBLY BILL 384 (1st Reprint)**: Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

CHAIR TOWNSEND:

The amendment (Exhibit C) adds a section 74 to the bill. If it is acceptable to all parties, it will be introduced next week on the Senate floor.

I will open the work session on A.B. 63.

**ASSEMBLY BILL 63 (1st Reprint)**: Prohibits certain practices by health insurers with regard to injuries sustained while under influence of alcohol or controlled substance. (BDR 57-207)

SENATOR HECK:

I have an amendment to offer (Exhibit D). It adds specific laboratory values of the blood levels of alcohol or certain prohibited substances before a claim can be denied.

SENATOR CARLTON:

The intent of the bill is to encourage doctors to do the tests without fear that a positive result will keep them from getting paid for their work. My concern is that setting a level above which insurance claims can be denied will perpetuate the problem we are attempting to solve.

SENATOR HECK:

These are the same levels specified in chapter 484.379 of the *Nevada Revised Statutes* (NRS) regarding driving under the influence. The idea that doctors are not testing out of fear of not getting paid is based on anecdotal evidence. There are only a handful of insurers in this state who have such a provision. Tests need to be ordered to take care of the patient in any case. Most hospitals do what is known as a qualitative test that indicates only whether the drug is

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earning a living, and all of a sudden something happens. ... It's important that we communicate with those people, because this does affect them.

SENATOR CARLTON MOVED TO AMEND AND DO PASS A.B. 250.

SENATOR SCHNEIDER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR TOWNSEND:

I will open the work session on A.B. 340.

**ASSEMBLY BILL 340 (1st Reprint)**: Revises provisions relating to certain short-term, high interest loans. (BDR 52-126)

CHAIR TOWNSEND:

We have a mock-up of the bill (Exhibit H).

KEVIN POWERS (Committee Counsel):

I have some background material. As the bill came over from the Assembly, Assemblywoman Giunchigliani's bill had several components in it. Some of them dealt with deferred-deposit loans and short-term loans that were also covered by Assemblywoman Buckley's bill, A.B. 384.

**ASSEMBLY BILL 384 (1st Reprint)**: Makes various changes relating to certain short-term, high-interest loans. (BDR 52-806)

MR. POWERS:

Assembly Bill 384 included a component that was not addressed in A.B. 340 dealing with a completely different type of loan, the tax-refund-anticipation loan. As the Committee processed A.B. 384, components dealing with deferred-deposit and short-term loans were removed from A.B. 340 and fused into A.B. 384. The mock-up ... contains only provisions dealing with refund-anticipation loans. Those provisions are based on a

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Washington bill, Substitute Senate Bill No. 5692 from the Washington State Legislature, that was recently enacted by the Washington Legislature in April 2005, I believe. What ... the mock-up for A.B. 340 does is create disclosure requirements with regard to tax-refund-anticipation loans and prohibit certain deceptive trade practices.

CAROL TIDD (Commissioner, Division of Financial Institutions, Department of Business and Industry):

My concern is that it is not clear in the amendment who will have the responsibility for regulating this.

KENNETH T. SCRUGGS (The HSBC Group):

The Internal Revenue Service (IRS) does not allow tax preparers to make loans to the people whose tax returns they prepare. The tax preparer, who is the person who meets with the consumer and works out the details of the loan, is referred to in this bill as the facilitator. As far as I know, there are no state-regulated agencies that make these loans; they are all made by national banks. Assemblywoman Giunchigliani felt a disclosure should be given to anyone taking out such a loan, and this is covered in section 15 of the bill.

I have a technical amendment to offer (Exhibit I). It specifies that if the refund-anticipation loan is done electronically, the disclosure can be made electronically as well.

MS. TIDD:

I have no objection to the amendment. We do not know how big this matter is going to be at this point. If we have to address it after the Legislative Session, we will go before the Interim Finance Committee.

MR. POWERS:

This is creating a new chapter in title 52, the trade practices act. It creates a misdemeanor with a fine as the penalty and also incorporates the civil and administrative remedies and penalties in the Deceptive Trade Practices Act, all of which can be enforced by the local district attorneys. On a State level, the Deceptive Trade Practices Act is enforced ... by the Bureau of Consumer Protection and the Attorney General.

## **DISCLAIMER**

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**Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).**



**PROPOSED SEC. 74 OF  
ASSEMBLY BILL NO. 384  
FIRST REPRINT**

*PREPARED FOR ASSEMBLYWOMAN BUCKLEY  
MAY 19, 2005*

PREPARED BY THE LEGAL DIVISION

**IMPORTANT NOTE:**

PROPOSED SEC. 74 IS SHOWN AS IT WOULD APPEAR IN  
THE SECOND REPRINT AFTER AMENDMENT

- 1     Sec. 74. 1. *Subject to the affirmative defense set forth in*  
2 *subsection 3, in addition to any other remedy or penalty, if a person*  
3 *violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of*  
4 *this act or any regulation adopted pursuant thereto, the customer may*  
5 *bring a civil action against the person for any or all of the following*  
6 *relief:*
- 7       (a) *Actual and consequential damages;*  
8       (b) *Punitive damages, which are subject to the provisions of NRS*  
9 *42.005;*  
10       (c) *Reasonable attorney's fees and costs; and*  
11       (d) *Any other legal or equitable relief that the court deems*  
12 *appropriate.*
- 13     2. *Subject to the affirmative defense set forth in subsection 3, in*  
14 *addition to any other remedy or penalty, the customer may bring a civil*  
15 *action against a person pursuant to subsection 1 to recover an additional*  
16 *amount, as statutory damages, which is equal to \$1,000 for each violation*  
17 *if the person knowingly:*
- 18       (a) *Operates a check-cashing service, deferred deposit loan service,*  
19 *short-term loan service or title loan service without a license, in violation*  
20 *of section 29 of this act;*  
21       (b) *Fails to include in a loan agreement a disclosure of the right of*  
22 *the customer to rescind the loan, in violation of section 31 of this act;*  
23       (c) *Violates any provision of section 33 of this act;*  
24       (d) *Accepts collateral or security for a deferred deposit loan, in*  
25 *violation of section 35 of this act, except that a check or written*  
26 *authorization for an electronic transfer of money shall not be deemed to*  
27 *be collateral or security for a deferred deposit loan;*  
28       (e) *Uses or threatens to use the criminal process in this State or any*  
29 *other state to collect on a loan made to the customer, in violation of*  
30 *section 36 of this act;*  
31       (f) *Includes in any written agreement a promise by the customer to*  
32 *hold the person harmless, a confession of judgment by the customer or an*  
33 *assignment or order for the payment of wages or other compensation due*  
34 *the customer, in violation of section 36 of this act;*  
35       (g) *Violates any provision of section 44 of this act; or*  
36       (h) *Violates any provision of section 45 of this act.*
- 37     3. *A person may not be held liable in any civil action brought*  
38 *pursuant to this section if the person proves, by a preponderance of*  
39 *evidence, that the violation:*
- 40       (a) *Was not intentional;*

1       **(b) Was technical in nature; and**

2       **(c) Resulted from a bona fide error, notwithstanding the maintenance**  
3       **of procedures reasonably adapted to avoid any such error.**

4       **4. For the purposes of subsection 3, a bona fide error includes,**  
5       **without limitation, clerical errors, calculation errors, computer**  
6       **malfunction and programming errors and printing errors, except that an**  
7       **error of legal judgment with respect to the person's obligations under this**  
8       **chapter is not a bona fide error.**

9

# FLOOR ACTIONS

## AMENDMENTS ON SECOND READING FLOOR VOTES AND STATEMENTS OTHER ACTIONS

**NOTE:** THESE FLOOR ACTIONS ARE TAKEN FROM THE *DAILY JOURNALS*  
([HTTP://WWW.LEG.STATE.NV.US/SESSION/73RD2005/JOURNAL/](http://www.leg.state.nv.us/session/73rd2005/journal/)), WHICH ARE NOT THE OFFICIAL  
FINALIZED VERSIONS OF THE *JOURNALS*. CONSULT THE PRINT VERSION FOR THE OFFICIAL  
RECORD.

# NEVADA LEGISLATURE

Seventy-Third Session, 2005

## ASSEMBLY DAILY JOURNAL

### THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 25, 2005

Assembly called to order at 11:28 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Stan Pesis.

Almighty God, by Your life-giving and life-renewing spirit bring life to this new day at the beginning of this new week. Freshen our spirits that we may live and act in life-giving ways for all Your people.

AMEN.

Pledge of Allegiance to the Flag.

Assemblywoman Buckley moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 66, 69, 183, 236, 249, 250, 260, 278, 338, 360, 364, 384, 501, 540, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA BUCKLEY, *Chairman*

*Mr. Speaker:*

Your Committee on Education, to which was referred Assembly Bill No. 202, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chairman*

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 324.

Amend the bill as a whole by deleting sections 1 through 94 and adding new sections designated sections 1 through 84, following the enacting clause, to read as follows:

“Section 1. Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 74, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 21, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Cashing” means providing currency or a negotiable instrument in exchange for a check.*

Sec. 4. 1. *“Check” means:*

(a) *A draft, other than a documentary draft, payable on demand and drawn on a bank; or*

(b) *A cashier’s check or teller’s check.*

2. *An instrument may be a check even though it is described on its face by another term, such as “money order.”*

Sec. 5. *“Check-cashing service” means any person engaged in the business of cashing checks for a fee, service charge or other consideration.*

Sec. 6. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 7. *“Customer” means any person who receives or attempts to receive check-cashing services, deferred deposit loan services, short-term loan services or title loan services from another person.*

Sec. 8. 1. *“Default” means the failure of a customer to:*

(a) *Make a scheduled payment on a loan on or before the due date for the payment under the terms of a lawful loan agreement and any grace period that complies with the provisions of section 23 of this act or under the terms of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of section 23 of this act; or*

(b) *Pay a loan in full on or before:*

(1) *The expiration of the initial loan period as set forth in a lawful loan agreement and any grace period that complies with the provisions of section 23 of this act; or*

(2) *The due date of any lawful extension or repayment plan relating to the loan and any grace period that complies with the provisions of section 23 of this act, provided that the due date of the extension or repayment plan is not later than 8 weeks after the expiration of the initial loan period.*

2. *A default occurs on the day immediately following the date of the customer’s failure to perform as described in subsection 1.*

Sec. 9. “Deferred deposit loan” means a transaction in which, pursuant to a written agreement:

1. A customer tenders to another person:

- (a) A personal check drawn upon the account of the customer; or
- (b) Written authorization for an electronic transfer of money for a specified amount from the account of the customer; and

2. The other person:

- (a) Provides to the customer an amount of money that is equal to the face value of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction; and
- (b) Agrees, for a specified period, not to cash the check or execute the electronic transfer of money for the amount specified in the written authorization.

Sec. 10. “Deferred deposit loan service” means any person engaged in the business of making deferred deposit loans for a fee, service charge or other consideration.

Sec. 11. “Electronic transfer of money” means any transfer of money, other than a transaction initiated by a check or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account.

Sec. 12. 1. “Extension” means any extension or rollover of a loan beyond the date on which the loan is required to be paid in full under the original terms of the loan agreement, regardless of the name given to the extension or rollover.

2. The term does not include a grace period.

Sec. 13. “Grace period” means any period of deferment offered gratuitously by a licensee to a customer if the licensee complies with the provisions of section 23 of this act.

Sec. 14. “Licensee” means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service pursuant to the provisions of this chapter.

Sec. 15. “Loan” means any deferred deposit loan, short-term loan or title loan, or any extension or repayment plan relating to such a loan, made at any location or through any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

Sec. 16. “Motor vehicle” has the meaning ascribed to it by the Commissioner pursuant to section 28 of this act.

Sec. 17. 1. “Short-term loan” means a loan made to a customer pursuant to a loan agreement which, under its original terms:

(a) Charges fees or a rate of interest, or any combination thereof, that when calculated as an annualized percentage rate is more than 40 percent; and

(b) Requires the loan to be paid in full in less than 1 year.

2. The term does not include:

(a) A deferred deposit loan; or

(b) A title loan.

Sec. 18. “Short-term loan service” means any person engaged in the business of providing short-term loans for a fee, service charge or other consideration.

Sec. 19. 1. “Title loan” means a loan made to a customer who secures the loan with the title to a motor vehicle and who gives possession of the title to the person making the loan or to any agent, affiliate or subsidiary of the person.

2. The term does not include a loan which is secured by a lien or other security interest that attaches to a motor vehicle or appears on its title, including, without limitation, a loan to finance the purchase of the motor vehicle, if the person making the loan, or any agent, affiliate or subsidiary of the person, does not take possession of the title.

Sec. 20. “Title loan service” means any person engaged in the business of providing title loans for a fee, service charge or other consideration.

Sec. 21. “Title to a motor vehicle” or “title” means a certificate of title issued by the Department of Motor Vehicles that identifies the legal owner of a motor vehicle or any similar document issued pursuant to the laws of another jurisdiction.

Sec. 22. The provisions of this chapter apply to any person who seeks to evade its application by any device, subterfuge or pretense, including, without limitation, calling a loan by any other name or using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter.

Sec. 23. The provisions of this chapter do not prohibit a licensee from offering a customer a grace period on the repayment of a loan, except that the licensee shall not charge the customer:

1. Any fees for granting such a grace period; or

2. Any fees or interest on the outstanding loan during such a grace period.

Sec. 24. 1. The provisions of this chapter must be interpreted so as to effectuate their general purpose to provide for, to the extent practicable, uniform regulation of the loans and transactions that are subject to the provisions of this chapter.

2. If there is a conflict between the provisions of this chapter and the provisions of any other general law regulating loans and similar transactions, the provisions of this chapter control.

Sec. 25. This chapter or any part thereof may be modified, amended or repealed by the Legislature so as to effect a cancellation or alteration of any

license or right of a licensee under this chapter, provided that such cancellation or alteration shall not impair or affect the obligation of any preexisting lawful loan agreement between any licensee and any customer.

Sec. 26. Any loan lawfully made outside this State as permitted by the laws of the state in which the loan was made may be collected or otherwise enforced in this State in accordance with its terms.

Sec. 27. The provisions of this chapter do not apply to:

1. A person doing business pursuant to the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies or insurance companies.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.

9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.



13. *A person who provides money for investment in loans secured by a lien on real property, on his own account.*

14. *A seller of real property who offers credit secured by a mortgage of the property sold.*

Sec. 28. 1. *The Commissioner shall adopt by regulation a definition of the term “motor vehicle” as that term is used in the definition of “title loan” for the purposes of this chapter.*

2. *The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.*

3. *The Commissioner shall adopt any other regulations as are necessary to carry out the provisions of this chapter.*

Sec. 29. 1. *A person, including, without limitation, a person licensed pursuant to chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this chapter.*

2. *A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.*

Sec. 30. 1. *A licensee shall post in a conspicuous place in every location at which he conducts business under his license, a notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.*

2. *If a licensee offers loans to customers at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, the licensee shall, as appropriate to the location or method for making the loan, post in a conspicuous place where customers will see it before they enter into a loan, or disclose in an open and obvious manner to customers before they enter into a loan, a notice that states:*

(a) *The types of loans the licensee offers and the fees he charges for making each type of loan; and*

(b) *A list of the states where the licensee is licensed or authorized to conduct business from outside this State with customers located in this State.*

3. *A licensee who provides check-cashing services shall give written notice to each customer of the fees he charges for cashing checks. The customer must sign the notice before the licensee provides the check-cashing service.*

Sec. 31. 1. *Before making any loan to a customer, a licensee shall provide to the customer a written loan agreement which may be kept by the customer and which must be written in:*

(a) *English, if the transaction is conducted in English; or*

(b) *Spanish, if the transaction is conducted in Spanish.*

2. *The loan agreement must include, without limitation, the following information:*

- (a) The name and address of the licensee and the customer;*
- (b) The date of the loan;*
- (c) The nature of the security for the loan, if any;*
- (d) The amount of the loan obligation, including, without limitation, an itemization of the interest, charges and fees the customer must pay if the licensee makes a loan to the customer;*
- (e) The description or schedule of payments on the loan;*
- (f) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;*
- (g) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;*
- (h) Disclosures required for a similar transaction by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.; and*
- (i) Disclosures required under any other applicable state statute or regulation.*

Sec. 32. 1. *If a customer defaults on a loan, the licensee may collect the debt owed to the licensee only in a professional, fair and lawful manner. When collecting such a debt, the licensee must act in accordance with and must not violate sections 803 to 812, inclusive, of the federal Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692a to 1692j, inclusive, even if the licensee is not otherwise subject to the provisions of that Act.*

2. *If a licensee initiates a civil action against a customer to collect a debt, the court may award:*

- (a) Court costs;*
- (b) Costs of service of process, except that the costs must not exceed the amount of the fees charged by the sheriff or constable for service of process in the county where the action was brought or, if the customer is not served in that county, in the county where the customer was served; and*
- (c) Reasonable attorney's fees. In determining the amount of the attorney's fees and whether they are reasonable, the court shall consider the complexity of the case, the amount of the debt and whether the licensee could have used less costly means to collect the debt.*

Sec. 33. 1. *If a customer is called to active duty in the military, a licensee shall:*

- (a) Defer for the duration of the active duty all collection activity against the customer and his property, including, without limitation, any community property in which the customer has an interest; and*
- (b) Honor the terms of any repayment plan between the licensee and customer, including, without limitation, any repayment plan negotiated through military counselors or third-party credit counselors.*

2. *When collecting any defaulted loan, a licensee shall not:*

- (a) Garnish any wages or salary paid to a customer for active service in the military; or*

(b) *Contact the military chain of command of a customer in an effort to collect the defaulted loan.*

3. *As used in this section, “military” means the Armed Forces of the United States, a reserve component thereof or the National Guard.*

Sec. 34. *A licensee shall not:*

1. *Make a loan that exceeds 25 percent of the expected gross monthly income of the customer during the term of the loan unless justified by particular circumstances. A licensee is not in violation of the provisions of this subsection if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that the loan does not exceed 25 percent of the expected gross monthly income of the customer during the term of the loan.*

2. *Make more than one loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:*

(a) *The customer is seeking multiple loans that do not exceed the limit set forth in subsection 1;*

(b) *The licensee charges the same rate of interest for any additional loans as he charged for the initial loan;*

(c) *Except for the interest charged pursuant to paragraph (b), the licensee does not impose any other charge or fee to initiate any additional loans; and*

(d) *If the additional loans are deferred deposit loans and the customer provides one or more additional checks that are not paid upon presentment, the licensee does not charge any fees to the customer pursuant to section 45 of this act, except for the fees allowed pursuant to that section for the first check that is not paid upon presentment.*

Sec. 35. *A licensee shall not:*

1. *Accept:*

(a) *Collateral as security for a loan, except that a title to a motor vehicle may be accepted as security for a title loan.*

(b) *An assignment of wages, salary, commissions or other compensation for services, whether earned or to be earned, as security for a loan.*

(c) *A check as security for a short-term loan or title loan.*

(d) *More than one check or written authorization for the electronic transfer of money for each deferred deposit loan.*

(e) *A check or written authorization for the electronic transfer of money for any deferred deposit loan in an amount which exceeds the amount of total payments set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is provided to the customer.*

2. *Take any note or promise to pay which does not disclose the date and amount of the loan, a schedule or description of the payments to be made thereon and the rate or aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer. Compliance with the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., constitutes compliance with this subsection.*

3. *Take any instrument, including a check or written authorization for the electronic transfer of money, in which blanks are left to be filled in after the loan is made.*

4. *Make any transaction contingent on the purchase of insurance or any other goods or services or sell any insurance to the customer with the loan.*

5. *Fail to comply with a payment plan which is negotiated and agreed to by the licensee and customer.*

6. *Charge any fee to cash a check representing the proceeds of a loan made by the licensee or any agent, affiliate or subsidiary of the licensee.*

Sec. 36. *A licensee shall not:*

1. *Use or threaten to use the criminal process in this State or any other state, or any civil process not available to creditors generally, to collect on a loan made to a customer.*

2. *Commence a civil action before the expiration of the original term of a loan agreement or before the expiration of any repayment plan, extension or grace period negotiated and agreed to by the licensee and customer, unless otherwise authorized pursuant to this chapter.*

3. *Take any confession of judgment or any power of attorney running to himself or to any third person to confess judgment or to appear for the customer in a judicial proceeding.*

4. *Include in any written agreement:*

(a) *A promise by the customer to hold the licensee harmless;*

(b) *A confession of judgment by the customer;*

(c) *An assignment or order for payment of wages or other compensation due the customer; or*

(d) *A waiver of any claim or defense arising out of the loan agreement or a waiver of any provision of this chapter. The provisions of this paragraph do not apply to the extent preempted by federal law.*

5. *Engage in any deceptive trade practice, as defined in chapter 598 of NRS, including, without limitation, making a false representation.*

6. *Advertise or permit to be advertised in any manner any false, misleading or deceptive statement or representation with regard to the rates, terms or conditions for loans.*

7. *Use or attempt to use any agent, affiliate or subsidiary to avoid the requirements or prohibitions of this chapter.*

Sec. 37. *A licensee who makes title loans shall not:*

1. *Make a title loan that exceeds the fair market value of the motor vehicle securing the title loan.*

2. *Make a title loan without regard to the ability of the customer seeking the title loan to repay the title loan, including the customer's current and expected income, obligations and employment.*

3. *Make a title loan without requiring the customer to sign an affidavit which states that:*

(a) *The customer has provided the licensee with true and correct information concerning the customer's income, obligations and employment; and*

(b) *The customer has the ability to repay the title loan.*

Sec. 38. 1. *Except where in conflict with the provisions of this chapter, the provisions of chapter 104 of NRS apply to any title loan between a licensee and a customer.*

2. *Except as otherwise provided in this section, if a customer defaults on a title loan, or on any extension or repayment plan relating to the title loan, the sole remedy of the licensee who made the title loan is to commence a legal action to seek repossession and sale of the motor vehicle which the customer used to secure the title loan. The licensee may not pursue the customer personally for:*

(a) *Payment of the loan, unless the licensee proves the customer prevented the repossession and sale of the motor vehicle by any means, including, without limitation, hiding the motor vehicle; or*

(b) *Any deficiency after repossession and sale of the motor vehicle which the customer used to secure the title loan, unless the licensee proves the customer damaged or otherwise committed or permitted waste on the motor vehicle. For the purposes of this paragraph, it shall not be deemed waste for the customer to continue to use the motor vehicle in the same manner it was used before he entered into the title loan or to make necessary repairs to the motor vehicle.*

3. *After repossession and sale of the motor vehicle securing the title loan, the licensee shall return to the customer any proceeds from the sale of the motor vehicle which exceed the amount owed on the title loan.*

4. *If a customer uses fraud to secure a title loan, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) *The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer;*

(b) *Reasonable attorney's fees and costs; and*

(c) *Any other legal or equitable relief that the court deems appropriate.*

5. *As used in this section, "fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the customer with the intent to deprive the licensee of his rights or property or to otherwise injure the licensee. The term includes, without limitation, giving to a licensee as security for a title loan the title to a motor vehicle which does not belong to the customer.*

Sec. 39. 1. *A customer may rescind a loan on or before the close of business on the next day of business at the location where the loan was initiated. To rescind the loan, the customer must deliver to the licensee:*

(a) *A sum of money equal to the face value of the loan, less any fee charged to the customer to initiate the loan: or*

(b) *The original check, if any, which the licensee gave to the customer pursuant to the loan. Upon receipt of the original check, the licensee shall refund any fee charged to the customer to initiate the loan.*

2. *If a customer rescinds a loan pursuant to this section, the licensee:*

(a) *Shall not charge the customer any fee for rescinding the loan; and*

(b) *Upon receipt of the sum of money or check pursuant to subsection 1, shall give to the customer a receipt showing the account paid in full and:*

(1) *If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or written authorization stamped "void";*

(2) *If the customer gave to the licensee a promissory note to initiate a short-term loan, a copy of the promissory note stamped "void" or the receipt stamped "paid in full"; or*

(3) *If the customer gave to the licensee a title to a motor vehicle to initiate the title loan, the title.*

Sec. 40. 1. *A customer may pay a loan, or any extension thereof, in full at any time, without an additional charge or fee, before the date his final payment on the loan, or any extension thereof, is due.*

2. *If a customer pays the loan in full, including all interest, charges and fees negotiated and agreed to by the licensee and customer, the licensee shall:*

(a) *Give to the customer:*

(1) *If the customer gave to the licensee a check or a written authorization for an electronic transfer of money to initiate a deferred deposit loan, the check or the written authorization stamped "void";*

(2) *If the customer gave to the licensee a promissory note to initiate a short-term loan, the promissory note stamped "void" or a receipt stamped "paid in full"; or*

(3) *If the customer gave to the licensee a title to a motor vehicle to initiate a title loan, the title; and*

(b) *Give to the customer a receipt with the following information:*

(1) *The name and address of the licensee;*

(2) *The identification number assigned to the loan agreement or other information that identifies the loan;*

(3) *The date of the payment;*

(4) *The amount paid;*

(5) *An itemization of interest, charges and fees;*

(6) *A statement that the loan is paid in full; and*

(7) *If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

Sec. 41. 1. *A customer may make a partial payment on a loan, or any extension thereof, at any time without an additional charge or fee.*

2. *If a customer makes such a partial payment, the licensee shall give to the customer a receipt with the following information:*

- (a) *The name and address of the licensee;*
- (b) *The identification number assigned to the loan agreement or other information that identifies the loan;*
- (c) *The date of the payment;*
- (d) *The amount paid;*
- (e) *An itemization of interest, charges and fees;*
- (f) *The balance due on the loan; and*
- (g) *If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

Sec. 42. 1. *The licensee and customer may enter into a repayment plan if:*

(a) *The customer defaults on the original loan, or any extension thereof;*  
*or*

(b) *Before such a default, the customer indicates that he is unable to pay the original loan in full pursuant to the terms set forth in the original loan agreement, or any extension thereof.*

2. *If the customer defaults on the original loan or any extension thereof, or indicates that he is unable to pay in full the original loan or any extension thereof, the licensee:*

(a) *Shall provide written notice in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish, to the customer of his right to enter into a repayment plan; and*

(b) *Shall not commence any civil action to collect on the outstanding loan unless:*

(1) *Such a notice has been sent to the customer; and*

(2) *The customer fails to exercise his right to enter into a repayment plan within 15 days after receipt of the notice.*

3. *If the licensee and customer enter into a repayment plan pursuant to this section, the customer may pay the remaining balance on the outstanding loan:*

(a) *In four equal monthly installments; or*

(b) *Under any other terms negotiated and agreed to by the licensee and customer that comply with the provisions of this section.*

4. *If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:*

(a) *Provide to the customer a document which confirms that the customer has entered into a repayment plan and which states the date and terms of the repayment plan; and*

(b) *If the repayment plan is for a deferred deposit loan, return to the customer the check or written authorization for an electronic transfer of money that the customer used to initiate the deferred deposit loan, with the check or written authorization stamped "void."*

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, other than the interest charged pursuant to the original loan agreement, regardless of the name given to the interest; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Accept any security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in subsection 1 of section 34 of this act; or

(e) Commence a civil action against the customer during the term of the repayment plan.

6. Each time a customer makes a payment pursuant to a repayment plan, the licensee shall give to the customer a receipt with the following information:

(a) The name and address of the licensee;

(b) The identification number assigned to the loan agreement or other information that identifies the loan;

(c) The date of the payment;

(d) The amount paid;

(e) The balance due on the loan or, when the customer makes the final payment, a statement that the loan is paid in full; and

(f) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.

Sec. 43. If a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new loan to pay the balance of the outstanding loan, the licensee shall not establish or extend such a period beyond 8 weeks after the expiration of the initial loan period.

Sec. 44. 1. If a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer:

(a) The principal amount of the loan.



(b) *The interest accrued before the expiration of the initial loan period at the rate of interest set forth in the disclosure statement required by the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., that is provided to the customer. If there is an extension or repayment plan relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 8 weeks after the expiration of the initial loan period.*

(c) *The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to paragraph (b), whichever is later, at a rate of interest not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 12 weeks. After that period, the licensee shall not charge or collect any interest on the loan.*

(d) *Any fees allowed pursuant to section 45 of this act for a check that is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.*

2. *Except for the interest and fees permitted pursuant to subsection 1, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:*

(a) *Any interest, other than the interest charged pursuant to subsection 1, regardless of the name given to the interest; or*

(b) *Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee.*

Sec. 45. 1. *A licensee may collect a fee of not more than \$25 if a check is not paid upon presentment because the account of the customer contains insufficient funds or has been closed.*

2. *If the account of the customer contains insufficient funds, the licensee may collect only two fees of \$25 each regardless of the number of times the check is presented for payment.*

3. *If the account of the customer has been closed, the licensee may collect only one fee of \$25 regardless of the number of times the check is presented for payment.*

4. *A customer is not liable for damages pursuant to NRS 41.620 or to criminal prosecution for a violation of chapter 205 of NRS unless the customer acted with criminal intent.*

Sec. 46. *In addition to any other provision in this chapter, each time a customer makes a payment to a licensee, the licensee shall give to the customer a receipt with the following information:*

1. *The name and address of the licensee;*

2. *The identification number assigned to the loan agreement or other information that identifies the loan;*

3. *The date of the payment;*

4. *The amount paid;*

5. *The balance due on the loan or, when the customer makes a final payment, a statement that the loan is paid in full; and*

6. *If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

Sec. 47. 1. *A person shall not act as an agent for or assist a licensee in the making of a loan unless the licensee complies with all applicable federal and state laws, regulations and guidelines.*

2. *The provisions of this section do not apply to the agent or assistant to a state or federally chartered bank, thrift company, savings and loan association or industrial loan company if the state or federally chartered bank, thrift company, savings and loan association or industrial loan company:*

(a) *Initially advances the loan proceeds to the customer; and*

(b) *Does not sell, assign or transfer a preponderant economic interest in the loan to the agent or assistant or an affiliate or subsidiary of the state or federally chartered bank, thrift company, savings and loan association or industrial loan company, unless selling, assigning or transferring a preponderant economic interest is expressly permitted by the primary regulator of the state or federally chartered bank, thrift company, savings and loan association or industrial loan company.*

3. *If a licensee acts as an agent for or assists a state or federally chartered bank, thrift company, savings and loan association or industrial loan company in the making of a loan and the licensee can show that the standards set forth in subsection 2 are satisfied, the licensee must comply with all other provisions in this chapter to the extent they are not preempted by other state or federal law.*

Sec. 48. 1. *An application for a license pursuant to the provisions of this chapter must be made in writing, under oath and on a form prescribed by the Commissioner. The application must include:*

(a) *If the applicant is a natural person, the name and address of the applicant.*

(b) *If the applicant is a business entity, the name and address of each:*

(1) *Partner;*

(2) *Officer;*

(3) *Director;*

(4) *Manager or member who acts in a managerial capacity; and*

(5) *Registered agent,  
of the business entity.*

(c) Such other information, as the Commissioner determines necessary, concerning the financial responsibility, background, experience and activities of the applicant and its:

- (1) Partners;
- (2) Officers;
- (3) Directors; and
- (4) Managers or members who act in a managerial capacity.

(d) The address of each location at which the applicant proposes to do business, including, without limitation, each location where the applicant will operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.

(e) If the applicant is or intends to be licensed to provide more than one type of service pursuant to the provisions of this chapter, a statement of that intent and which services he provides or intends to provide.

2. Each application for a license must be accompanied by:

- (a) A nonrefundable application fee;
- (b) Such additional expenses incurred in the process of investigation as the Commissioner deems necessary; and
- (c) A fee of not less than \$100 or more than \$500, prorated on the basis of the licensing year.

All money received by the Commissioner pursuant to this subsection must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

3. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 49. 1. Except as otherwise provided in section 50 of this act, each application for a license pursuant to the provisions of this chapter must be accompanied by a surety bond payable to the State of Nevada in the amount of \$50,000 for the use and benefit of any customer receiving the services of the licensee.

2. The bond must be in a form satisfactory to the Commissioner, issued by a bonding company authorized to do business in this State and must secure the faithful performance of the obligations of the licensee respecting the provision of the services.

3. A licensee shall, within 10 days after the commencement of any action or notice of entry of any judgment against him by any creditor or claimant arising out of business regulated by this chapter give notice thereof to the Commissioner by certified mail with details sufficient to identify the action or judgment. The surety shall, within 10 days after it pays any claim or judgment to a creditor or claimant, give notice thereof to the Commissioner by certified mail with details sufficient to identify the creditor or claimant and the claim or judgment so paid.

4. Whenever the principal sum of the bond is reduced by recoveries or payments thereon, the licensee shall furnish:

(a) *A new or additional bond so that the total or aggregate principal sum of the bonds equals the sum required pursuant to subsection 1; or*

(b) *An endorsement, duly executed by the surety, reinstating the bond to the required principal sum.*

5. *The liability of the surety on the bond to a creditor or claimant is not affected by any misrepresentation, breach of warranty, failure to pay a premium or other act or omission of the licensee, or by any insolvency or bankruptcy of the licensee.*

6. *The liability of the surety continues as to all transactions entered into in good faith by the creditors and claimants with the agents of the licensee within 30 days after:*

(a) *The death of the licensee or the dissolution or liquidation of his business; or*

(b) *The termination of the bond, whichever event occurs first.*

7. *A licensee or his surety shall not cancel or alter a bond except after notice to the Commissioner by certified mail. The cancellation or alteration is not effective until 10 days after receipt of the notice by the Commissioner. A cancellation or alteration does not affect any liability incurred or accrued on the bond before the expiration of the 30-day period designated in subsection 6.*

Sec. 50. 1. *In lieu of any surety bond, or any portion of the principal sum thereof as required pursuant to the provisions of this chapter, a licensee may deposit with the State Treasurer or with any bank, credit union or trust company authorized to do business in this State as the licensee may select, with the approval of the Commissioner:*

(a) *Interest-bearing stocks;*

(b) *Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or*

(c) *Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State or guaranteed by this State, in an aggregate amount of, based upon principal amount or market value, whichever is lower, of not less than the amount of the required surety bond or portion thereof.*

2. *The securities must be held to secure the same obligation as would the surety bond, but the depositor may receive any interest or dividends and, with the approval of the Commissioner, substitute other suitable securities for those deposited.*

Sec. 51. 1. *A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with*

*the application for a license a statement signed by the applicant which states that the applicant agrees to:*

*(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

*(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.*

*The person must be allowed to choose between the provisions of paragraph (a) or (b) in complying with the provisions of this subsection.*

*2. This section applies, without limitation, to any office or other place of business located outside this State from which the applicant will conduct business in this State at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.*

*Sec. 52. 1. Upon the filing of the application and the payment of the fees required pursuant to section 48 of this act, the Commissioner shall investigate the facts concerning the application and the requirements provided for in section 54 of this act.*

*2. The Commissioner may hold a hearing on the application at a time not less than 30 days after the date the application was filed or not more than 60 days after that date. The hearing must be held in the Office of the Commissioner or such other place as he may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application has been given and to such other persons as the Commissioner may see fit, at least 10 days before the date set for the hearing.*

*3. The Commissioner shall make his order granting or denying the application within 10 days after the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the Commissioner.*

*Sec. 53. If the Commissioner finds that any applicant does not possess the requirements specified in this chapter, he shall:*

*1. Enter an order denying the application and notify the applicant of the denial.*

*2. Within 10 days after the entry of such an order, file his findings and a summary of the evidence supporting those findings and deliver a copy thereof to the applicant.*

*Sec. 54. 1. The Commissioner shall enter an order granting an application if he finds that the financial responsibility, experience, character and general fitness of the applicant are such as to command the confidence of the public and to warrant belief that the business will be operated lawfully, honestly, fairly and efficiently.*

*2. If the Commissioner grants an application, the Commissioner shall:*

(a) File his findings of fact together with the transcript of any hearing held pursuant to the provisions of this chapter; and

(b) Issue to the licensee a license in such form and size as is prescribed by the Commissioner for each location at which the licensee proposes to do business.

3. Each licensee shall prominently display his license at the location where he does business. The Commissioner may issue additional licenses to the same licensee for each branch location at which the licensee is authorized to operate under the license, including, without limitation, each branch location where the licensee is authorized to operate at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means. Nothing in this subsection requires a license for any place of business devoted to accounting, recordkeeping or administrative purposes only.

4. Each license shall:

(a) State the address at which the business is to be conducted; and

(b) State fully:

(1) The name and address of the licensee;

(2) If the licensee is a copartnership or association, the names of its members; and

(3) If the licensee is a corporation, the date and place of its incorporation.

5. A license is not transferable or assignable.

Sec. 55. 1. A license issued pursuant to the provisions of this chapter expires annually on the anniversary of the issuance of the license. A licensee must renew his license on or before the date on which the license expires by paying:

(a) A renewal fee; and

(b) An additional fee for each branch location at which the licensee is authorized to operate under the license.

2. A licensee who fails to renew his license within the time required by this section is not licensed pursuant to the provisions of this chapter.

3. The Commissioner may reinstate an expired license upon receipt of the renewal fee and a fee for reinstatement.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section.

Sec. 56. 1. A licensee shall immediately notify the Commissioner of any change of control of the licensee.

2. A person who acquires stock, partnership or member interests resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements for obtaining a license pursuant to the provisions of this chapter will be satisfied after the change of control. If the Commissioner determines that those requirements will not be

satisfied, he may deny the application and forbid the applicant from participating in the business of the licensee.

3. As used in this section, “change of control” means:

(a) A transfer of voting stock, partnership or member interests which results in giving a person, directly or indirectly, the power to direct the management and policy of a licensee; or

(b) A transfer of at least 25 percent of the outstanding voting stock, partnership or member interests of the licensee.

Sec. 57. A licensee shall not conduct the business of making loans under any name, at any place or by any method, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except as permitted in the license or branch license issued to the licensee.

Sec. 58. 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 59. 1. *A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to the provisions of this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the Commissioner.*

2. *Upon receipt of the proposed change of address pursuant to subsection 1, the Commissioner shall provide written approval of the change and the date of the approval.*

3. *If a licensee fails to provide notice as required pursuant to subsection 1, the Commissioner may impose a fine in an amount not to exceed \$500.*

4. *This section applies, without limitation, to any office or other place of business at which the licensee intends to operate a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means.*

Sec. 60. 1. *Each licensee shall keep and use in his business such books and accounting records as are in accord with generally accepted accounting practices.*

2. *Each licensee shall maintain a separate record or ledger card for the account of each customer and shall set forth separately the amount of cash advance and the total amount of interest and charges, but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.*

3. *Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.*

4. *Each licensee who operates outside this State an office or other place of business that is licensed pursuant to provisions of this chapter shall:*

(a) *Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or*

(b) *Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.*

*The licensee must be allowed to choose between the provisions of paragraph (a) or (b) in complying with this subsection.*

5. *As used in this section, "amount of cash advance" means the amount of cash or its equivalent actually received by a customer or paid out at his direction or in his behalf.*

Sec. 61. 1. *Except as otherwise provided in subsection 3, an officer or employee of the Division of Financial Institutions of the Department of Business and Industry shall not:*

(a) *Be directly or indirectly interested in or act on behalf of any licensee;*

(b) *Receive, directly or indirectly, any payment from any licensee;*

(c) *Be indebted to any licensee;*

(d) *Engage in the negotiation of loans for others with any licensee; or*



(e) Obtain credit or services from a licensee conditioned upon a fraudulent practice or undue or unfair preference over other customers.

2. An employee of the Division of Financial Institutions in the unclassified service of the State shall not obtain new extensions of credit from a licensee while in office.

3. Any officer or employee of the Division of Financial Institutions may be indebted to a licensee on the same terms as are available to the public generally.

4. If an officer or employee of the Division of Financial Institutions has a service, a preferred consideration, an interest or a relationship prohibited by this section at the time of his appointment or employment, or obtains it during his employment, he shall terminate it within 120 days after the date of his appointment or employment or the discovery of the prohibited act.

Sec. 62. 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise; and

(c) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, short-term loan or title loan is presumed to be engaged in the business of making loans.

Sec. 63. 1. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any check-cashing service or loan service regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

2. The Commissioner may require the production of books, accounts, papers and records for any audit, examination, investigation or hearing.

Sec. 64. At least once each year, the Commissioner or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, accounts, papers and records of the licensee so far as they pertain to the business for which he is licensed pursuant to the provisions of this chapter.

Sec. 65. 1. *The Commissioner shall charge and collect from each licensee a fee of \$40 per hour for any supervision, audit, examination, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant thereto.*

2. *The Commissioner shall bill each licensee upon the completion of the activity for the fee established pursuant to subsection 1. The licensee shall pay the fee within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.*

3. *The failure of a licensee to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the license of the licensee.*

Sec. 66. *If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.*

Sec. 67. 1. *Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.*

2. *The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.*

3. *In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as the court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.*

Sec. 68. 1. *If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.*

2. *At the conclusion of a hearing, the Commissioner shall:*

(a) Enter a written order either dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee a fine of \$500 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his license within 180 days after the date his license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 180 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 69. A licensee may surrender any license issued pursuant to the provisions of this chapter by delivering it to the Commissioner with written notice of its surrender, but a surrender does not affect his civil or criminal liability for acts committed prior thereto.

Sec. 70. A revocation, suspension, expiration or surrender of any license does not impair or affect the obligation of any preexisting lawful loan agreement between the licensee and any customer. Such a loan agreement and all lawful charges thereon may be collected by the licensee, its successors or assigns.

Sec. 71. 1. Annually, on or before April 15, each licensee shall file with the Commissioner a report of operations of the licensed business for the preceding calendar year.

2. The licensee shall make the report under oath and on a form prescribed by the Commissioner.

3. *If any person or affiliated group holds more than one license in this State, it may file a composite annual report.*

Sec. 72. 1. *A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of this chapter on any basis not inconsistent with the Constitution of the State of Nevada or the Constitution of the United States.*

2. *Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.*

3. *In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.*

4. *This section provides an additional manner of serving process and does not invalidate any other service.*

Sec. 73. 1. *Except as otherwise provided in this section, if a licensee willfully:*

(a) *Enters into a loan agreement for an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto;*

(b) *Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this chapter or any regulation adopted pursuant thereto; or*

(c) *Commits any other act or omission that violates the provisions of this chapter or any regulation adopted pursuant thereto,*

*the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.*

2. *The provisions of this section do not apply if:*

(a) *A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and*

(b) *Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.*

Sec. 74. *In addition to any other remedy or penalty, if a licensee violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the licensee for any or all of the following relief:*

1. *Actual and consequential damages;*

2. *An additional amount, as statutory damages, which is equal to \$1,000 for each violation;*

3. *Punitive damages, which are subject to the provisions of NRS 42.005;*

4. *Reasonable attorney's fees and costs; and*

5. *Any other legal or equitable relief that the court deems appropriate.*

Sec. 75. NRS 598D.130 is hereby amended to read as follows:

598D.130 A mortgage, deed of trust or other instrument that encumbers home property as security for repayment of a home loan must expressly indicate in writing in a size equal to at least 14-point bold type on the front page of the mortgage, deed of trust or other instrument that the home loan is a home loan as defined in NRS 598D.040 [-] and is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.

Sec. 76. NRS 232.545 is hereby amended to read as follows:

232.545 1. An Investigative Account for Financial Institutions is hereby created in the State General Fund. The Account consists of money which is:

(a) Received by the Department of Business and Industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The Director of the Department of Business and Industry or his designee may authorize expenditures from the Investigative Account to pay the expenses incurred:

(a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;

(b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and

(c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, “financial institution” means an institution for which licensing or registration is required by the provisions of titles 55 and 56 ~~[and chapters 604 and 649]~~ of NRS [-], *chapter 649 of NRS and sections 2 to 74, inclusive, of this act.*

Sec. 77. NRS 363A.050 is hereby amended to read as follows:

363A.050 1. Except as otherwise provided in subsection 2, “financial institution” means:

(a) An institution licensed, registered or otherwise authorized to do business in this State pursuant to the provisions of *title 55 or 56 of NRS or chapter [604,] 645B, 645E or 649 of NRS or [title 55 or 56 of NRS,] sections 2 to 74, inclusive, of this act*, or a similar institution chartered or licensed pursuant to federal law and doing business in this State;

(b) Any person primarily engaged in:

(1) The purchase, sale and brokerage of securities;

(2) Originating, underwriting and distributing issues of securities;

(3) Buying and selling commodity contracts on either a spot or future basis for the person’s own account or for the account of others, if the person

is a member or is associated with a member of a recognized commodity exchange;

(4) Furnishing space and other facilities to members for the purpose of buying, selling or otherwise trading in stocks, stock options, bonds or commodity contracts;

(5) Furnishing investment information and advice to others concerning securities on a contract or fee basis;

(6) Furnishing services to holders of or brokers or dealers in securities or commodities;

(7) Holding or owning the securities of banks for the sole purpose of exercising some degree of control over the activities of the banks whose securities the person holds;

(8) Holding or owning securities of companies other than banks, for the sole purpose of exercising some degree of control over the activities of the companies whose securities the person holds;

(9) Issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain a provision requiring redemption by the company upon request of the holder of the security;

(10) Issuing shares, other than unit investment trusts and face-amount certificate companies, whose shares contain no provision requiring redemption by the company upon request by the holder of the security;

(11) Issuing unit investment trusts or face-amount certificates;

(12) The management of the money of trusts and foundations organized for religious, educational, charitable or nonprofit research purposes;

(13) The management of the money of trusts and foundations organized for purposes other than religious, educational, charitable or nonprofit research;

(14) Investing in oil and gas royalties or leases, or fractional interests therein;

(15) Owning or leasing franchises, patents and copyrights which the person in turn licenses others to use;

(16) Closed-end investments in real estate or related mortgage assets operating in such a manner as to meet the requirements of the Real Estate Investment Trust Act of 1960, as amended;

(17) Investing; or

(18) Any combination of the activities described in this paragraph, who is doing business in this State;

(c) Any other person conducting loan or credit card processing activities in this State; and

(d) Any other bank, bank holding company, national bank, savings association, federal savings bank, trust company, credit union, building and loan association, investment company, registered broker or dealer in securities or commodities, finance company, dealer in commercial paper or other business entity engaged in the business of lending money, providing

credit, securitizing receivables or fleet leasing, or any related business entity, doing business in this State.

2. The term does not include a credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act.

Sec. 78. NRS 645B.0119 is hereby amended to read as follows:

645B.0119 “Financial services license or registration” means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, *title 55 or 56 of NRS or chapter [604,] 645, 645A, 645C, 645E or 649 of NRS or [title 55 or 56 of NRS.] sections 2 to 74, inclusive, of this act.*

Sec. 79. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit *loan* service that is supervised pursuant to ~~[chapter 604 of NRS;]~~ *sections 2 to 74, inclusive, of this act;*

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

(g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

(i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(j) Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

(k) Thrift company that is supervised pursuant to chapter 677 of NRS; and

(l) Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 80. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. A person doing business under the authority of any law of this State or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage bankers, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his own account.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. *A person licensed to do business pursuant to sections 2 to 74, inclusive, of this act.*

Sec. 81. NRS 675.060 is hereby amended to read as follows:



675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this chapter for each office or other place of business at which the person engages in such business [—], *except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in sections 2 to 74, inclusive, of this act, the person must obtain a license from the Commissioner pursuant to sections 2 to 74, inclusive, of this act before the person may engage in any such business.*

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

Sec. 82. NRS 604.010, 604.020, 604.030, 604.040, 604.050, 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120, 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166, 604.170, 604.180 and 604.190 are hereby repealed.

Sec. 83. 1. If a person:

(a) On July 1, 2005, holds a valid certificate of registration or license that was issued by the Commissioner of Financial Institutions pursuant to chapter 604 or 675 of NRS before July 1, 2005; and

(b) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service, as those terms are defined in the provisions of sections 2 to 74, inclusive, of this act,

the person's certificate of registration or license shall be deemed to be a license issued by the Commissioner of Financial Institutions pursuant to the provisions of sections 2 to 74, inclusive, of this act until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

2. A person described in subsection 1 shall:

(a) On and after July 1, 2005, comply with all provisions of sections 2 to 74, inclusive, of this act relating to transactions with customers, including, without limitation, all provisions relating to loans, extensions, repayment plans, interest, fees, charges and collections; and

(b) On and after October 1, 2005, comply with all other provisions of sections 2 to 74, inclusive, of this act, except that the person does not have to renew his certificate of registration or license until the date on which the person would have been required to renew his certificate of registration or license pursuant to chapter 604 or 675 of NRS.

Sec. 84. This act becomes effective on July 1, 2005.”.

Amend the title of the bill, fourth line, by deleting “payday” and inserting “certain short-term”.

Assemblyman Conklin moved the adoption of the amendment.

Remarks by Assemblyman Conklin.

Amendment adopted.

Bill ordered reprinted, engrossed, and to third reading.

Assembly Bill No. 443.

Bill read second time.

The following amendment was proposed by the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Amendment No. 470.

Amend the bill as a whole by renumbering sections 1 through 12 as sections 2 through 13 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. The Charter of the City of Carlin, being Chapter 344, Statutes of Nevada 1971, at page 603, is hereby amended by adding thereto a new article to be designated Article X, immediately following Article IX, to read as follows:

#### ARTICLE X

##### TRANSITIONAL PROVISIONS

*Sec. 10.010 Continuation of certain officers.*

1. *The two members of the City Council elected at the general municipal election held on the Tuesday after the first Monday in June 2001, shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 1 of section 5.010.*

2. *The Mayor and two members of the City Council elected at the general municipal election held on the Tuesday after the first Monday in June 2003, shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.”.*

Amend section 1, page 2, line 4, by deleting “December” and inserting “January”.

Amend sec. 2, page 2, by deleting lines 22 through 26 and inserting: “*provided in section 10.010.*”

4. ~~[The Mayor and Councilmen first holding office under this Charter shall each receive a monthly salary of \$35 during the terms for which they were elected, selected or appointed. Thereafter, subject]~~ *Subject to the provisions of subsection 5 of section”.*

Amend sec. 3, page 2, line 33, by deleting “June” and inserting “[June”.

Amend sec. 3, page 2, by deleting line 34 and inserting: “~~1973,~~ November 2006, and at each successive interval of 4 years thereafter.”.

Amend sec. 3, page 2, line 35, by deleting “2005.”.

Amend sec. 3, page 2, line 38, by deleting “qualified [” and inserting “qualified.”.

Amend sec. 3, page 2, by deleting line 39.

Amend sec. 3, page 2, line 40, by deleting “June” and inserting “[June”.

# NEVADA LEGISLATURE

Seventy-Third Session, 2005

## ASSEMBLY DAILY JOURNAL

### THE SEVENTY-NINTH DAY

CARSON CITY (Tuesday), April 26, 2005

Assembly called to order at 11:07 a.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Deacon Bob Evans.

We give thanks, Lord, for all of our blessings. Please bless all of those who have gathered here today. Bless them and their families with good health, knowledge, happiness, and a caring spirit. Bless these legislators with the gift of leadership as they dedicate themselves daily to serve the people of the state of Nevada. We request all these blessings in Your name, Lord.

AMEN.

Pledge of Allegiance to the Flag.

Assemblywoman Buckley moved that further reading of the Journal be dispensed with, and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

### REPORTS OF COMMITTEES

*Mr. Speaker:*

Your Committee on Commerce and Labor, to which was re-referred Assembly Bill No. 186, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BARBARA BUCKLEY, *Chairman*

*Mr. Speaker:*

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 455, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN KOIVISTO, *Chairman*

*Mr. Speaker:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 142, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

— 61 —

Conflict of interest declared by Assemblyman Seale.

Roll call on Assembly Bill No. 371:

YEAS—41.

NAYS—None.

NOT VOTING—Seale.

Assembly Bill No. 371 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 384.

Bill read third time.

Remarks by Assemblywoman Buckley.

Roll call on Assembly Bill No. 384:

YEAS—42.

NAYS—None.

Assembly Bill No. 384 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 385

Bill read third time.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Giunchigliani moved that Assembly Bill No. 385 be taken from the General File and rereferred to the Committee on Ways and Means.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Assemblywoman Giunchigliani moved that Assembly Bill No. 500 be taken from the General File and rereferred to the Committee on Ways and Means.

Remarks by Assemblywoman Giunchigliani.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:31 p.m.

#### ASSEMBLY IN SESSION

At 1:48 p.m.

Madam Speaker pro Tempore presiding.

Quorum present.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 419.

Bill read third time.

Remarks by Assemblyman Perkins.

MAY 26, 2005 — DAY 109

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## THE ONE HUNDRED AND NINTH DAY

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CARSON CITY (Thursday), May 26, 2005

Senate called to order at 12:42 p.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Dixie Jennings-Teats.

Guide our feet, Lord, while we run this race.

Give us the inner resources not only to persevere in difficulties but also to make each step we take one that is worthy of Your blessing upon us.

Remind us of all of those You bless, everyone and thing in Your creation.

Remind us of our common vision, a whole future, Shalom for all Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

### REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 19, 364, 384, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair**Madam President:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 210, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WARREN B. HARDY II, *Chair**Madam President:*

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 365, 485, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK E. AMODEI, *Chair**Madam President:*

Your Committee on Transportation and Homeland Security, to which was referred Assembly Bill No. 249, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Finance.

DENNIS NOLAN, *Chair*

### MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2005

*To the Honorable the Senate:*

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 71, 78, 112, 133, 201, 225, 229, 255, 295, 315, 318, 354.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 3, 103, 154, 338, 385, 403, 498, 525.

*the injured employee's case. To be assigned an alternate vocational rehabilitation counselor, the injured employee must submit a written request to the entity administering the injured employee's case before the commencement of vocational rehabilitation services. Not later than 10 days after receiving such a request, the entity administering the injured employee's case shall assign the injured employee an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case."*

Amend sec. 7, page 3, line 18, by deleting "5" and inserting "6".

Amend sec. 8, page 5, line 45, by deleting "5" and inserting "6".

Amend sec. 9, page 7, line 14, by deleting "6" and inserting "7".

Amend sec. 11, page 10, line 32, by deleting "5" and inserting "6".

Amend the title of the bill to read as follows:

"AN ACT relating to industrial insurance; revising provisions relating to the notices required when a contractor's coverage lapses; requiring an insurer that makes payments of compensation to an injured employee for a permanent total disability to provide certain accountings to the injured employee; requiring an insurer to reopen a claim to consider the payment of compensation for a permanent partial disability under certain circumstances; authorizing an insurer or an injured employee to request a vocational rehabilitation counselor to prepare a written assessment of the injured employee under certain circumstances; prohibiting a vocational rehabilitation counselor who is employed by the entity administering an injured employee's case from providing services to the injured employee under certain circumstances; providing an injured employee with the right to be assigned an alternate vocational rehabilitation counselor who is not affiliated with the entity administering the injured employee's case; and providing other matters properly relating thereto."

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 384.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 869.

Amend sec. 2, page 1, line 5, by deleting:

"3 to 21," and inserting:

"2.5 to 21.5,".

Amend the bill as a whole by adding a new section designated sec. 2.5, following sec. 2, to read as follows:

"Sec. 2.5. 1. "Automated loan machine" means any machine or other device, regardless of the name given to it or the technology used, that:

- (a) *Is automated;*
- (b) *Is designed or intended to allow a customer, without any additional assistance from another person, to receive or attempt to receive a deferred deposit loan or short-term loan through the machine or other device; and*
- (c) *Is set up, installed, operated or maintained by or on behalf of the person making the loan or any agent, affiliate or subsidiary of the person.*

2. *The term does not include any machine or other device used directly by a customer to access the Internet unless the machine or other device is made available to the customer by the person making the loan or any agent, affiliate or subsidiary of the person."*

Amend sec. 8, page 2, by deleting lines 30 and 31 and inserting:  
*"the extension or repayment plan does not violate the provisions of this chapter."*

Amend sec. 9, page 2, line 35, by deleting "written" and inserting "loan".

Amend sec. 9, page 3, line 2, by deleting "the electronic" and inserting "an electronic".

Amend the bill as a whole by adding a new section designated sec. 15.5, following sec. 15, to read as follows:

"Sec. 15.5. *"Refund anticipation loan" means a loan offered or made to a taxpayer by a lender or through a facilitator based on the taxpayer's anticipated federal income tax refund."*

Amend sec. 16, page 3, by deleting lines 32 and 33 and inserting:

"Sec. 16. *"Regulation Z" means the federal regulations, as amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in Lending Act and commonly known as Regulation Z."*

Amend sec. 17, page 3, by deleting lines 37 through 43 and inserting:

*"(a) Charges an annual percentage rate of more than 40 percent; and*

*(b) Requires the loan to be paid in full in less than 1 year.*

2. *The term does not include:*

*(a) A deferred deposit loan;*

*(b) A title loan; or*

*(c) A refund anticipation loan."*

Amend sec. 19, page 4, by deleting lines 5 through 11 and inserting:  
*"pursuant to a loan agreement which, under its original terms:*

*(a) Charges an annual percentage rate of more than 35 percent; and*

*(b) Requires the customer to secure the loan by giving possession of the title to a vehicle legally owned by the customer to the person making the loan, or to any agent, affiliate or subsidiary of the person, whether or not the person making the loan or taking possession of the title perfects a security interest in the vehicle by having the person's name noted on the title as a lienholder.*

2. *The term does not include:*

*(a) A loan which creates a purchase-money security interest in a vehicle or the refinancing of any such loan; or*

(b) *Any other loan for which a vehicle is used as security or collateral if the person making the loan.*

Amend sec. 21, page 4, by deleting lines 17 through 19 and inserting:

"Sec. 21. *"Title to a vehicle" or "title" means a certificate of title or ownership issued pursuant to the laws of this State that identifies the legal owner of a vehicle or any similar"*.

Amend the bill as a whole by adding new sections designated sections 21.2 through 21.8, following sec. 21, to read as follows:

"Sec. 21.2. *"Truth in Lending Act" means the federal Truth in Lending Act, as amended, 15 U.S.C. §§ 1601 et seq.*

Sec. 21.5. 1. *"Vehicle" means any vehicle, whether or not self-propelled, that is designed or intended for land transportation if the legal owner of the vehicle is required to have a title.*

2. *The term includes, without limitation:*

- (a) *Passenger vehicles;*
- (b) *Recreational vehicles; and*
- (c) *House trailers and travel trailers.*

3. *The term does not include:*

- (a) *Farm vehicles;*
- (b) *Vehicles of a common or contract carrier;*
- (c) *Commercial vehicles;*
- (d) *Construction vehicles;*
- (e) *Military vehicles;*
- (f) *Vehicles used exclusively upon stationary rails or tracks; or*
- (g) *Any other vehicles which are similar in nature to the vehicles listed in paragraphs (a) to (f), inclusive, and which the Commissioner, by regulation, excludes from the definition of "vehicle."*

Sec. 21.8. 1. *As used in this chapter, unless the context otherwise requires, the following terms have the meanings ascribed to them in the Truth in Lending Act and Regulation Z:*

- (a) *"Amount financed."*
- (b) *"Annual percentage rate."*
- (c) *"Finance charge."*
- (d) *"Payment schedule."*
- (e) *"Total of payments."*

2. *For the purposes of this chapter, proper calculation of the amount financed, annual percentage rate and finance charge for a loan must be made in accordance with the Truth in Lending Act and Regulation Z."*

Amend sec. 23, page 4, line 28, before *"loan,"* by inserting:  
*"loan or an extension of a".*

Amend sec. 23, page 4, line 30, by deleting:

*"fees or interest"* and inserting:

*"additional fees or additional interest".*

Amend sec. 27, page 6, between lines 6 and 7, by inserting:



"15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service.".

Amend sec. 28, page 6, by deleting lines 7 through 13 and inserting:

"Sec. 28. 1. The Commissioner may establish by regulation the fees that a licensee who provides check-cashing services may impose for cashing checks.

2. The Commissioner shall adopt any other regulations as are".

Amend sec. 29, page 6, line 24, by deleting "means." and inserting:

"means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or short-term loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.".

Amend sec. 30, page 6, by deleting lines 26 through 29 and inserting:

"every location at which he conducts business under his license:

(a) A notice that states the fees he charges for providing check-cashing services, deferred deposit loan services, short-term loan services or title loan services.

(b) A notice that states a toll-free telephone number to the Office of the Commissioner to handle concerns or complaints of customers.

➤ The Commissioner shall adopt regulations prescribing the form and size of the notices required by this subsection.".

Amend sec. 30, page 6, line 33, after "means," by inserting:

"except for an automated loan machine prohibited by section 29 of this act,".

Amend sec. 31, page 7, by deleting lines 11 through 25 and inserting:

"(b) The nature of the security for the loan, if any;

(c) The date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z;

(d) A disclosure of the right of the customer to rescind a loan pursuant to the provisions of this chapter;

(e) A disclosure of the right of the customer to pay his loan in full or in part with no additional charge pursuant to the provisions of this chapter;

(f) A disclosure stating that, if the customer defaults on the loan, the customer has the opportunity within 30 days of the date of default to enter into a repayment plan with a term of at least 90 days, and that the licensee must offer the repayment plan to the customer before the licensee commences any civil action or process of alternative dispute resolution or, if appropriate for the loan, before the licensee repossesses a vehicle; and

(g) *Any other disclosures required under the Truth in Lending Act and Regulation Z or under any other applicable federal or state statute or regulation.*"

Amend sec. 32, page 7, line 30, after "Act," by inserting "as amended,".

Amend sec. 32, page 7, line 33, by deleting "initiates" and inserting "commences".

Amend sec. 32, page 7, line 39, by deleting "is" and inserting "was".

Amend sec. 32, page 7, after line 45, by inserting:

"3. *Notwithstanding any provision of NRS 66.010 to the contrary, if:*

(a) *A licensee intends to commence a civil action in a justice's court against a customer to collect a debt; and*

(b) *The customer resides in the county where the loan was made,*

➔ *the licensee is required to commence the civil action in the justice's court for the township where the loan was made unless, after the date of default and before the licensee commences the civil action, the customer signs an affidavit agreeing to try the action in another justice's court having jurisdiction over the subject matter and the parties. A licensee shall not, directly or indirectly, require, intimidate, threaten or coerce a customer to sign such an affidavit.*"

Amend sec. 33, page 8, line 12, after "Garnish" by inserting:  
"or threaten to garnish".

Amend sec. 33, page 8, line 14, after "Contact" by inserting:  
"or threaten to contact".

Amend the bill as a whole by adding a new section designated sec. 33.5, following sec. 33, to read as follows:

"Sec. 33.5. 1. *A licensee shall not:*

(a) *Make a deferred deposit loan that exceeds 25 percent of the expected gross monthly income of the customer when the loan is made; or*

(b) *Make a short-term loan which, under the terms of the loan agreement, requires any monthly payment that exceeds 25 percent of the expected gross monthly income of the customer.*

2. *A licensee is not in violation of the provisions of this section if the customer presents evidence of his gross monthly income to the licensee and represents to the licensee in writing that:*

(a) *For a deferred deposit loan, the loan does not exceed 25 percent of his expected gross monthly income when the loan is made; or*

(b) *For a short-term loan, the monthly payment required under the terms of the loan agreement does not exceed 25 percent of his expected gross monthly income."*

Amend sec. 34, page 8, by deleting lines 19 through 38 and inserting:

"Sec. 34. *A licensee shall not make more than one deferred deposit loan or short-term loan to the same customer at one time or before any outstanding balance is paid in full on an existing loan made by that licensee to the customer unless:*

1. *The customer is seeking multiple loans that do not exceed the limits set forth in section 33.5 of this act;*

2. *The licensee charges the same or a lower annual percentage rate for any additional loans as he charged for the initial loan;*

3. *Except for that part of the finance charge which consists of interest only, the licensee does not impose any other charge or fee to initiate any additional loans, except that a licensee who makes deferred deposit loans or short-term loans in accordance with the provisions of subsection 2 of section 43 of this act may charge a reasonable fee for preparing documents in an amount that does not exceed \$50; and*

4. *If the additional loans are deferred deposit loans and the".*

Amend sec. 35, page 9, line 2, by deleting "motor".

Amend sec. 35, page 9, by deleting lines 7 through 22 and inserting:

"(d) *More than one check or written authorization for an electronic transfer of money for each deferred deposit loan.*

(e) *A check or written authorization for an electronic transfer of money for any deferred deposit loan in an amount which exceeds the total of payments set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer.*

2. *Take any note or promise to pay which does not disclose the date and amount of the loan, amount financed, annual percentage rate, finance charge, total of payments, payment schedule and a description and the amount of every fee charged, regardless of the name given to the fee and regardless of whether the fee is required to be included in the finance charge under the Truth in Lending Act and Regulation Z.*

3. *Take any instrument, including a check or written authorization for an electronic transfer of money, in which blanks".*

Amend sec. 36, page 9, by deleting lines 36 through 38 and inserting:

"2. *Commence a civil action or any process of alternative dispute resolution or repossess a vehicle before the customer defaults under the original term of a loan agreement or before the customer defaults under any repayment plan, extension or grace period negotiated and agreed".*

Amend sec. 36, page 10, line 2, before "payment" by inserting "the".

Amend the bill as a whole by adding a new section designated sec. 36.5, following sec. 36, to read as follows:

"Sec. 36.5. *Notwithstanding any other provision of this chapter to the contrary:*

1. *The original term of a title loan must not exceed 30 days.*

2. *The title loan may be extended for not more than six additional periods of extension, with each such period not to exceed 30 days, if:*

(a) *Any interest or charges accrued during the original term of the title loan or any period of extension of the title loan are not capitalized or added to the principal amount of the title loan during any subsequent period of extension;*

(b) *The annual percentage rate charged on the title loan during any period of extension is not more than the annual percentage rate charged on the title loan during the original term; and*

(c) *No additional origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fees, are charged in connection with any extension of the title loan."*

Amend sec. 37, page 10, line 18, by deleting "motor".

Amend sec. 37, page 10, by deleting line 27 and inserting:  
"obligations, employment and ownership of the vehicle; and".

Amend sec. 38, page 10, line 30, by deleting "chapter," and inserting "section,".

Amend sec. 38, page 10, line 35, by deleting:  
"to commence a legal action".

Amend sec. 38, page 10, lines 36, 40, 41 and 43, by deleting "motor".

Amend sec. 38, page 11, lines 1 and 3, by deleting "motor".

Amend sec. 38, page 11, by deleting lines 4 through 15 and inserting:  
"before he entered into the title loan.

3. *If a vehicle is repossessed pursuant to this section:*

(a) *By the licensee or his employees, the licensee shall make reasonably available to the customer any personal property in or upon the vehicle; or*

(b) *By a third party acting on behalf of the licensee, the licensee shall instruct the third party to make reasonably available to the customer any personal property in or upon the vehicle.*

4. *If a customer uses fraud to secure a title loan or if the customer wrongfully transfers any interest in the vehicle to a third party before the title loan is repaid, the licensee may bring a civil action against the customer for any or all of the following relief:*

(a) *The amount of the loan obligation, including, without limitation, the aggregate amount of the interest, charges and fees negotiated and agreed to by the licensee and customer as permitted under this chapter, less any prior payments made by the customer;".*

Amend sec. 38, page 11, line 24, by deleting "motor".

Amend sec. 39, page 11, line 31, by deleting "loan:" and inserting "loan;".

Amend sec. 39, page 12, line 6, by deleting "motor".

Amend sec. 40, page 12, line 14, by deleting "customer," and inserting:  
"customer as permitted under this chapter,".

Amend sec. 40, page 12, line 23, by deleting "motor".

Amend sec. 42, pages 13 and 14, by deleting lines 7 through 45 on page 13 and lines 1 through 22 on page 14, and inserting:

"Sec. 42. 1. *Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:*

(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and

(b) Is not required to make such an offer more than once for each loan.

2. Not later than 15 days after the date of default, the licensee shall provide to the customer written notice of the opportunity to enter into a repayment plan. The written notice must:

(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;

(b) State the date by which the customer must act to enter into a repayment plan;

(c) Explain the procedures the customer must follow to enter into a repayment plan;

(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;

(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and

(f) Include the following amounts:

(1) The total of payments or the remaining balance on the original loan;

(2) Any payments made on the loan;

(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and

(4) The total amount due if the customer enters into a repayment plan.

3. Under the terms of any repayment plan pursuant to this section:

(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;

(b) The licensee must allow the period for repayment to extend at least 90 days after the date of default, unless the customer agrees to a shorter term;

(c) The licensee may require the customer to make an initial payment of not more than 20 percent of the total amount due under the terms of the repayment plan;

(d) For a deferred deposit loan:

(1) The licensee may require a customer to provide, as security, one or more checks or written authorizations for an electronic transfer of money which equal the total amount due under the terms of the repayment plan;

(2) The licensee shall, if the customer makes a payment in the amount of a check or written authorization taken as security for that payment, return to the customer the check or written authorization stamped "void" or destroy the check or written authorization; and

(3) The licensee shall not charge any fee to the customer pursuant to section 45 of this act for a check which is provided as security during the repayment plan and which is not paid upon presentment if, in connection with that loan, the licensee has previously charged at least one such fee.

4. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall honor the terms of the repayment plan, and the licensee shall not:

(a) Except as otherwise provided by this chapter, charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of entering into a repayment plan. Such an amount includes, without limitation:

(1) Any interest, regardless of the name given to the interest, other than the interest charged pursuant to the original loan agreement at a rate which does not exceed the annual percentage rate charged during the term of the original loan agreement; or

(2) Any origination fees, set-up fees, collection fees, transaction fees, negotiation fees, handling fees, processing fees, late fees, default fees or any other fees, regardless of the name given to the fee;

(b) Except as otherwise provided in this section, accept any additional security or collateral from the customer to enter into the repayment plan;

(c) Sell to the customer any insurance or require the customer to purchase insurance or any other goods or services to enter into the repayment plan;

(d) Make any other loan to the customer, unless the customer is seeking multiple loans that do not exceed the limit set forth in section 33.5 of this act;

(e) During the term of the repayment plan, attempt to collect the outstanding balance by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, unless the customer defaults on the repayment plan; or

(f) Attempt to collect an amount that is greater than the amount owed under the terms of the repayment plan.

5. If the licensee and customer enter into a repayment plan pursuant to this section, the licensee shall:

(a) Prepare a written agreement establishing the repayment plan; and

(b) Give the customer a copy of the written agreement. The written agreement must:

(1) Be signed by the licensee and customer; and

(2) Contain all of the terms of the repayment plan, including, without limitation, the total amount due under the terms of the repayment plan."

Amend sec. 42, page 14, between lines 35 and 36, by inserting:

"7. If the customer defaults on the repayment plan, the licensee may, to collect the outstanding balance, commence any civil action or process of alternative dispute resolution or repossess a vehicle as otherwise authorized pursuant to this chapter."

Amend sec. 43, page 14, by deleting lines 36 through 41 and inserting:

"Sec. 43. 1. Except as otherwise provided in subsection 2, if a customer agrees to establish or extend the period for the repayment, renewal, refinancing or consolidation of an outstanding loan by using the proceeds of a new deferred deposit loan or short-term loan to pay the balance of the

*outstanding loan, the licensee shall not establish or extend such a period beyond 60 days after the expiration of the initial loan period.*

*2. This section does not apply to a deferred deposit loan or short-term loan if the licensee:*

*(a) Makes the deferred deposit loan or short-term loan to a customer pursuant to a loan agreement which, under its original terms:*

*(1) Charges an annual percentage rate of less than 200 percent;*

*(2) Requires the customer to make a payment on the loan at least once every 30 days;*

*(3) Requires the loan to be paid in full in not less than 150 days; and*

*(4) Provides that interest does not accrue on the loan at the annual percentage rate set forth in the loan agreement after the date of maturity of the loan;*

*(b) Performs a credit check of the customer with a major consumer reporting agency before making the loan;*

*(c) Reports information relating to the loan experience of the customer to a major consumer reporting agency;*

*(d) Gives the customer the right to rescind the deferred deposit loan or short-term loan within 5 days after the loan is made without charging the customer any fee for rescinding the loan;*

*(e) Participates in good faith with a counseling agency that is:*

*(1) Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and*

*(2) A member of the National Foundation for Credit Counseling, or its successor organization; and*

*(f) Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof."*

*Amend sec. 44, pages 14 and 15, by deleting lines 42 through 45 on page 14 and lines 1 through 12 on page 15, and inserting:*

*"Sec. 44. 1. Except as otherwise provided in section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:*

*(a) The principal amount of the loan.*

*(b) The interest accrued before the expiration of the initial loan period at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.*

*(c) The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed pursuant to this chapter, whichever is later, at an annual percentage rate".*

Amend sec. 44, page 15, lines 17 and 18, by deleting "12 weeks." and inserting "90 days."

Amend sec. 44, page 15, line 24, by deleting "I," and inserting:  
*"I and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act,".*

Amend sec. 48, page 17, line 21, by deleting "business," and inserting:  
*"business under the license,".*

Amend sec. 48, page 17, line 25, by deleting "means." and inserting:  
*"means, except that the applicant shall not propose to do business through any automated loan machine prohibited by section 29 of this act.".*

Amend sec. 48, page 17, between lines 40 and 41, by inserting:  
*"4. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.".*

Amend sec. 49, page 17, by deleting lines 44 and 45 and inserting:  
*"the State of Nevada in the amount of \$50,000 plus an additional \$5,000 for each branch location at which the applicant proposes to do business under the license. Thereafter, each licensee shall maintain the surety bond so that the amount of the surety bond is \$50,000 plus an additional \$5,000 for each branch location at which the licensee does business under the license. The surety bond required by this section is for the use and benefit of any customer receiving the services of the licensee at any location at which the licensee does business under the license.".*

Amend sec. 51, page 19, line 39, by deleting "means." and inserting:  
*"means, except that the applicant shall not conduct business in this State through any automated loan machine prohibited by section 29 of this act.".*

Amend sec. 52, page 19, line 43, by deleting "section" and inserting:  
*"sections 53.5 and".*

Amend the bill as a whole by adding a new section designated sec. 53.5, following sec. 53, to read as follows:

*"Sec. 53.5. 1. In addition to any other requirements set forth in this chapter, each applicant must submit proof satisfactory to the Commissioner that the applicant:*

*(a) Has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business for which the applicant seeks to be licensed in a manner which protects the interests of the general public.*

*(b) Has not made a false statement of material fact on the application for the license.*

*(c) Has not committed any of the acts specified in subsection 2.*



(d) *Has not had a license issued pursuant to this chapter suspended or revoked within the 10 years immediately preceding the date of the application.*

(e) *Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude.*

(f) *If the applicant is a natural person:*

(1) *Is at least 21 years of age; and*

(2) *Is a citizen of the United States or lawfully entitled to remain and work in the United States.*

2. *In addition to any other lawful reasons, the Commissioner may refuse to issue a license to an applicant if the applicant:*

(a) *Has committed or participated in any act which, if committed or done by a holder of a license, would be grounds for the suspension or revocation of the license.*

(b) *Has previously been refused a license pursuant to this chapter or has had such a license suspended or revoked.*

(c) *Has participated in any act which was a basis for the refusal or revocation of a license pursuant to this chapter.*

(d) *Has falsified any of the information submitted to the Commissioner in support of the application for the license."*

Amend sec. 54, page 20, line 21, by deleting "*that the*" and inserting: "*that:*"

(a) *The*".

Amend sec. 54, page 20, by deleting line 25 and inserting: "*efficiently; and*"

(b) *The applicant has satisfied the requirements set forth in section 53.5 of this act."*

Amend sec. 54, page 20, line 41, by deleting "*means.*" and inserting: "*means, except that the Commissioner shall not issue any license that would authorize the licensee to operate through any automated loan machine prohibited by section 29 of this act."*

Amend sec. 54, page 20, line 44, by deleting "*shall:*" and inserting "*must:*".

Amend sec. 57, page 21, line 41, after "Sec. 57." by inserting "*1.*".

Amend sec. 57, page 22, between lines 2 and 3, by inserting:

"2. *A licensee must obtain the approval of the Commissioner before using or changing a business name.*

3. *A licensee shall not:*

(a) *Use any business name which is identical or similar to a business name used by another licensee under this chapter or which may mislead or confuse the public.*

(b) *Use any printed forms which may mislead or confuse the public."*

Amend sec. 59, page 23, line 8, by deleting "*means.*" and inserting: "*means, except that the licensee shall not operate any automated loan machine prohibited by section 29 of this act."*

Amend sec. 60, page 23, line 12, after "*separate*" by inserting:

"written or electronic".

Amend sec. 64, page 25, line 1, after "Sec. 64." by inserting "1.".

Amend sec. 64, page 25, between lines 6 and 7, by inserting:

*"2. If, after auditing one or more branch locations of the licensee, the Commissioner or his authorized representatives conclude that the loans, disclosures, loan practices, computer processes, filing systems and records are identical at each branch location, the Commissioner may make an examination of only those branch locations he deems necessary."*

Amend the bill as a whole by adding a new section designated sec. 65.5, following sec. 65, to read as follows:

*"Sec. 65.5. In addition to any other lawful reasons, the Commissioner may suspend or revoke a license if the licensee has engaged in any act that would be grounds for denying a license pursuant this chapter."*

Amend the bill as a whole by adding a new section designated sec. 73.5, following sec. 73, to read as follows:

*"Sec. 73.5. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter."*

Amend sec. 74, page 28, by deleting lines 9 through 21 and inserting:

*"Sec. 74. 1. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, if a person violates any provision of section 29, 31 to 47, inclusive, 49, 50, 57 or 58 of this act or any regulation adopted pursuant thereto, the customer may bring a civil action against the person for any or all of the following relief:*

- (a) Actual and consequential damages;*
- (b) Punitive damages, which are subject to the provisions of NRS 42.005;*
- (c) Reasonable attorney's fees and costs; and*
- (d) Any other legal or equitable relief that the court deems appropriate.*

*2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to \$1,000 for each violation if the person knowingly:*

- (a) Operates a check-cashing service, deferred deposit loan service, short-term loan service or title loan service without a license, in violation of section 29 of this act;*
- (b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of section 31 of this act;*
- (c) Violates any provision of section 33 of this act;*
- (d) Accepts collateral or security for a deferred deposit loan, in violation of section 35 of this act, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;*

(e) *Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of section 36 of this act;*

(f) *Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of section 36 of this act;*

(g) *Violates any provision of section 44 of this act; or*

(h) *Violates any provision of section 45 of this act.*

3. *A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the violation:*

(a) *Was not intentional;*

(b) *Was technical in nature; and*

(c) *Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.*

4. *For the purposes of subsection 3, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to the person's obligations under this chapter is not a bona fide error."*

Amend the bill as a whole by adding a new section designated sec. 75.5, following sec. 75, to read as follows:

"Sec. 75.5. NRS 41.620 is hereby amended to read as follows:

41.620 1. ~~[Any]~~ *Except as otherwise provided in section 45 of this act, any person who:*

(a) *Makes, utters, draws or delivers a check or draft for the payment of money drawn upon any financial institution or other person, when he has no account with the drawee of the instrument or has insufficient money, property or credit with the drawee to pay; or*

(b) *Uses a credit card or debit card to obtain money, goods, property, services or anything of value, when he knows or should have known the credit card or debit card is no longer valid,*

*→ and who fails to pay the amount in cash to the payee, issuer or other creditor within 30 days after a demand therefor in writing is mailed to him by certified mail, is liable to the payee, issuer or other creditor for the amount of the check, draft or extension of credit, and damages equal to three times the amount of the check, draft or extension of credit, but not less than \$100 nor more than \$500.*

2. *As used in this section, unless the context otherwise requires:*

(a) *"Credit card" has the meaning ascribed to it in NRS 205.630;*

(b) *"Debit card" has the meaning ascribed to it in NRS 205.635; and*

(c) *"Issuer" has the meaning ascribed to it in NRS 205.650."*

Amend sec. 80, page 32, line 44, by deleting "*act.*" and inserting:

*"act with regard to those services regulated pursuant to sections 2 to 74, inclusive, of this act."*

Amend sec. 83, page 33, line 39, by deleting "A" and inserting:

"Except as otherwise provided in subsections 3 and 4, a".

Amend sec. 83, page 34, between lines 6 and 7, by inserting:

"3. A person described in subsection 1 is not required to comply with the following provisions of sections 2 to 74, inclusive, of this act sooner than October 1, 2005, or the date of any extension granted by the Commissioner of Financial Institutions pursuant to subsection 4:

(a) Any provision requiring the use of the Spanish language; and

(b) Any provision requiring changes to or replacement of existing computer software or major modifications to existing business processes, as determined by the Commissioner.

4. If the person is unable to comply with any provision described in paragraph (a) or (b) of subsection 3 by October 1, 2005, the person may request an extension from the Commissioner. The Commissioner may grant such an extension, to a date not later than January 1, 2006, if the person establishes that compliance by October 1, 2005:

(a) Is not economically feasible;

(b) Is prevented by factors beyond the control of the person; or

(c) Is prevented by any other factors that the Commissioner deems to be an appropriate justification for an extension."

Amend the title of the bill to read as follows:

"AN ACT relating to financial services; revising the standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, certain short-term loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the revised standards and procedures; revising provisions relating to certain unfair lending practices; providing remedies and administrative penalties; and providing other matters properly relating thereto."

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Commerce and Labor:

Amendment No. 870.

Amend the bill as a whole by deleting sections 2 and 3 and adding new sections designated sections 2 and 3, following section 1, to read as follows:

"Sec. 2. 1. *The Board and a local governmental entity shall, to the extent practicable, reduce duplication in the licensing procedure for a*

MAY 27, 2005 — DAY 110

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## THE ONE HUNDRED AND TENTH DAY

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CARSON CITY (Friday), May 27, 2005

Senate called to order at 11:36 a.m.

President Hunt presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Dixie Jennings-Teats.

Create in us clean hearts, O God, and renew a right spirit within us.

As we breathe in, let us come into the center of our beings, into the depths of our lives.

Remind us of what is important as we breathe out.

Let us release all that binds us in narrow concerns.

Let us hear Your invitation to Your common table for all people.

Let the work of this Legislature be centered in true creativity, true consensus for the common good of all Your people.

AMEN.

Pledge of allegiance to the Flag.

Senator Raggio moved that further reading of the Journal be dispensed with, and the President and Secretary be authorized to make the necessary corrections and additions.

Motion carried.

### REPORTS OF COMMITTEES

*Madam President:*

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 44, 540, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair**Madam President:*

Your Committee on Finance, to which was rereferred Senate Bill No. 463, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair**Madam President:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 31, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Rerefer to the Committee on Commerce and Labor.

WARREN B. HARDY II, *Chair**Madam President:*

Your Committee on Human Resources and Education, to which was referred Assembly Bill No. 280, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAURICE E. WASHINGTON, *Chair*

Assembly Bill No. 369.

Bill read third time.

Roll call on Assembly Bill No. 369:

YEAS—21.

NAYS—None.

Assembly Bill No. 369 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 371 be taken from the General File and placed on the General File on the third agenda.

Remarks by Senator Townsend.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 380.

Bill read third time.

Roll call on Assembly Bill No. 380:

YEAS—21.

NAYS—None.

Assembly Bill No. 380 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 384.

Bill read third time.

Roll call on Assembly Bill No. 384:

YEAS—21.

NAYS—None.

Assembly Bill No. 384 having received a constitutional majority, Madam President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

#### MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 418 be taken from the General File and placed on the bottom of the General File on the third agenda.

Remarks by Senator Townsend.

Motion carried.

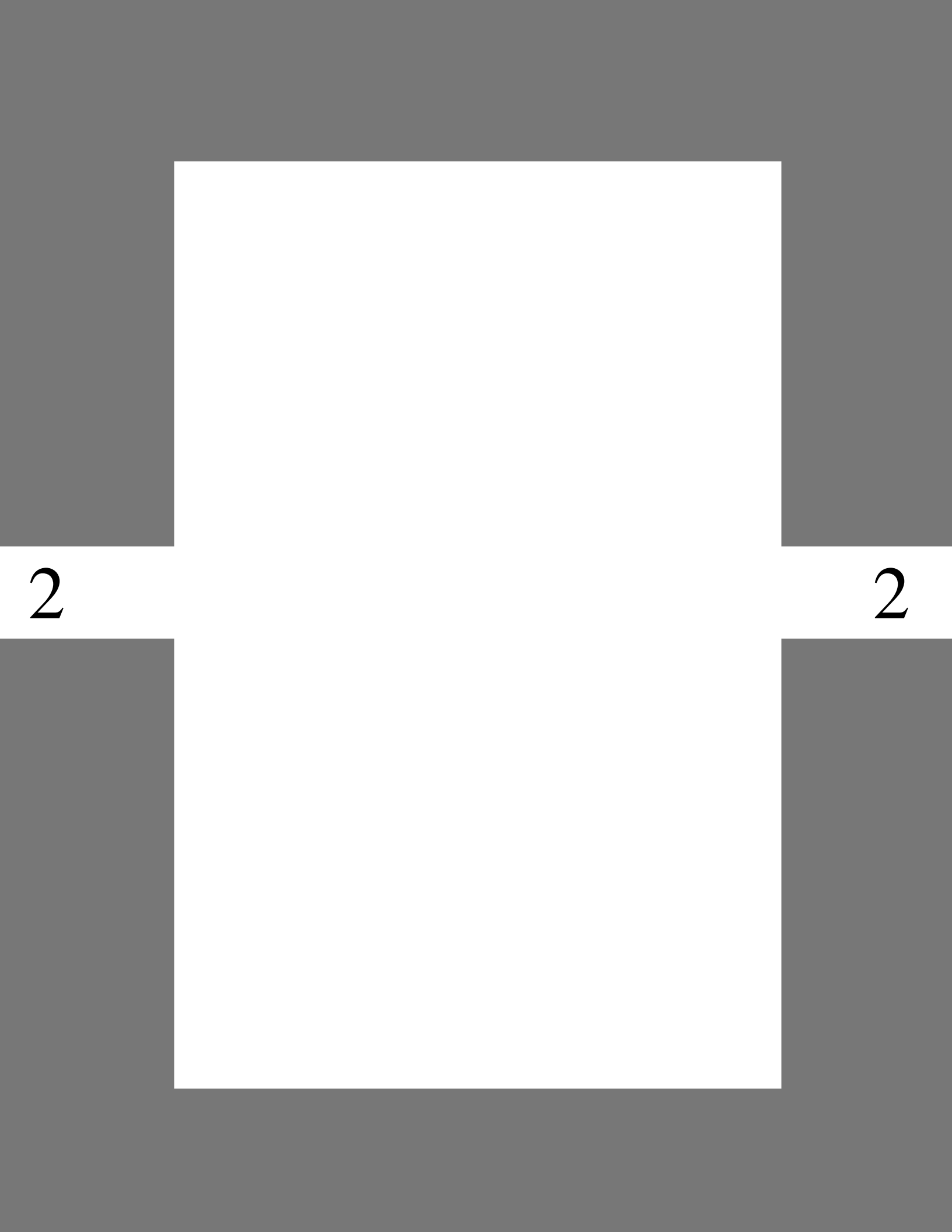
#### GENERAL FILE AND THIRD READING

Assembly Bill No. 425.

Bill read third time.

# BILLS AND AMENDMENTS

SEE LINKS ON BILL HISTORY PAGE  
FOR COMPLETE BILL TEXT



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2



# AB163

[View Bill in NELIS](#)

Introduced in the Assembly on Feb 13, 2017.

**By:** (**Bolded** name indicates primary sponsorship)  
**Flores**

*Revises provisions governing certain short-term loans. (BDR 52-737)*

## Fiscal Notes [View Fiscal Notes](#)

Effect on Local Government: No.

Effect on State: Yes.

**Most Recent History** Approved by the Governor. Chapter 274.

**Action:**

(See full list below)

## Upcoming Hearings

### Past Hearings

Assembly Commerce and Labor	Mar 15, 2017 01:30 PM		<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard
Assembly Commerce and Labor	Apr 12, 2017	See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Not considered
Assembly Commerce and Labor	Apr 14, 2017	See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Amend, and do pass as amended
Senate Commerce, Labor and Energy	May 10, 2017 08:00 AM		<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard, No Action
Senate Commerce, Labor and Energy	May 19, 2017 09:00 AM		<a href="#">Agenda</a>	<a href="#">Minutes</a>	Amend, and do pass as amended
Assembly Government Affairs	May 29, 2017 09:00 AM		<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned no jurisdiction
Senate Commerce, Labor and Energy	Jun 03, 2017	See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	After Passage Discussion

### Final Passage Votes

<a href="#">Assembly Final Passage</a>	<a href="#">(2nd Reprint)</a>	Apr 25, 2017	Yea 42,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0
<a href="#">Senate Final Passage</a>	<a href="#">(3rd Reprint)</a>	May 24, 2017	Yea 21,	Nay 0,	Excused 0,	Not Voting 0,	Absent 0

**Bill Text**   [As Introduced](#)   [1st Reprint](#)   [2nd Reprint](#)   [3rd Reprint](#)   [As Enrolled](#)

**Adopted Amendments**   [Amend. No. 605](#)   [Amend. No. 628](#)   [Amend. No. 856](#)

## Bill History

**Feb 13, 2017**

- Prefiled pursuant to JSR 14.2.1(d).
- Read first time. Referred to Committee on Commerce and Labor. To printer.

**Feb 14, 2017**

- From printer. To committee.

**Apr 24, 2017**

- From committee: Amend, and do pass as amended.
- Placed on Second Reading File.
- Read second time. Amended. (Amend. No. **605**.) To printer.

**Apr 25, 2017**

- From printer. To engrossment. Engrossed. **First reprint**.
- Read third time. Amended. (Amend. No. **628**.) To printer.
- From printer. To reengrossment. Reengrossed. **Second reprint**.
- Placed on General File.
- Read third time. Passed, as amended. Title approved, as amended. **(Yeas: 42, Nays: None.)** To Senate.

**Apr 26, 2017**

- In Senate.
- Read first time. Referred to Committee on Commerce, Labor and Energy. To committee.

**May 23, 2017**

- From committee: Amend, and do pass as amended.
- Placed on Second Reading File.
- Read second time. Amended. (Amend. No. **856**.) To printer.

**May 24, 2017**

- From printer. To re-engrossment. Re-engrossed. **Third reprint**.
- Read third time. Passed, as amended. Title approved, as amended. **(Yeas: 21, Nays: None.)** To Assembly.
- In Assembly.

**May 25, 2017**

- Senate Amendment No. **856** concurred in. To enrollment.

**May 27, 2017**

- Enrolled and delivered to Governor.

**Jun 01, 2017**

- Approved by the Governor. Chapter 274.

**Sections 1, 1.3, 2, 3, 4, 5.5, 6, 6.5, 8, 9, and 10 of this act effective on July 1, 2017. Sections 1.7, 3.5, 5, and 7 of this act effective on October 1, 2017.**

# AB222

[View Bill in NELIS](#)

**Introduced in the Assembly on** Feb 13, 2017.

**By:** (**Bolded** name indicates primary sponsorship)  
**Swank**

*Revises provisions governing payday loans, title loans and installment loans. (BDR 52-574)*

## Fiscal Notes [View Fiscal Notes](#)

Effect on Local Government: No.

Effect on State: Yes.

**Most Recent History** (Pursuant to Joint Standing Rule No. 14.3.1, no further action allowed.)  
**Action:**  
(See full list below)

## Upcoming Hearings

### Past Hearings

Assembly Commerce and Labor	Mar 15, 2017 PM	01:30	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard
Assembly Commerce and Labor	Apr 12, 2017 Agenda	See	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Not considered
Assembly Commerce and Labor	Apr 14, 2017 Agenda	See	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Not considered
Assembly Government Affairs	May 29, 2017 09:00 AM		<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned no jurisdiction
Senate Commerce, Labor and Energy	Jun 03, 2017 Agenda	See	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned No Jurisdiction

## Final Passage Votes

**Bill Text**   [As Introduced](#)

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## Bill History

### [Feb 13, 2017](#)

- Prefiled pursuant to JSR 14.2.1(d).
- Read first time. Referred to Committee on Commerce and Labor. To printer.

### [Feb 15, 2017](#)

- From printer. To committee.

### [Apr 14, 2017](#)

- Notice of eligibility for exemption.

### [Apr 15, 2017](#)

- (Pursuant to Joint Standing Rule No. 14.3.1, no further action allowed.)

# AB515

[View Bill in NELIS](#)

Introduced in the Assembly on May 25, 2017.

**By:** (**Bolded** name indicates primary sponsorship)  
**Frierson, Swank**

*Revises provisions governing deferred deposit loans, title loans and high-interest loans. (BDR 52-1227)*

## DECLARED EXEMPT

### Fiscal Notes [View Fiscal Notes](#)

Effect on Local Government: No.

Effect on State: Yes.

### Most Recent History (No further action taken.)

**Action:**

(See full list below)

### Upcoming Hearings

#### Past Hearings

Assembly Government Affairs	May 29, 2017 09:00 AM	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard
Assembly Government Affairs	May 30, 2017 10:00 AM	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Amend, and do pass as amended
Senate Commerce, Labor and Energy	Jun 03, 2017 See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard, No Action

#### Final Passage Votes

<a href="#">Assembly Final Passage</a>	<a href="#">(1st Reprint)</a>	Jun 02, 2017	Yea 30,	Nay 11,	Excused 1,	Not Voting 0,	Absent 0
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**Bill Text**   [As Introduced](#)   [1st Reprint](#)

**Adopted Amendments**   [Amend. No. 1048](#)

#### Bill History

##### [May 25, 2017](#)

- Read first time. Referred to Committee on Government Affairs. To printer.

##### [May 26, 2017](#)

- From printer. To committee.

##### [Jun 02, 2017](#)

- From committee: Amend, and do pass as amended.
- Declared an emergency measure under the Constitution.
- Read third time. Amended. (Amend. No. [1048](#).)
- Dispensed with reprinting.

- Read third time. Passed, as amended. Title approved, as amended. (Yeas: 30, Nays: 11, Excused: 1.)
- To printer.
- From printer. To engrossment. Engrossed. First reprint .
- To Senate.
- In Senate.
- Read first time. Referred to Committee on Commerce, Labor and Energy. To committee.

Jun 06, 2017

- (No further action taken.)

# SB17

[View Bill in NELIS](#)

Introduced in the Senate on Nov 16, 2016.

**By: Commerce, Labor and Energy**

*Revises provisions governing payday lending. (BDR 52-409)*

## Fiscal Notes [View Fiscal Notes](#)

Effect on Local Government: No.

Effect on State: Yes.

**Most Recent History** (Pursuant to Joint Standing Rule No. 14.3.1, no further action allowed.)

**Action:**

(See full list below)

## Upcoming Hearings

### Past Hearings

Senate Commerce, Labor and Energy	Feb 22, 2017 AM	08:00	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Heard, No Action
Assembly Government Affairs	May 29, 2017	09:00 AM	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned no jurisdiction
Senate Commerce, Labor and Energy	Jun 03, 2017	See Agenda	<a href="#">Agenda</a>	<a href="#">Minutes</a>	Mentioned No Jurisdiction

## Final Passage Votes

**Bill Text** [As Introduced](#)

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### Bill History

Nov 16, 2016

- Prefiled. Referred to Committee on Commerce, Labor and Energy. To printer.

Nov 23, 2016

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**Feb 06, 2017**

- Read first time. To committee.

**Feb 09, 2017**

- Notice of eligibility for exemption.

**Apr 15, 2017**

- (Pursuant to Joint Standing Rule No. 14.3.1, no further action allowed.)

# LEGISLATIVE HEARINGS

## MINUTES AND LINKS TO EXHIBITS

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-ninth Session  
February 22, 2017**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair Kelvin Atkinson at 8:07 a.m. on Wednesday, February 22, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Kelvin Atkinson, Chair  
Senator Pat Spearman, Vice Chair  
Senator Nicole J. Cannizzaro  
Senator Yvanna D. Cancela  
Senator Joseph P. Hardy  
Senator James A. Settelmeyer  
Senator Heidi S. Gansert

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Bryan Fernley, Counsel  
Christine Miner, Committee Secretary

**OTHERS PRESENT:**

Dan Schwartz, State Treasurer  
Grant Hewitt, Chief of Staff, Office of the State Treasurer  
Sheila Salehian, Deputy Treasurer, Office of the State Treasurer  
Justin S. Gardner, Ph.D., Innovative Research and Analysis; Applied Research  
and Policy Institute  
Barry Gold, AARP Nevada  
Tennille Pereira, Legal Aid Center of Southern Nevada, Inc.  
Thomas Adam  
Maria Merrick  
Zygmunt A. Makarski

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William Horne, Advance America  
 Carol Stewart, Advance America  
 Keith Lee, Community Loans of America  
 Alisa Nave-Worth, MultiState Associates, Inc.  
 Sean Higgins, Dollar Loan Center  
 Marcus Conklin, Security Finance Company  
 Paul Caudill, President and Chief Executive Officer, NV Energy  
 Carolyn Barbash, Vice President, Energy Market Policy, NV Energy  
 Renee L. Olson, Division Administrator, Employment Security Division,  
 Department of Employment, Training and Rehabilitation  
 James Smack, Chief Deputy Controller, Office of the State Controller

CHAIR ATKINSON:

I will open the hearing on Senate Bill (S.B.) 17.

**SENATE BILL 17**: Revises provisions governing payday lending. (BDR 52-409)

DAN SCHWARTZ (State Treasurer):

Senate Bill 17 regards payday lending. The Office of the State Treasurer hosts a number of financial literacy conferences each year connected to our college savings program. The topic of payday lending comes up in each and every conference. Many vulnerable Nevadans have fallen into a cycle of high-interest, high-fee debt. The Treasurer's Office convened three meetings this past summer—one with community groups representing those affected by payday loans, a second with lenders and a hearing with the public.

The victims of payday loans include military personnel, veterans, minorities, single parents and solid middle-class Nevadans. Individuals find themselves in a cash bind and utilize payday loans as a last resort. They often secure multiple loans carrying interest rates topping 500 percent. The conferences made it clear a new type of lending product is needed. Borrowing individuals often do not understand the dangers of this type of lending. The intent of S.B. 17 is to create a trigger that allows protections for the Nevada consumer. It is not intended to end payday lending. This is not a partisan issue. It is about helping those in need who cannot help themselves. We want to put an end to the most egregious practices of payday lending. This bill will provide hardworking Nevadans with a safety valve to quietly handle life's unexpected emergencies that require a little cash and a couple of weeks to resolve.

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GRANT HEWITT (Chief of Staff, Office of the State Treasurer):

The goal of S.B. 17, as shown in our written presentation ([Exhibit C](#)), limits the number of payday loans an individual is allowed at one time. The bill will allow for the creation of a Statewide database to track loans, enforce current rules and provide a cooling-off period in the one-loan-at-a-time provision.

Section 3, subsection 1, paragraph (a) of the bill, allows a consumer only one payday loan at a time. Subsection 1, paragraph (b) establishes a 45-day cooling-off period before another loan can be granted. We will present a change to paragraph (b) after the hearing. The 45-day cooling-off period is intended to protect the loan holder unable to meet the terms of the original loan.

Section 4 will provide for the development of a Statewide payday loan database to monitor and enforce proposed and current protections. Many states in the Country have this provision. We have modeled the language in this bill after legislation from Washington state. It gives the Department of Business and Industry the ability to find a vendor to develop this database through the request for proposal (RFP) process. The cost of the database is a pass-through cost. There is no fiscal impact.

Veritec Solutions hosts many of the databases in other states, including Washington. Veritec has submitted a presentation outlining the system ([Exhibit D](#)) and written testimony by Mike Hanna of Veritec Solutions ([Exhibit E](#)).

SENATOR HARDY:

Who pays for the cost of the database?

MR. HEWITT:

The payday loan borrower pays the cost with a fee. The costs were outlined in a presentation to the Department of Business and Industry by Veritec Solutions. The fee is \$2.50.

SENATOR SETTELMAYER:

Is there or will there be interaction between the states that have these databases?

MR. HEWITT:

A database is solely within a state. I will research this for clarification.

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CHAIR ATKINSON:

Explain more about this registry and how it works. How do the various models around the Country work? Who attended the workshops, and how did the Treasurer's Office come up with the consensus that lead to this bill?

MR. HEWITT:

I do not have an outline on how the databases work for each particular model. I will provide follow-up to the Committee.

CHAIR ATKINSON:

What model are you proposing to use?

MR. HEWITT:

We are looking at the Washington state model. Our bill language was drafted from it as it is more open to enabling the RFP process in the best vendor search. Veritec Solutions is the largest group in the marketplace and provides databases for 14 states.

CHAIR ATKINSON:

What model are you using, and what does it do?

MR. HEWITT:

The proposed model is a real-time database that tracks each individual loan, the lender, the terms of the loan and the borrower information. When a loan is issued, the information is input into the system whereby another loan provider can access the information. It is a checks-and-balances system to ensure compliance under the law.

CHAIR ATKINSON:

Is the database system checking the loan amount? If an individual requested a \$300 loan of an allowable \$500 from payday lender A, and shortly after wanted an additional \$200 from payday lender B, would this person be prohibited from borrowing the additional amount under this provision?

MR. HEWITT:

Yes. An individual is allowed only one payday loan at a time.

CHAIR ATKINSON:

Who are the groups you met with?

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MR. HEWITT:

We have an attendance roster that we can provide the Committee after this meeting.

CHAIR ATKINSON:

I am a bit alarmed there has been no communication from the Treasurer's Office to this Committee prior to today's scheduled hearing. It is better for the Committee to have prior information and communication on the bill to avoid the many questions and issues that can arise. I intend to allow you a fair hearing.

SENATOR CANNIZZARO:

Would the database be used to ensure payday companies are complying with the law?

TREASURER. SCHWARTZ:

The database will be created as a protection to prevent the lenders from certain practices. It is for the new law.

SENATOR CANNIZZARO:

Is there some indication that payday loan companies are not currently complying with law? Are they being monitored? Why is this registry necessary?

MR. HEWITT:

The registry is needed because there is no nexus between the State agency and payday loan providers. The payday companies do not have information about loans from other payday companies. Current legislation cannot be enforced without tools to know how many loans an individual has at one time.

SENATOR CANNIZZARO:

You want to ensure that companies are complying with the law. Is there information indicating this is not the case? What is the problem you are trying to solve with respect to current law?

TREASURER SCHWARTZ:

We are trying to prevent what we call the pancaking of loans. If an individual secures a payday loan and does not pay it off, this person can get another loan to pay the previous loan and is now liable for the second loan. Each time this happens, fees and interest rates are added to the loan on weekly and biweekly

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payments. As this continues, the borrower could reach the 500 percent range in fees.

SENATOR CANNIZZARO:

Do you have information that it is an issue that needs to be solved?

MR. HEWITT:

This is one of the consensus items that came from the meetings we held with our groups. There is no tracking of payday loans. This subject matter will be presented by an expert on best practices in the industry. The presentation will outline what prompted this bill.

TREASURER SCHWARTZ:

During one of our hearings, we heard a statistic that 92 percent of those who take out payday loans do not pay them off. This is a problem.

CHAIR ATKINSON:

Who is this a problem for?

TREASURER SCHWARTZ:

This is not a problem for the \$50 billion payday industry. It is a problem for our fellow Nevadans. We will provide the dates and attendee information of our workshops.

CHAIR ATKINSON:

If you do not have this information today, please provide it to the Committee.

SHEILA SALEHIAN (Deputy Treasurer, Office of the State Treasurer):

Three workshops were held in July and August 2016. I do not have the information today but will provide the Committee with the dates and the lists of attendees.

JUSTIN S. GARDNER, PH.D. (Innovative Research and Analysis; Applied Research and Policy Institute):

I will present a policy perspective in a presentation ([Exhibit F](#)) that includes national data on payday lending and will explain the Nevada policy. I will review the industry profile, look at borrower profiles from research, and discuss problem and secondary data collected in Clark County by zip code. I will also include state and national data comparisons and primary data collected in

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Nevada on veteran surveys done in partnership with the University of Nevada, Las Vegas (UNLV), School of Public Policy and Leadership. I will finish with a discussion on policy implications and opportunities of S.B. 17 and how the State database will function and what functions as best practice.

The second slide summarizes the national perspective on payday loan regulation and usage rates. Nevada is a permissive payday State allowing for interest rates that can exceed 391 percent. Adapting the Washington state model would switch the focus of Nevada to a hybrid state, with lower interest rates, limits on annual loan usage and long repayment periods.

The third slide reviews current regulations in Nevada. There are no regulations on finance charges, which is why interest rates are being reported as high as 500 percent.

The next slide reviews the industry profile, the emergence of payday lending in the marketplace and industry business practices. The payday lenders establish storefronts where their core customers reside. I have data from Clark County showcasing this.

The next slide highlights the borrower profile data from research findings in the Pew Research Center study, data from the Consumer Financial Protection Bureau (CFPB) and other resources. The data shows borrowing from payday lenders is not necessarily an emergent situation that arises for these borrowers. These are individuals who have financial insecurity and instability who need these loans in order to subsist long term. The ability to link borrowers more efficiently to some of the programs being offered in Nevada by nonprofit organizations and by the Office of the Treasurer could lead to reductions in need for the recurrent borrowers.

The next slide outlines the financial landscape in Nevada, identifying the need for payday lending legislation. A comparative analysis was conducted within Clark County based on its zip codes. This was determined by the number of existing payday loan storefronts, the size of the population of the largest county in Nevada, the median household income and banking locations.

The top ten payday loan storefront zip codes are shown in the next slide. These zip codes account for 59.8 percent of all storefronts in the 44 zip codes used in this analysis. The population is about 464,000 and the average median income

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is \$37,000, well within the range of the literature. Twenty-one percent of the banks exist in the same area.

The next slide is a map showcasing this data. The map illustrates the distribution of payday storefronts existing in this isolated area of 23 zip codes. Eighty-three percent of the payday lending storefronts are centralized in this area.

The next slide maps median income by zip code in Clark County. As shown, this lends itself to the literature findings demonstrating the issue in Clark County and potentially other locations in the State.

Banking locations are well distributed throughout the zip codes as shown on the next slide. The maximum number of bank locations was 19 versus 44 payday centers in one zip code. There appears to be fewer bank locations than payday storefronts in the highlighted area, most specifically the northern portion. This paints the picture of where the issues are and how the literature speaks to what we are seeing in Clark County.

The next slide shows the mapping side by side. The 23 zip codes highlighted in the center area show the disparity in terms of where there are potential customers who have incomes below \$50,000 annually, the typical borrowers, and where the majority of the payday lending storefronts exist.

Revisiting the payday and banking maps in the next slide, there are some known issues identified in the northern part of the map where there are higher numbers of payday storefronts and lower numbers of banks. Nellis Air Force Base is near the 89115 zip code. A higher concentration of payday storefronts reside near military and veteran communities.

The next slide shows Nevada dynamics and borrower profile. It indicates annual income in Nevada and borrower profile at-risk indicators compared to the national average. The statistics are indicative of a potential problem and the need for regulation and legislation.

The Nevada veteran data summary is on the next slide. Here are the results of survey data from studies collected at the UNLV School of Public Policy and Leadership in 2014 and 2015. The biggest finding to showcase is the 19.4 percent of reported payday usage in the 2014 survey. The borrowers were

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mostly student veterans with the GI Bill, who often had student loans yet still utilized payday loans. This increased their debt. Additional data in [Exhibit F](#) supplies employment data and the purpose of the loans. In both surveys, 50 percent of the loans were for recurrent expenses. This indicates a problem.

The policy implications and changes [S.B. 17](#) addresses are the subjects of the next slide. A problem in analyzing the situation on payday lending is the lack of current data. The Pew Center uses data that is between two and four years old. Much of the literature on payday lending usage in the academic literature is from the more recent studies of 2008 and 2010. Having a State database with specific requirements will aid Nevada in identifying additional issues and whether additional changes need to be made in the legislative process. This does not remove the payday lending industry from the equation; it enforces the regulations and provides limits and consumer protections in a holistic manner across the State. In the restricting of loans to the recurrent borrower who gets trapped in the debt cycle, it begins to move Nevada from being a permissive state to becoming a hybrid state, matching the legislation in Washington and Colorado. Payday loans are still being utilized in these states, but in a more regulated and consumer-friendly market.

Colorado state's payday loan reform restricted interest rates and capped the number of loans available. This resulted in a reduction of the number of payday lending storefronts without dismantling the industry. The next slide outlines potential outcomes and opportunities by implementing this legislation.

CHAIR ATKINSON:

This presentation is quite focused on consumer protections. How did the payday issue come to the attention of the Office of the State Treasurer? Were there many complaints from consumers indicating this is an issue in Nevada?

TREASURER SCHWARTZ:

This issue came to our attention from our financial literacy conferences. The purpose of these conferences is to help low-income women manage their finances. At each conference, there were complaints and concerns about payday loans from the attendees.

CHAIR ATKINSON:

Are these attendees Nevadans?



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TREASURER SCHWARTZ:

The attendees were all Nevadans, single mothers, two income families, and veterans. They alerted us to a potential problem.

SENATOR CANNIZZARO:

You mentioned 92 percent of people had expressed an issue with the pancaking of loans, but the presentation did not mention that. I looked up a couple of the resource sites from the slides, and they seem to be about the best payday loan fit for the borrower. Where is the pancaking issue coming from?

TREASURER SCHWARTZ:

The overriding statistic is 92 percent of payday loan borrowers do not pay off loans.

SENATOR CANNIZZARO:

Is a database going to correct the problem of pancaking payday loans? I have looked through the resources provided in the presentation. Where is the data about pancaking of loans becoming such a problem or the inability to enforce current statute? Are we going to ask borrowers to assume additional costs to operate a database in addition to the interest they now pay?

MR. HEWITT:

The Legal Aid Center of Southern Nevada is here to speak about their clients affected by the pancaking issue. We continuously hear about the pancaking issue related to payday loans in our conferences. Senate Bill 17 does two things; it creates the database and the one-loan-at-a-time provision.

SENATOR CANNIZZARO:

You have been talking about the enforceability of statute, which this database is supposed to help with, and also about this piece of legislation that prevents the pancaking of loans. Where is there some indication for the need of this bill?

TREASURER SCHWARTZ:

There will be testimony later in the meeting that will answer your question.

MR. HEWITT:

Some supporters of the bill will speak to this.

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SENATOR CANCELA:

What has happened in states that have enacted regulations? What has happened with the people who rely on these loans in those states? Has there been a change in the poverty levels or have other forms of accessing money arisen?

MR. GARDNER:

When payday lending restrictive legislation was introduced in other states, there was a reduction in the utilization rates of these loans. The interest rates are lower. According to the literature from the Pew Center and CFPB, borrowers of payday loans carry an average of eight loans at a time. If each loan is \$375, the interest fees can be over 500 percent. Continually needing a payday loan to pay off another payday loan inhibits a person from getting out of debt. Anecdotal data and survey findings from 2014 show 38 percent of veterans had an active debt to a payday lender. Once there is a reliance on this type of loan as the main funding source, borrowing continues. The inability to pay back the loan enables the inescapable debt trap.

The source of this data is a payday-friendly industry Website that promotes payday loans. The research gathered is a collection of primary data our organization has collected, academic literature we have reviewed in different publications, survey research and from the payday lending industry. The zip code information illustrates there is a problem.

A database would provide lender location information, the number of lenders and the number of people who access payday lenders. The information about the population dynamics of Nevada lends itself to the need of a database. It will allow a response to the needs of Nevadans. It will preclude the need to react and enact legislation to simply cap interest rates and remove the industry entirely. Where will the borrower go if the industry is removed completely? Perhaps 10 percent of Nevada's population rely on these lenders. There is a need for short-term small-dollar lending not available from the bank.

Providing a consumer-protected lending option with nonballooning interest rates and a one-loan-at-a-time provision can allow capped access to financial security and stability. Offering regulations that allow the industry to exist and loans to be in the marketplace under a regulated industry will help consumers. The database provides the opportunity to assist the borrower with additional financial resources like workshops. The two important issues being addressed

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with this legislation are consumer protection and the ability to access loans. The Pew Center data shows that in Washington state, 11 percent of the population still use payday loans. Their borrowers' payback amount is less. Colorado reduced the number of individuals relying on payday lending. This reduced the number of storefronts and saved Coloradans \$40 million annually in interest charges. This is substantial savings for people in this typically under \$50,000 per year income category. It allows for more financial independence and stability. This legislation could provide a positive outcome for Nevada.

TREASURER SCHWARTZ:

Payday loans are a symptom, not a cause. The cause is access to credit. The payday loan industry concentrates its focus on borrowers from the military, the low-income sector and people without bank accounts. That is what keeps the industry going at its current rate.

CHAIR ATKINSON:

Even if the borrower cannot access a loan through a payday lender because of restrictions, this person can go online or go offshore or somewhere else other than Nevada.

TREASURER SCHWARTZ:

That is true. However, 75 percent of the payday loans are made through storefronts.

CHAIR ATKINSON:

If the access is not available through storefronts, that number will change. That 75 percent could be done online. I do not know if this would fix the problem.

MR. GARDNER:

In a survey by the Pew Center, 80 percent of borrowers who were asked what they would do if payday lending ceased indicated they would change their expenditures.

CHAIR ATKINSON:

I disagree with that.

MR. GARDNER:

There is data from the Pew Center online highlighting who takes out these loans and why.

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CHAIR ATKINSON:

I have issue with this data. It does not seem believable that people would just change their habits.

SENATOR SPEARMAN:

Is the problem access to credit?

TREASURER SCHWARTZ:

Yes.

SENATOR SPEARMAN:

The information I am hearing today gives more reason to why Senator Ford introduced S.B. 106 this Session. The statistics from [Exhibit F](#), in terms of the poverty rate, indicates people access payday lending for recurring events like utilities, car payments, rents and emergencies. This legislation offers a Kleenex instead of curing a cold. I do not know what the fix is because I do not know what the problem is. The information provided today suggests that income equality is the problem. Good hard-working people do not have the income to survive.

**SENATE BILL 106**: Requires certain increases in the minimum wage paid to employees in private employment in this State. (BDR 53-865)

BARRY GOLD (AARP Nevada):

I have submitted written testimony ([Exhibit G](#)). For many years AARP has engaged in payday lending bill legislation. It is important to put safeguards on the industry and protect the borrower. There will always be a need for people with less than stellar credit to get loans. That is what the payday lending industry provides. It is important to find a way for the borrower to access lending without resulting in the debt spiral. Consumers who are payday loan borrowers have informed me they could not pay back their loans so took out other loans. We at AARP do not give legal advice. I asked how did this additional borrowing work for them? They indicated they could not pay the second loans back, either. I refer them to one of the free legal aid organizations for help. Senate Bill 17 will help eliminate the debt spiral. On behalf of our over 330,000 members in Nevada, AARP supports this bill.

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TENNILLE PEREIRA (Legal Aid Center of Southern Nevada, Inc.):

I am a staff attorney at the Legal Aid Center of Southern Nevada. I have many clients needing legal defense because of payday loans. I have submitted written testimony ([Exhibit H](#)).

I will discuss current statute, how it is working for Nevada and its history. In 2005, *Nevada Revised Statutes* (NRS) 604A was enacted to protect consumers and regulate the payday loan industry. The intention of the statute was to prevent consumers from the debt treadmill. This was prompted because of repeated litigation, judgments and garnishment of wages. There is a provision in statute called a 25 percent income cap. This means a borrower can only secure a payday loan amount with a payment of 25 percent of their monthly income. There is no way to ensure this protection. A borrower can get multiple loans with the 25 percent requirement from multiple lenders. The repayments exceed 25 percent of their income. The borrowers typically have very low incomes, and 25 percent on one loan and an additional 25 percent on a second loan begins the debt cycle. There is a default provision in statute. If the loan goes into default, it triggers a reduction in the interest rate. This means the interest rate must go down to the prime rate plus 10 percent. This is essentially a 15 percent interest rate. This allows the borrower a lower percentage rate to facilitate a loan payoff.

Payday lenders are circumventing this by rewriting new loans. When a borrower cannot afford to make the loan payment, the lender often writes a new loan to pay off the first loan instead of allowing the default provision to kick in to reduce the interest rate.

There is a roll-over provision in statute. Lenders are finding a way around it by writing new loans. I have some clients with 20 or more loans. The paperwork shows each is written as a new loan. Lenders have found ways around the protections. The one-loan-at-time provision in S.B. 17 and the database for enforcing this would prevent the debt cycle. The new legislation will stop the lenders from circumventing the law.

I rarely see the use of online loans. Most of my clients do not have an email address. These are not sophisticated borrowers researching loans. They access the local payday lenders within walking distance of their residences or workplaces.

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There are arbitration clauses and bans on class action lawsuits in all of the contracts being written by payday lenders which prevents us from getting good precedents in court. I have borrowers whose cases should be about roll-over loans. Multiple loans are being written on the same day to the same borrower by a lender as the other loan is being paid off. We are not able to present these cases in court because of the arbitration clauses in the loan contracts.

CHAIR ATKINSON:

I want to clarify the online issue. If loans are not available on every corner or down the street, people will find a way to get a loan online.

THOMAS ADAM:

I have been using payday lending since 2012. In 2014, I was \$3,500 in debt to Rapid Cash. One was an auto title loan and the others were stacked loans with the same lender. I paid everything off with the help of a family member. While paying the personal loan off, I was in need of additional funds and borrowed \$1,500 from a payday lender. I was unable to pay off these loans. I was sued by the lender. I have over \$3,000 in legal fees for a \$1,500 loan. They wanted to settle one of the collection of loans for \$2,000.

MARIA MERRICK:

I had a very bad experience with payday lending as described in my written testimony ([Exhibit I](#)). The lender was rude and stated I had a contract and it was my obligation to pay back the loan back plus the fees. I could lose my car. It has given me nightmares. They are taking advantage of people like me.

ZYGMONT A. MAKARSKI:

I had loans with Rapid Cash. This company continued to extend credit to me. I am on disability and social security. I am a stage four cancer survivor. My income is limited. It is difficult to get a job. I eventually owed the lender thousands of dollars. The lender was told the dates to withdraw the repayment funds from my bank account so the funds would be available for the loan. Since Rapid Cash did not honor this, I was being charged fees by my bank. In one day the lender did this ten times, which amounted to \$340 in bank fees. I have three loans out with the payday lender. After three to four months of this, the bank said it would not keep charging and paying my loans. I had \$700 in payments and \$500 in overdraft fees. The lender drained my whole account because the bank fees were depleting my funds. I am now represented by the

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Legal Aid Center of Southern Nevada, Inc. I cannot take this anymore. These payday companies charge too much.

CHAIR ATKINSON:

There is additional written testimony in favor of S.B. 17 submitted by Michael Shipp ([Exhibit J](#)).

WILLIAM HORNE (Advance America):

Advance America opposes S.B. 17. The short-term loan industry provides much needed access to funds for a segment of the population without access to credit. Unexpected emergencies arise and uncontrollable situations occur by no fault of their own. The need arises with a spouse, a car breaks down or another emergency arises. Under the provisions of this bill, these informed adults would not be permitted to enter into other loan agreements if they currently have payday loans. These individuals have jobs. The purpose of the short-term lender is to offer their services to those who find themselves in these situations.

When reforms in statute were made in 2005 and 2007, the vast majority of the short-term lenders in this industry were good community servants. They follow the rules, have repeat customers and help customers get past difficult times. They have been cooperative when issues were found in the short-term lending industry. Existing statute is designed to correct what S.B. 17 states it is trying to correct. The data-collecting registry is proposed to help enforce existing laws. Why not test the registry before trying to make the changes and collect the data? The data presented by researchers is not what Advance America is experiencing in its Nevada storefronts. The testimony from the legal aid people illustrates the problems with poorly monitored and unethical companies. It is an enforcement problem with those particular businesses. An overhaul of the industry is unnecessary.

SENATOR CANCELA:

The data shows 69 percent of first-time borrowers are securing short-term loans for recurring expenses; only 16 percent for emergency expenses. This appears to be the trend industrywide. The business model encourages people to secure multiple loans, and the debt cycles are what testifiers are complaining about. What forms of preventative measures are in place so people do not get trapped in these debt cycles?

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MR. HORNE:

Some of the underlying problems are not with the industry but in the economy. There is a lack of access to credit. Traditional financial institutions do not provide a small loan product of this nature. Many of the problems are outside the control of the lending industry. The industry is providing a product for the segment of the community who have the need today. Borrowers could be one paycheck away from being evicted, or their hours are cut at work because of the recession, but their expenses remain the same. This segment of the population will always exist. Our issue is, do we want a well-regulated industry that can address these concerns, instead of stifling it to the extent that the consumer will seek offshore sites to cover these types of expenses? This information was missing in the data as presented by the research. In the jurisdictions where reform measures were enacted, there was no data suggesting an increase in individuals seeking alternative unregulated lending. We may be sending the people we are seeking to protect to products we are unable to protect them from.

SENATOR CANCELA:

Why do you think the cooling-off period is a threat to the business model rather than the ability to have repeat customers?

MR. HORNE:

Informed adults enter into agreements with banking institutions or short-term lenders. These adults should be allowed to make decisions for themselves and their families from clear and transparent lending terms. The borrower is walked through the terms of the loan, and it is that person's choice to make. The role of the State is to ensure the environment is fair and provide rules and regulations for the industry to operate by. Term and balloon payments are not allowed in current law. It is up to consumers to make the decisions that are best for them.

CAROL STEWART (Advance America):

Advance America is a multistate company. We make consumer credit available in the form of short-term small-dollar loans in 28 states. We have 11 storefronts in Nevada. Our business model is to meet the needs of the customers, not to put them in a debt cycle. We work with our consumers to assess people's needs. The need may be emergencies, smoothing their incomes over a period of time because they are not able to make ends meet, or for one-time loans.



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Our customer demographic averages 41 years old with an average income of \$49,000 per year. Seventy-three percent of our customers own their own homes. Ninety-three percent have some post-secondary education or college experience.

Our borrowers provide three things: proof of income, bank statements and identification. We look at their situations, their needs, and lend a percentage of their income. The law caps that at 25 percent until they are able to pay us back on their next payday. The Nevada law strictly limits how we lend to consumers. We are prohibited from criminal prosecution and must provide the customer a right of rescission. The amount a person can borrow is limited based on an income test. There is no interest that compounds with our loans. One of the key elements of Nevada law, which works well for our company in Nevada, is the off-ramp for consumers who are unable to repay the loan. This is in the form of an extended payment plan giving the borrower four pay periods to repay the loan at no additional cost. This is one way we work with consumers who are unable to pay back loans. Our business model is not to get people into the dire straits as today's testifiers have experienced. Our model is to meet the needs of the borrower and get repayment. We support the restrictions that give consumers access to credit when needed but give them a way out when they are in over their heads.

Advance America does not support S.B. 17. There are unintended consequences to arbitrarily limiting the amount someone can borrow. The cooling-off period and the other restrictions in the bill drive people to seek other lending experiences like Internet lending, off-shore lending or any unregulated environment where the current restrictions cannot be enforced. I invite any Committee member to visit our stores, speak with our managers, experience how we disclose our terms and speak with our customers on how our terms are being met.

KEITH LEE (Community Loans of America):

Community Loans of America does business in Nevada as Nevada Title and Payday Loans, Inc. The payday loan and the title loan are two different types of loans. Only one title loan can be secured at one time. Statutorily, the borrower must provide to the lender clear title of the automobile. This allows only one loan. The sole recourse in the event of default is repossession of the vehicle. Only five percent of defaulted loans result in the repossession of the automobile. Community Loans of America does not support S.B. 17.

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ALISA NAVE-WORTH (MultiState Associates, Inc.):

MultiState Associates represents several licensed Nevada lenders—Money Tree, Check City, QC Financial Services, Inc. and Check Into Cash. These lenders are members of the Consumer Financial Services Association of America, which is the national trade association representing short-term credit lenders. The industry has concern regarding additional limitations S.B. 17 would place on the already well-regulated short-term credit market. Recognizing these consequences of overregulating the market, we second the concerns outlined by Mr. Horne and Ms. Stewart of Advance America.

SEAN HIGGINS (Dollar Loan Center):

Dollar Loan Center does not support S.B. 17. Dollar Loan Center loans good-faith or signature loans under NRS 604A.480. They are not payday loans and are fully amortized principal-plus-interest loans. Dollar Loan Center is a Nevada-based company with 42 locations here, employs 280 people and had a payroll in excess of \$12 million in 2016. Our loans do not have a prepayment penalty. Principal and interest is charged on every payment. We do not charge loan application fees, return payment fees, penalty fees or any other miscellaneous fees. We do not sell any add-on products nor do we overlend. There are requirements in statute about the customer's ability to repay the loan. We require monthly income information, length of time on the job, length of time at the residence, outstanding financial obligations including any other high-interest loans and a credit check. We participate in good faith with an accredited counseling agency. These are the protections in current statute. The good lenders adhere to these provisions.

SENATOR HARDY:

Do any of you do business in Washington and are required to work with Veritec Data Solutions?

MR. HIGGINS:

Dollar Loan Center does not do business in Washington.

MS. NAVE-WORTH:

Money Tree does business in Washington state. I do not know of the company's experience with Veritec but will get the information to you.

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MR. LEE:

I will inquire to Nevada Title and Payday and provide that information to the Committee.

MARCUS CONKLIN (Security Finance Company):  
Security Finance Company does not support S.B. 17.

CHAIR ATKINSON:

I will close the hearing on S.B. 17. We will now begin the presentation by NV Energy.

PAUL CAUDILL (President and Chief Executive Officer, NV Energy):  
Berkshire Hathaway Energy acquired NV Energy in December 2013, at a purchase price of \$5.59 billion and assumed debt of \$4.84 billion. Our three major shareholders did not ask the State of Nevada for anything other than the opportunity to improve the company's performance for the benefit of our customers. With the acquisition, we made the commitment to stabilize prices our customers pay and invest significantly in renewable energy. My colleagues and I have met those commitments as we will discuss in the presentation.

The first slide of this presentation ([Exhibit K](#)) highlights NV Energy today. We operate in alignment with six core principles. None is more important than keeping my colleagues safe at work and our customers and community safe. The Occupational Safety and Health Administration uses an incident rate to monitor an employer's safety record. At the time of the acquisition in December 2013, the NV Energy team had reduced injuries to 37 from a total of 81 in 2010. We have cut that number to 17 in 2015, and in 2016, our rate of injuries is among the best in the industry. The only goal that is acceptable to our coworkers, families and friends is zero. We are doing everything we can to achieve that goal.

The next two slides explain our employee commitment, which is one of our core principles. We are a proud union employer represented by two International Brotherhood of Electrical Workers bargaining units.

The next slide represents another core principle, environmental respect. It explains how the State of Nevada is well-positioned for the future.

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The next slide shows that our customers benefit from around 485 megawatts of geothermal generation, largely here in northern Nevada. Our customers also benefit from 541 megawatts of installed grid-tied or universal scale solar, with more on the way. Nevada Solar One is a 69-megawatt project that went into commercial operation in 2007. In 2016, the rate for that project is about \$194 per megawatt hour, or \$.19 per kilowatt hour.

The next slide features the solar resources we have in development. It supports companies like Apple in their growth here in northern Nevada. I would highlight that our most recent request to the Public Utilities Commission, a 200-megawatt plant to be constructed, tested and operated to support Apple, is at a starting rate of \$31.15 per megawatt hour or just a little over \$.03 per kilowatt hour. In comparing today's prices to 2007, solar has become an incredible economic development tool for the State. These solar prices are cheaper than building new natural gas-fired power plants.

The next slide compares 2017 prices to 2007 prices. The move to cheaper, cleaner power and our focus on cost management has reduced the prices our customers pay. Our prices today are less than they were in 2007. We see stable prices for years to come.

At the core of discussion on energy choice, our restructuring of the Nevada market is our power plant fleet, our power purchase contracts and my colleagues who make it all work. Our operational excellence is outlined on the next slide.

The regulatory compact, the contract the State has through statute with the power company, is illustrated on the next slide. We are obligated to serve every customer regardless of location, from Las Vegas in a heavily dense load pocket to the end of a 60-mile line in Independence Valley north of Elko. The role in our operation of the Public Utilities Commission of Nevada is shown on this slide. NV Energy has executed only plans that have been approved through the legal and statutory process.

The impact of our financial operations on Nevada is significant and illustrated on the next slide.

Our community commitment through charitable giving and volunteerism is highlighted on the next slide. In 2013, Berkshire Hathaway Energy, our parent

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company, provided \$16 million to the NV Energy Foundation. This has allowed our two employee committees and the Foundation Board to authorize over \$5 million in annual giving since 2014. Last year, our employees volunteered over 37,000 hours to community efforts throughout Nevada.

CAROLYN BARBASH (Vice President of Energy Market Policy, NV Energy):

I have spent 28 years in the electric industry, mostly in Nevada. I have served in a variety of positions, some in field operations, construction and maintenance for electric delivery and natural gas delivery. Most of my career has been spent in grid operations and coordination with our neighbors on regional issues, regional transmission projects and regional policy issues. I spent a year at our sister company, PacifiCorp, helping lead efforts to determine the viability of potentially creating a regional wholesale market with six different states in the western interconnection. I have most recently returned to NV Energy to help on the transition related to the ballot measure, the Energy Choice Initiative, for our company and Nevada.

I am here on behalf of NV Energy. I am a native and lifetime resident of Nevada, born in Boulder City and raised in southern Nevada. I moved to northern Nevada to get my engineering and business degrees, and I reside here with my family. As we embark on the changes with the new ballot measure, I am especially interested in assuring the decisions we make for this new market are in the best interest of Nevada.

Continuing with the NV Energy presentation, [Exhibit K](#), this next slide illustrates a simple framework to a complex transition from our existing electric market to a competitive retail electric market. NV Energy respects public policy. We are neutral on the Energy Choice Initiative and respect that our customers want and value choice. We will continue to work with our stakeholders in an open and transparent fashion. We like to inform and educate and discuss solutions to achieve objectives of the Initiative. In August, we issued a set of key principles to facilitate discussion and help guide decisions for the new market. They are summarized on the slide. On the right of the slide, there is additional information on complexity risks and costs. These are categories of decision that will have to be made in order to create laws around a new regulated energy market. There is more information on this in the appendix, [Exhibit K](#), under "Energy Choice Initiative market design considerations." They are separated in these categories to simplify the decision-making process. It is a complex issue simplified in this slide. All of these categories will need to be coordinated. The decisions made on

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the wholesale market structure will affect the retail market structure, which will affect our energy policies and programs and what kind of regulatory agencies we need to oversee them. It needs to be done thoughtfully and in a comprehensive fashion.

MR. CAUDILL:

If the State wants NV Energy to transition or morph into a wires company, a transmission distribution company, we will do that. This decision is bigger than NV Energy, and we have put ourselves in a position to help facilitate some of the decision-making and discussion.

There are some assumptions we are making as we go forward based on the ballot measure language as shared on the last slide, [Exhibit K](#). That concludes our formal presentation.

SENATOR HARDY:

Who will be the power of last resort or the safety net?

MR. CAUDILL:

That is a decision the State will have to make.

SENATOR HARDY:

Is there a company in the wings?

MS. BARBASH:

To ensure all customers continue to have electric service, regardless of how their choices are made, will be at the State's discretion. Some states assign customers to the various retail providers. Some states procure energy for those customers through an auction. Some states leave that service with the regulated utility. There are a variety of methods for the provider of Standard Offer Service or the Provider of Last Resort.

SENATOR HARDY:

Is NV Energy going to bid for that position?

MR. CAUDILL:

NV Energy sees it as a risky business model. That is not something we would be interested in providing.

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SENATOR SPEARMAN:  
Does NV Energy own any power plants?

MR. CAUDILL:  
We own 75 generating power plants and manage 61 power purchase agreements with companies that develop facilities. We bid for that power. The geothermal facilities are an example of that.

SENATOR SPEARMAN:  
Some say the voters voted in the Energy Choice Initiative, but what they thought they were voting for was not represented well. How do we successfully transition into an environment that includes the possibility of new interests? This is not to remove any current assets we enjoy with NV Energy. How do we create an environment where both incumbents and new interests can coexist peacefully?

MR. CAUDILL:  
That is the transition information Ms. Barbash spoke of in the framework slide. We will facilitate and help in any way we can and put NV Energy in a position to help inform on the decisions. We have to be sure what we do is right.

CHAIR ATKINSON:  
We will now open the hearing on S.B. 52.

**SENATE BILL 52**: Revises provisions relating to unemployment compensation.  
(BDR 53-226)

RENEE L. OLSON (Division Administrator, Employment Security Division,  
Department of Employment, Training and Rehabilitation):  
I will introduce S.B. 52 and the proposed amendments (Exhibit L) on behalf of the Employment Security Division, Department of Employment, Training and Rehabilitation.

The purpose of the Unemployment Compensation Program (UI) is to provide temporary wage replacement for workers who become unemployed through no fault of their own. The program is operated as an insurance system where employers make contributions to the State's federal trust fund based on an experience rating they earn over the course of time. The rating is based on the ratio of contributions paid into the trust fund to the claims paid out of the trust

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fund for workers filing claims. The rating system is designed with the idea that those employers who lay off more employees and have the highest number of claims pulling funds out of the trust fund pay the highest tax rates to fund the system, thereby tying tax rates to the risk or burden placed on the system. Policies enacted through laws and regulations must weigh the impacts to the health of the system overall and the participants of the system. Insured workers, employers and the economy are impacted by the policies of this program. Sometimes those policies are driven by economic conditions and are occasionally changed according to the seriousness of recessions.

When we experience recession, the trust fund is depleted as the number of claims increase and the duration of unemployment and reliance on unemployment insurance increases.

During periods of economic growth, the Division works to restore the health of our trust fund reserves and prepares the fund for the next recession to ensure payment of benefits to eligible claimants.

Section 1 of S.B. 52 deals with the alternate base period that is part of current statute. During the worst of the Great Recession, the number of unemployed peaked at 14.5 percent. The length of time people were unemployed was long. We triggered into federal extended benefits for those needing more than 26 weeks of benefits, and the federal government approved several iterations and tiers of federally funded benefits increasing eligibility to a maximum of 99 weeks. The federal government also provided other forms of support and economic stimulus specifically for Nevada, and similar support for other states. It offered Nevada a one-time \$77 million allotment for Nevada's trust fund, enacting what our statutes refer to as the alternate base period. The federal government also provided additional administrative funding for the processing of claims.

The base period refers to the period wages were earned and used to establish monetary eligibility for a claim. Nevada added the alternate base period because we needed the \$77 million for the trust fund. Due to the economy and length of unemployment, people did not show wages in the standard base period and needed the benefit support. These are people who might have returned to some type of work, have fallen back out of employment and cannot qualify for unemployment because their employment was a short period of time and did not fall within the regular base period.



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The economy has recovered today to a great extent. Sporadic unemployment still occurs, but to a much lesser extent and at a declining rate. We estimate there will be approximately 2,700 workers filing alternate base period claims for fiscal years 2016-2017. These are people who do not have a strong attachment to the labor force and move in and out of employment. During the recession, due to the economy, this was happening to people who had not previously experienced this type of unsteady employment. The alternate base period was enacted to address that unemployment condition in the economy.

The significant level of temporary and unsteady employment and the severe economic conditions that prompted this policy change no longer exists. The federal government has informed state agencies that we now have the option to remove the alternate base period from statute without penalty and without requiring states to return any stimulus or administrative funding.

Section 1 of S.B. 52 eliminates the alternate base period. The economic conditions that prompted the enactment of the alternate base period no longer exist. Current federal administrative funding does not fully support the processing of these claims. These claims require a labor-intensive process rather than an automated check-of-wages; the alternate base period process is not supported by our system. Staff must send a request to the employer manually to gather wage data. The bill will ease some of the administrative burden for employers who end up reporting the wages twice for the alternative base period claims.

Eliminating the alternate base period will preserve \$4.5 million per year to help restore and protect the health of the trust fund. It will temporarily impact 2,700 claimants per year who do not have wages earned and reported in the standard base period. This does not eliminate eligibility for benefits, but it would delay the start of eligibility. The claimant will have to wait until the change of the quarter.

There are no proposed amendments to section 1.

Section 2 requests the authority for the Division to report debt to the Office of the State Controller in order to collect money owed to the UI. Debt is created in the UI system by claimants who were overpaid for benefits or by employers who failed to pay taxes. This section of the bill deals with claimant

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overpayments. Sections 6, 7 and 8 relate to collections with amended language as shown in [Exhibit L](#).

Claim overpayments happen when an ineligible claimant receives benefits. We work to prevent this, though it does happen in any benefit payment system. Overpayments can be created by nonfraudulent means and occur because of lack of accurate or timely information or by error. Overpayments can also be created because the claimant has committed fraud. An example of this is returning to work but continuing to file for benefits each week.

The first part of section 2 is a request to report fraudulent overpayment debt to the Controller's Office for the purpose of offsetting payments due the claimant from other agencies and for the purpose of preventing the renewal of a professional license of the person liable for fraudulently obtained debt.

The Division wants to amend the original bill language " ... beginning 2 years after notice of overpayment ... " to the language appearing in the amendment. Two years was thought to be a reasonable time frame to ensure the claim was fully adjudicated and all the appeals rights were exhausted. The federal government stops tracking this debt after two years. The amendment came about through conversations with the Controller's Office and the Office of Finance in the Office of the Governor to assure the bill language was workable to them. It proved better to change the language because of the provision to not renew a professional license, which we take seriously. Occasionally, appeals come back later than expected. Appeal referees have the option to allow an appeal to occur for good cause, and they determine that cause. It can take longer in complicated cases with employers.

Our amended language provides the administrator the ability to ensure all adjudication and appeals have been exhausted. Records could then be created by the Division for the Controller's Office. The amendment also changes "may" to "shall" in the reporting.

In a final effort to collect the oldest debt on the program books, those at five or ten years, the Division determined the debt is probably uncollectible and should be written off. The cost would be unjustified. The amendment strikes that piece from this section.

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Section 6 of the bill gives the Division the ability to do the same thing with employer tax debt as with fraudulent claimant debt—to offset and prevent professional license renewal. For consistency, the amendment adds the language that ensures the claim has been fully adjudicated and all appeal rights have been exhausted.

Section 7 addresses our confidentiality statute enabling the sharing of personal information with the Controller's Office. We need the authority to provide information that contains people's names and information.

Section 8 is a new section by amendment. It establishes the necessary authority for the Controller's Office to handle the offset and license renewal for the Division. We have added additional amendments in this section which have been reviewed by the Controller's Office and the Governor's Office of Finance. They agree with the proposed changes. We have offered the amendments to remove the reference to the assignment of old debt and to clarify the due process and appeal process of the Controller's Office. A new hearing by the Controller's Office cannot take place on the merits of the case that established the original debt. Only staff specifically trained in UI laws and regulations can make that determination.

Sections 3 and 4 were originally added to the bill in an effort to clarify the section of statute that governs how the Division considers the wages when adjudicating a claim with earnings during breaks or between school terms for individuals who work in educational institutions. Our amendment strikes this language from the bill because it contradicts U.S. Department of Labor's recently adopted regulations.

Section 5 adds reimbursable employers to NRS 612.551. This section of statute instructs when to charge employers' accounts for benefits and establishes the employers' rights to appeal. This section currently does not include any reference to reimbursable employers. Adding this language treats those employers in equal fashion with contributory employers. It requires the Division to notify reimbursable employers of charges to their accounts and it provides their right to appeal. It provides these employers exemption from charges when benefits are paid pursuant to NRS 612, allowing claimants to elect different base periods following a period of temporary disability or rehabilitation. It requires the administrator to order benefits not be charged to a reimbursable employer account if that employer provides certain evidence within ten working

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days proving a voluntary quit or spouse of a transferred active service member. It disallows relief of charges when the reimbursable employer fails to timely provide all known relevant facts which may affect the claimant's right to benefits.

In 2013, this concept of relief of charges tied to timely response was added to statute by NRS 612.550. It specifically referred to only the experience rated contributory employers and omitted reimbursable employers. Adding reimbursable employers creates appropriate equity of treatment for both categories of employers.

JAMES SMACK (Chief Deputy Controller, Office of the State Controller):

The Office of the State Controller supports S.B. 52 as amended. We worked in concert with Division staff members and appreciate them working with us on the bill. The Governor's Office of Finance also played a role in making this bill workable. We support the opportunity to collect some of the debt. I am concerned with how Assembly Bill (A.B.) 51 marries into S.B. 52. Assembly Bill 51 reassigns debt collection from the Office of the State Controller to the Governor's Office of Finance.

**ASSEMBLY BILL 51**: Revises provisions regarding the collection of debts owed to state agencies. (BDR 31-231)

Remainder of page intentionally left blank; signature page to follow.

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CHAIR ATKINSON:

Hearing no further testimony, I adjourn this hearing at 10:41 a.m.

RESPECTFULLY SUBMITTED:

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Christine Miner,  
Committee Secretary

APPROVED BY:

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Senator Kelvin Atkinson, Chair

DATE: \_\_\_\_\_

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<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	1		Agenda
	B	7		Attendance Roster
S.B. 17	C	4	Grant Hewitt / Office of the Treasurer	Treasurer's Office Presentation
S.B. 17	D	9	Grant Hewitt / Office of the Treasurer	Veritec Solutions Presentation
S.B. 17	E	1	Grant Hewitt / Office of the Treasurer	Written Testimony Mike Hanna
S.B. 17	F	38	Justin S. Gardner / Applied Research and Policy Institute	Presentation
S.B. 17	G	1	Barry Gold / AARP Nevada	Written Testimony
S.B. 17	H	3	Tennille Pereira / Legal Aid Center of Southern Nevada	Written Testimony
S.B. 17	I	2	Maria Merrick	Written Testimony
S.B. 18	J	2	Senator Kelvin Atkinson	Michael Shipp Written Testimony
	K	82	Paul Caudill / NV Energy	NV Energy Presentation
S.B. 52	L	10	Renee Olson / Department of Employment, Training and Rehabilitation	Proposed Amendments

000726

000726

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Ninth Session  
March 15, 2017**

The Committee on Commerce and Labor was called to order by Chair Irene Bustamante Adams at 1:35 p.m. on Wednesday, March 15, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/79th2017](http://www.leg.state.nv.us/App/NELIS/REL/79th2017).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Irene Bustamante Adams, Chair  
Assemblywoman Maggie Carlton, Vice Chair  
Assemblyman Paul Anderson  
Assemblyman Nelson Araujo  
Assemblyman Chris Brooks  
Assemblyman Skip Daly  
Assemblyman Jason Frierson  
Assemblyman Ira Hansen  
Assemblywoman Sandra Jauregui  
Assemblyman Al Kramer  
Assemblyman Jim Marchant  
Assemblywoman Dina Neal  
Assemblyman James Ohrenschall  
Assemblywoman Jill Tolles

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblyman Edgar Flores, Assembly District No. 28  
Assemblywoman Heidi Swank, Assembly District No. 16

Minutes ID: 359



**STAFF MEMBERS PRESENT:**

Kelly Richard, Committee Policy Analyst  
 Wil Keane, Committee Counsel  
 Pamela Carter, Committee Secretary  
 Olivia Lloyd, Committee Assistant

**OTHERS PRESENT:**

George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry  
 Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada  
 Venicia Considine, Attorney, Legal Aid Center of Southern Nevada  
 William C. Horne, representing Advance America, Cash Advance Centers Incorporated; and Jackson Vaughn Public Strategies  
 Dennis Shaul, Chief Executive Officer, Community Financial Services Association of America  
 Susie Schooff, Director of Government Affairs, Advance America; and representing Cash Advance Centers Incorporated  
 Sean T. Higgins, representing Dollar Loan Center  
 Alisa Nave-Worth, representing MultiState Associates Incorporated; Moneytree; Check City; Check-Into-Cash; and QC Financial  
 Barry Gold, Director of Government Relations, AARP Nevada  
 Nancy Brown, President and Board Chair, Opportunity Alliance Nevada  
 Elizabeth Tenney, Private Citizen, Reno, Nevada  
 Shane Piccinini, Government Relations, Food Bank of Northern Nevada; and representing Three Square  
 Kenneth Krater, Private Citizen, Reno, Nevada  
 Marlene Lockard, representing Nevada Women's Lobby; and Service Employees International Union Local 1107  
 Harold Carnes, Private Citizen, Las Vegas, Nevada  
 Roxana Lanuza, Intern, Progressive Leadership Alliance of Nevada  
 Betty Bishop, representing St. Therese Church of the Little Flower; Society of St. Vincent de Paul; and Acting in Community Together in Organizing Northern Nevada  
 Judy Simon, Private Citizen, Incline Village, Nevada  
 Steve Jimenez, Extern, Nevada Hispanic Legislative Caucus  
 Jim Dickey, Credit Manager, Western Nevada Supply, Sparks, Nevada  
 Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services; and representing Legal Aid Center of Southern Nevada  
 Phillip Holt, Senior Vice President, Security Finance of Nevada; and Managing Director, National Installment Lending Association  
 Berlyn Miller, representing Sun Loan Company; OneMain; and Nevada Financial Service Association



Erv Nelson, representing Harvester Funding, Limited Liability Company  
 Mike Hanna, representing Veritec Solutions, Limited Liability Company  
 Lynne E. Keller, Executive Director, Opportunity Alliance Nevada  
 Jim Sullivan, representing Culinary Workers Union, Local 226  
 Megann Johnson, Intern, Progressive Leadership Alliance of Nevada; and  
 representing United for Undergraduate Socioeconomic Diversity Students for  
 Social Change  
 Jared Busker, Policy Analyst, Children's Advocacy Alliance

**Chair Bustamante Adams:**

[Roll was called and protocol was explained.] Let me just give the lay of the land today. We have two bills; we will hear Assembly Bill 163 first and Assembly Bill 222 second. We are also going to have a presentation because we have new legislators who may not be familiar with *Nevada Revised Statutes* (NRS) Chapter 604A. I have asked our legal counsel, Wil Keane, to do a short presentation on NRS Chapter 604A so that you know what is covered, how it is regulated, and then we will ask the Commissioner of the Division of Financial Institutions to give you an overview of what the Division has seen in this chapter in the last two years.

**Wil Keane, Committee Counsel:**

Chair Bustamante Adams asked me to give the Committee a brief overview of NRS Chapter 604A, which is the chapter that governs payday loans.

Of course, the real experts in this area are the Commissioner of Financial Institutions and his staff at the Division of Financial Institutions (FID), Department of Business and Industry. The Commissioner licenses everyone who operates under Chapter 604A, and he adopts the regulations for and enforces the provisions in Chapter 604A.

I can, however, provide you with an outline of the businesses licensed under the chapter and the loans offered under the chapter.

With that, we can turn to the four types of businesses licensed under Chapter 604A. I will take them slightly out of order, as I find that to be an easier way to understand them. I will start with check-cashing services, then turn to deferred deposit loan services, then to title loan services, and finally to high-interest loan services. Then I will briefly run through some differences and similarities between these types of loans.

First, we have check-cashing services. Check-cashing services are unlike the rest of the licensees under the chapter in that they do not offer loans; they simply cash checks. Moreover, they may charge the customer a fee for cashing the check.

In this context, checks are broadly defined to include what most people would think of as a check, including paychecks, personal checks, checks from businesses, cashier's checks, money orders, and similar drafts which are payable on demand and drawn from a bank.

The key is that the check must be currently payable, not payable in the future, because, if it were only payable in the future, that would be a loan.

That brings us to the licensees under the chapter who can make loans. Those licensees are deferred deposit loan services, title loan services, and high-interest loan services.

I would like to begin with deferred deposit loan services. Many people consider them the classic payday lender. A deferred deposit loan is a very specific transaction. The customer receives money up front, and in exchange, the customer gives the licensee one of two things—either a personal check drawn upon the customer's own account or a written authorization for the licensee to electronically withdraw money from the customer's own account. What makes this a loan, and not simply cashing a check, is that the licensee agrees not to cash the customer's check or electronically withdraw money from the customer's account until a date in the future which the customer and the licensee agree upon. Classically, that future date will probably be a date such as the customer's next payday—hence the common term "payday loan."

A quick example: My wallet and checking account are empty, but I have a blank personal check. I need \$100, and I know that I will get my next paycheck on Friday. I go to a licensed deferred deposit loan service, write my personal check to the licensee, get my \$100, and the licensee agrees not to cash my check until Friday. That, in a nutshell, is a deferred deposit loan.

The second of the three loan services under the chapter are title loan services. Title loans are loans made to a customer using the customer's vehicle as collateral. Simply put, the customer goes to a title loan service, gets money up front, agrees to repay the money in installments or on a single date in the future, and the licensee gets possession of the title to the customer's car or the licensee gets to perfect a security interest in the customer's car.

The last of the three loan services is a high-interest loan service, which offers certain loans with an annual percentage rate of over 40 percent. The name given to high-interest loans is a bit misleading, because not all loans with high interest rates are high-interest loans. Instead, the category of high-interest loans operates as a sort of catchall for high-interest loans governed by the chapter which are *not* deferred deposit loans and *not* title loans. Let me say this in a different way. If a loan qualifies as a deferred deposit loan—because the basic transaction is cash to you up front in exchange for your check or electronic withdrawal in the future—then the loan is a deferred deposit loan no matter how high the interest rate. If a loan qualifies as a title loan—because the basic transaction is cash to you up front in exchange for your promise to pay and the title to your car—then the loan is a title loan no matter how high the interest rate. If the loan is *not* a deferred loan deposit and it is *not* a title loan, and the loan has an annual percentage rate of more than 40 percent, then it is a high-interest loan, as that term is used in NRS Chapter 604A.

So, those are the four types of licenses under NRS Chapter 604A—check-cashing services, deferred deposit loan services, title loan services, and high-interest loan services. Each type

of license is a separate license, but one business may be licensed to offer multiple services. Therefore, you could conceivably go to one business and choose to cash your paycheck, or get a deferred deposit loan in exchange for your personal check, or get a title loan in exchange for the title to your car.

Now, without getting too far into the weeds and in a necessarily summary fashion, I want to point out some differences and similarities among the three types of loans.

As to the term of the loan or the length of time you have to repay, the three loans are different, but deferred deposit loans and high-interest loans are similar.

Regarding deferred deposit loans, the original term of such a loan cannot exceed 35 days, and thereafter you and the licensee may agree to extend, roll-over, or refinance the loan or otherwise establish a later date for payment, but that later date cannot be later than 90 days after the origination of the loan.

Regarding high-interest loans, the rules of the original term of the loan and its extensions are a bit complicated, but the upshot is that, like a deferred deposit loan, the final payment date to repay a high-interest loan cannot be later than 90 days after the original loan date.

Title loans are different, but no matter how a title loan is originally structured or thereafter extended—which is a complicated series of rules—the final date to repay the title loan cannot be later than 210 days after the original loan date.

Turning to the amount you can borrow, the three loans are different, but once again deferred deposit loans and high-interest loans are similar.

A deferred deposit loan or any combination of deferred deposit loans from the same licensee must not be for a total amount which exceeds 25 percent of the expected gross monthly income of the customer.

Similarly, a high-interest loan or any combination of high-interest loans from the same licensee must not have combined monthly payments which exceed 25 percent of the expected gross monthly income of the customer.

As for title loans, the amount of the title loan is limited to the fair market value of the vehicle securing the title loan, and the title loan services must not make the loan without regard to the customer's ability to repay the loan.

As for similarities among the loans, there are several.

First, a customer entering a business offering any of these loans will see a conspicuous notice stating the fees charged for services and providing a toll-free number for the FID Commissioner for registering complaints.

Next, before entering into any of these loans, the customer must receive a written loan agreement which lists, among other statutorily required information, the amount financed, the annual percentage rate, any finance charge, the total payments, the payment schedule, and a description and the amount of every fee charged, regardless of the name given to the fee.

Next, for any of these loans, the customer is entitled to rescind the loan on or before the close of business on the next business day at the location where the customer initiated the loan.

As for default, for all of these loans, the customer will be in default if the customer does not make a scheduled payment or pay the loan in full as required by the terms of the loan agreement, including any extensions of the loan agreement. The official date of default for the loan is the day after the day the payment was due.

An exception to this default rule is that, for all of these loans, the licensee may offer the customer a grace period. A grace period is simply a period during which the customer will not be deemed to be in default and during which the customer may make a payment on the loan. Statute prohibits a licensee from charging the customer any additional fees or additional interest during a grace period.

Finally, after default occurs on any of these loans, the licensee must not commence a civil action to collect payment or repossess a vehicle, before offering the customer an opportunity to enter into a repayment plan. There are detailed statutory requirements concerning a repayment plan, including when it must be offered, how long the offer must stay open, and the terms of the offer. In a nutshell, repayment plans, at the option of the customer, may extend up to 90 days and, at the option of the licensee, may require an initial payment of up to 20 percent of the balance due. They would all end with the full balance being paid.

Very briefly, those are the businesses licensed and the loans offered under NRS Chapter 604A. Thank you for your time, and I would be happy to answer any questions.

**Chair Bustamante Adams:**

Thank you, Mr. Keane, and the purpose of that was that there is sometimes confusion about how many entities are housed under NRS Chapter 604A and which regulations already exist. It was just an overview since we have new legislators present. Are there any questions for Mr. Keane?

**Assemblywoman Tolles:**

Could we get a copy of your testimony available in writing?

**Wil Keane:**

I can make that available for you.

**Assemblyman Paul Anderson:**

Is there a different section in NRS that talks about disclosure of the different loan requirements? You spoke a little about disclosure. A lot of these businesses charge fees rather than actual percentage rates, which they then convert to annual percentage rates. Is that codified in statute or is that simply a consumer protection piece or disclosure piece?

**Wil Keane:**

There are different statutes which regulate different aspects of each of these loans; it is not all located in one place. There are federal requirements, including the Truth in Lending Act of 1968 and Regulation C, which regulate how fees are calculated and how they are supposed to be disclosed. Our statutes do require compliance with federal law, although that would be required anyway.

**Chair Bustamante Adams:**

Thank you. Are there any other questions? [There were none.] Thank you, Mr. Keane, and I appreciate your making it available to all the Committee members. Next, we are going to have the FID Commissioner, Mr. Burns, speak to us from Las Vegas. Please begin when you are ready.

**George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry:**

I am George Burns, the Commissioner of the Division of Financial Institutions. With me today is my Deputy Commissioner, Mary Young, to assist me in answering questions you may have about the information that I am about to present. Assembly Bill 163 and Assembly Bill 222 propose to enact provisions with respect to short-term payday, title, and installment loans. The Division of Financial Institutions was requested to provide data regarding NRS Chapter 604A licensees, as well as complaints for the calendar years 2015 through 2017 (Exhibit C). This information has been provided previously to the Committee members and we will be going over that with you today.

As a general framework for this topic, we currently have a total of 95 Chapter 604A licensees in Nevada. This does not include 34 licensees that only provide check cashing from their main locations. Chapter 604A references a single license, and licensees can elect to either offer one, two, three, or all four of the types of lending items. This number also does not include the 306 branch locations that provide title, high-interest, and payday loans for 401 locations in the state. Of those 495 total licensees, 63 offer title loans, 68 offer high-interest loans, and 81 offer payday, or deferred deposit, loans.

We received 79 complaints from consumers in 2015. We received 53 complaints in 2016, and have 17 so far this year. We broke down the types of complaints we received for each of the months and years between 2015 and 2017 (Exhibit C), but what I wanted to do today was comment on the overall trends we see in types of complaints. As you can see from the information that was provided to you, we only received one check-cashing complaint during those two-plus years. Deferred deposit loans had 29 complaints, high-interest loans had

61 complaints, title loans had 56 complaints, and there were 2 combination complaints for a total of 149.

One trend we see in 26 of those complaints is the lender not considering the customer's ability to repay. Ability to repay is determined taking the customer's income minus their expenses in order to determine that they have sufficient residual income to make loan payments. The second most frequent complaint we saw, with 20 complaints, was multiple loans with the same or different licensees. We received complaints where customers asked why lenders kept allowing customers to borrow money if they were aware that the loans were exceeding the customers' ability to repay.

The second trend with 10 complaints concerned loans that exceeded 25 percent of the customer's gross monthly income. This concept in NRS Chapter 604A states that lenders take the customer's current pay stub or other income-verifiable documentation and calculate 25 percent of that amount in order not to exceed it. We had 15 complaints in which lenders did not offer payment plans, refused to offer repayment plans, or violated repayment plan terms. Finally, we had 10 complaints about continuous rollover of loans, or overextending loans.

We had 24 complaints about unlicensed activity in several different areas. We pursue these claims vigorously with cease-and-desist orders in order to bring these operators into compliance. We had 3 complaints about unauthorized debits, which means that the payday lender who was authorized to debit a customer's account may have exceeded the number of times they are permitted to debit the account. We had 2 complaints of title loans exceeding the fair market value of the vehicle, and we had 20 complaints with alleging federal violations of the Truth in Lending Act, the Fair Credit Reporting Act, and Regulation B of the Equal Credit Opportunity Act. There were 35 other complaints that could not be grouped into any particular category.

At this time, we are open to any questions that the Committee may have for us about this data.

**Chair Bustamante Adams:**

Thank you, Mr. Burns. Is Ms. Young going to say anything, or can we go right into questions?

**George Burns:**

Please go right into questions. She is here to help me out if I cannot answer the questions in detail.

**Chair Bustamante Adams:**

Wonderful. For the Committee, the purpose of having the regulator talk about what goes on in the industry is so that we may have an inside look at the data that he is receiving from specific categories.

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**Assemblywoman Neal:**

Complaint 70163 from January 2016 says, "Ability to repay not considered, preyed upon age and inability to speak English, kept in the books" [page 3, ([Exhibit C](#))]. There are a couple more like that. Were those title loans? Also, what does "HIL" stand for?

**George Burns:**

That is a high-interest loan.

**Assemblywoman Neal:**

I understand that now. I had a question about a second complaint, 68670 from May 2015. It says, ". . . used daughter's disability income to increase the loan amount" [page 5, ([Exhibit C](#))]. I did not know you could use disability income for these loans.

**George Burns:**

Yes, any income can be considered for the purposes of obtaining a 604A loan.

**Assemblywoman Neal:**

Okay, thank you.

**Assemblyman Paul Anderson:**

I wanted to clarify a couple things from the handout you provided us. At the top of page 3 ([Exhibit C](#)), I see a notation for the calendar years 2015-2017 and a total of 149 complaints. Am I reading that accurately?

**George Burns:**

Yes.

**Assemblyman Paul Anderson:**

I believe you said there are 401 entities that currently work inside of the high-interest loan, payday loan, and signature loan market. Is it accurate for me to say that out of 401 companies over the last three years, there have been 149 complaints?

**George Burns:**

No, there are 95 companies that have a total of 401 locations. We received 149 complaints for the 95 total licensees. What I can tell you is that these complaints, although we redacted the names of the companies for the purposes of confidentiality under statute, the spread of those complaints came from 61 of the 95 companies. Roughly, that means that a little less than 60 percent of the companies received complaints.

**Assemblyman Paul Anderson:**

Is there any indication that complaints increased over this period, or do you believe they maintained a steady rate?

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**George Burns:**

Through our regulation, supervision, and enforcement of NRS Chapter 604A, we have seen a decline in the number of complaints. That has primarily been due to vigorous enforcement of the statute.

**Assemblyman Ohrenschall:**

My question has to do with compliance. What actions do you take against lenders on these complaints, and what kind of enforcement options do you have?

**George Burns:**

When we receive a complaint, depending on its severity, we forward it to the licensee to get a response. The licensee then has 30 days to provide a response. Once we receive a response, we make a determination as to whether it is adequate and, if so, we contact the consumer and let them know what that response is. Severe complaints, such as unlicensed activity, generate an investigation on our part in which my examiners go out and inspect the location to see if lending activity is indeed being conducted there. If we discover unlicensed lending activity, we file a report with our FID disciplinary committee where we determine what kind of enforcement action to take. Enforcement usually begins with a cease-and-desist order to stop whatever activity is taking place. If that cease-and-desist order is not complied with, we will file a complaint and take the entity and/or licensee to an administrative law hearing in order to enforce the statute.

**Assemblyman Ohrenschall:**

Could you give the Committee some examples of what kind of lender practices might lead either to referral to the disciplinary panel or the administrative law judge (ALJ)?

**George Burns:**

Unlicensed activity is probably the easiest one, because that is a clear-cut case when we know a business does not have a license and is making loans to the general public. Other examples are instances where we find repeat violations from examinations where we have recommended that the business correct their activity. If the business has not corrected the activity in the follow-up examination, then we will move to the disciplinary committee and file either a cease-and-desist order or a show-cause hearing before the ALJ.

**Assemblyman Ohrenschall:**

Do you have any data corresponding to the complaints you have given us that are up on Nevada Electronic Legislative Information System (NELIS) as to how many enforcement actions FID has pursued against these lenders?

**George Burns:**

I do have that data, but I do not have it here with me today. I can, however, provide that data to the Committee.

**Assemblyman Ohrenschall:**

I would appreciate that if you could.



**Assemblyman Brooks:**

How many transactions correspond to the 149 complaints? If we look at the loan categories and not necessarily the check-cashing category, how many transactions were conducted over the course of the 149 complaints? How many transactions were completed over those three years?

**George Burns:**

I am sure the number of transactions was in the thousands. There is a great reluctance on the part of the general public to file complaints because they know that they entered into an agreement and they owe money. When consumers finally do file complaints, we hear that they have reached the end of their road and they have no other alternatives but to file a complaint. Most others do not file complaints because they are concerned about legal action or other retaliatory action by the lender.

**Assemblyman Brooks:**

I do not think I asked my question correctly. Of the 95 companies operating in that space—again I am trying to keep the check cashing out of it because it is a clearly different business—how many actual loans were made in that three-year period by those 95 companies in the categories listed here ([Exhibit C](#)), aside from check cashing? Do you have that data?

**George Burns:**

We do not have that data because we do not track the total number of loans that are made by our licensees. When we examine our licensees, we get a dump of their loans and we do a sampling of those loans. We do not have an efficient or effective way to track that kind of data.

**Assemblywoman Carlton:**

I have been living through this discussion throughout my legislative career. The situation has improved over the years, but I know we still do have a ways to go. Mr. Burns, thank you and your Division for doing a good job with the tools that we give you. I am going to ask you a loaded question; if you do not want to answer it on the record that is fine, but I would like to know, as a policymaker: what tools do you need that you may not currently have with some of the complaints you see that would be beneficial to help protect some of these people and to give them some resolution?

**George Burns:**

I believe that the law is written for everyone to understand and abide by. However, there are certain people who like to parse every word in the law in order to dismiss common sense and to undermine what I believe is the spirit and intent of the law. Any modifications or amendments or clarifying legal action that can be taken by the Legislature and this esteemed Committee to further define what the boundaries are and what can and cannot be done would be very helpful to us. Although I do not believe that there are any ambiguities in the law, the interpretation of it becomes a legal battle every time we take an enforcement action. We have had enforcement actions that have had to go all the way to the Nevada Supreme Court. In my ten-year tenure, we have been to the Supreme Court three times in order to get

determinations on what the meaning of a word is in the statute. The process has become extremely convoluted, and anything that can help define boundaries that will help us, as referees, maintain balance between the public interest and the business interest would be very helpful.

Further definition of "ability to repay" would be the most useful change you could make because there is just a simple statement in the statute that gives consideration to the ability to repay. We have attempted, over the years, to try to define "ability to repay" through statute, but due to a lack of cooperation from members of the industry and others, we have not been able to get those regulations passed and approved.

The other tool that would help us is an automated system by which we could actually track the activity that is taking place. As I mentioned earlier, one of the reasons we do not have the kind of statistics you just asked me about is that the industry is so large and we have no way of capturing that data easily. So many transactions take place on a daily, weekly, monthly basis that, without some kind of automated tracking system, there is no way that we could really be able to report on that kind of information.

**Assemblywoman Carlton:**

I am concerned about the statement you made about regulations. As legislators, we make policy, we give it to our regulators and then they develop the regulations to make sure that everybody plays by the same rules. If somebody plays outside the rules, regulators have a hammer to back them up. Do I understand you to say that you have had regulations to address some issues, but because of industry opposition, you have not been able to have those regulations succeed and therefore could not do your job?

**George Burns:**

That is correct, Assemblywoman Carlton.

**Assemblywoman Carlton:**

Okay, I will give you a call later and we will have a talk. Thank you.

**Assemblyman Ohrenschall:**

Do you have any data about default rates for consumers regarding the various 604A loans?

**George Burns:**

I do not have that data with me today. What you are looking at is how many loans actually default and have to go into repayment plans.

**Assemblyman Ohrenschall:**

Yes, I would be interested in that information if you could provide it.

**George Burns:**

I will go back and see if we have access to that type of data. As I mentioned earlier, that sort of data is very difficult for us to get hold of because we do not have automated systems to compile it.

**Assemblyman Ohrenschall:**

I appreciate your efforts. I would also be interested in any data that shows how many people just walk away and give up.

**George Burns:**

We will take a look at that as well.

**Chair Bustamante Adams:**

Are there any other questions for the Commissioner? Seeing none, I want to thank you, Mr. Burns. I know you are going to stay with us for the conversation, and I appreciate that. We will now go ahead and open up our hearing on Assembly Bill 163.

**Assembly Bill 163:**      **Revises provisions governing certain short-term loans.**  
**(BDR 52-737)**

**Assemblyman Edgar Flores, Assembly District No. 28:**

I represent Assembly District No. 28 in Northeast Las Vegas. I appreciate the Committee allowing me to go first in presenting Assembly Bill 163. Before I go into my bill, I wanted to, very quickly, recognize some of the individuals who have been working alongside me. I cannot pretend that I would have been here presenting this bill had it not been for their help. I need to recognize the Legal Aid Center of Southern Nevada; they have been incredibly helpful and have provided me with so much information—more than I have the time to present now. Ms. Tennille Pereira is here with me; she is an attorney and expert in this area. She sees this issue every single day, and she understands payday lending better than most of us. Beyond that, I know today is Veterans' Day at the Legislature so I want to recognize the veterans in the audience, thank them for being here today, and thank them for their service, specifically to the members in my community. Last, I know Progressive Leadership Alliance of Nevada (PLAN) is here. I want to recognize PLAN, who has been huge in my district and who do incredible work. They will testify later, but I wanted to recognize them for their help.

I wanted to offer everybody a road map of how I would like our conversation to move forward today, which should allow our conversation to flow in an easy manner. I will identify the issue first. After that, I will address the language included in the bill and why I believe the language used will help to address the issue. I then want to delve into my two conceptual amendments—we can follow the language in the bill as written, and then when I get to the specific sections, I will explain what I want to amend. After that, I want to pass the presentation to Ms. Pereira; again, she has an amazing amount of expertise and she will be able to offer very in-depth, case-by-case analysis.

With that being said, I also wanted to explain the lens through which I view this issue. I am not somebody who believes that payday, title, or high-interest lending companies are inherently monsters seeking to take everyone's little sheep while trying to destroy the world. That is not my perspective, and that is not the way I approach this bill. I approach this bill through very specific loopholes present in current law. In 2005 and 2007, I believe the Legislature intended to address those loopholes, but that is not being honored. I want to clarify the language in the law. Additionally, I know there are individuals in my district who use these different services, and I believe that is the byproduct of Nevada not doing enough for them. Too many individuals have to rely on these different services. That reflects poorly on our state because we should be doing more so that our constituents do not have to use these services. I need be straightforward and recognize that.

Assembly Bill 163 addresses three issues: default, assets and collateral, and an individual's ability to repay. I will begin with the issue of default. Assume I get a high-interest loan and, to simplify it, I get a deferred deposit loan. I have to pay it back within 35 days maximum. I get the loan and then day 36 arrives. In our hypothetical situation, when day 36 comes around, I do not pay. I have not made a payment in 35 days pursuant to the contract that I entered into with the lender. In that scenario, we would all assume that day 36 would trigger a default pursuant to the law today. That is how the law is currently written, so we would all assume that I would be in default. Here we find the first issue that I am trying to address: this is not happening. Strategically, many trigger words—specifically "grace period"—are being used so that we do not trigger the default.

Let me explain why default is so important. Default means that on day 36 I owe the prime—whatever I have owed up until that moment—plus 10 percent. If default is not triggered and interest on the loan is allowed to continue—and let us say that the loan interest is 300 percent—the high interest continues. The default language is in the law specifically to protect the consumer so that, after day 36, the consumer owes prime plus 10 percent. That is the way default is supposed to work. That is the function of default, but lenders are strategically not allowing the default to trigger.

There are several ways lenders are doing this. Contracts often include language that gives the lender authority to trigger the default when they want to. Therefore, default occurs when they recognize the default, and that was never the intent or the spirit of the NRS in the negotiations that happened in 2005 and 2007 for that to be the case. However, because that loophole exists, lenders trigger default whenever they want to. They rack up interest rates as high as they want and right when it is advantageous to them, trigger the default, and only at that point does the consumer owe prime plus 10 percent. I propose that when day 36 hits, the loan goes into default.

I propose that the consumer drives default, not the lender. That seems like common sense. That is how we all think of default; that is always driven by the individual with the loan. However, for whatever reason, that loophole exists in law, so I am addressing that.

Second, I want to talk about assets and collateral. This issue is probably the most confusing for me. For example, say I go to a title loan company—this issue exists across the board but I am just using title loans as an example—but I do not own a vehicle. In this hypothetical situation, my wife has a vehicle and she has a job. I do not have any income, I am not working right now, and I do not own a vehicle. Some locations allow people to get title loans even if the applicant does not own the asset. I do not have to explain to you the types of nightmares and headaches this can create in a family that is going through a divorce, or if there is an individual who has an addiction he is trying to feed and the family does not want that person to get their hands on things. There is a whole host of hypotheticals that I can go into. It does not make sense; if you do not own an asset, you should not be able to get a loan on it. It is very common sense to me, and we have to address this issue. My bill says that an individual cannot use someone else's assets, income or collateral to fulfill his own.

The opposition may say, Well, it is one household so we should factor in everybody's income. Well, if my wife wants to get a loan, she can apply for one herself. If my brother wants to get a loan, he can go there and do it himself. There is nothing stopping individuals in my household getting the loan under their name. If I do not have anything that shows my ability to repay, I should not be getting the loan.

The third and most important issue the bill seeks to address is the ability to repay. In 2005 and 2007, the statute was amended with the intention that the "ability to repay" would mean something. There was a very significant purpose behind including the ability to repay in the law. I want to give you a scenario that describes what is happening now with respect to a customer's ability to repay. Say, for example, that I own a vehicle but maybe I do not currently have a job, or perhaps I have a mountain of debt. I owe money on 14 credit cards, I am behind on a bunch of utilities bills, and all I have is a car. In that scenario, I might be given a loan. The lender could say that I have the ability to repay because if I default, the lender can repossess my car. In that scenario, there goes my ability to repay.

At other times, consumers just sign a notarized letter or an affidavit saying that they will repay, and that letter constitutes an ability to repay. There is no real mechanism or transparency in the law, and there is no standard across the board that everybody is applying. Let me be very clear; I am not saying that all companies are engaging in this. I am not even saying 4 percent—I am not giving you a percentage, but there is no uniformity in the lending community.

Assembly Bill 163 creates uniformity around the ability to repay. We developed a seven-pronged factor test—a totality of circumstances-type of approach—that I want to look at. First, we look at current employment history to make sure the applicant has a job. We will look at the monthly residual, which takes into account an individual's debt versus how much money comes in each month. This bill seeks to balance out monthly residual in an effort to ensure the customer can afford one more monthly payment. We should look at the customer's credit history. Credit history is very simple, but I do not mean to check to see if a borrower has a good credit score. The intent in this bill is to ensure that lenders are doing

a soft credit check to see if the customer has delinquent accounts or is in collections. Soft credit checks will allow lenders to verify that borrowers have the ability to repay while not detrimentally impacting the borrower. Next, we want lenders to look at the amount of the original loan and the monthly payment. Is it realistic for the individual in front of them? Then, we want lenders to consider the individual's overall monthly obligations: What are they paying in rent? How much are their utilities? Does the borrower owe anybody else money? These are all things that lenders should be asking. Finally, this bill asks that lenders consider child support, alimony and similar expenses when determining ability to repay. With that, I want to address my two amendments before I pass it over to Ms. Pereira.

**Chair Bustamante Adams:**

Can you go over the seven prongs? I have current employment, monthly residual, and credit history.

**Assemblyman Flores:**

The seven prongs will help parties see what the actual agreement or contractual obligation will look like by considering the totality of factors through a macro-level approach. The seven prongs will allow transparency concerning the entirety of a customer's debt, credit history, and entire financial situation, while adding to the equation the fact that the borrower is going to enter into another contract. How will that play out? We need to see how all of this works together. With that, I also said that we need to look at a borrower's other monthly obligations such as utilities, money owed to another person, car payments, and current debt obligations such as child support and alimony. All of that should be taken into consideration.

**Assemblyman Araujo:**

I appreciate the process, but can you help me understand what would disqualify someone from being able to obtain a loan at that point?

**Assemblyman Flores:**

We are allowing flexibility there because it is not a single-pronged approach. One prong does not destroy the ability to enter into a contract. This is a scenario where we will consider all the factors. This is necessary for when concerns are raised or lawsuits filed; if a borrower has problems with five of the prongs, then that should raise an obvious red flag that the loan should have never been issued. We want to give companies in this industry some discretion, but not to the point where they can escape common sense. That is why we are asking that the companies look at all seven of these factors.

I want to discuss my two amendments. Section 5, subsection 1(b) talks about default. In the hypothetical situation I created earlier, I needed to make a payment by day 35, but I did not. Day 36 arrived and triggered default. One reason default is important is because it gives customers a 30-day window to enter into a repayment plan. After entering into a repayment plan, the borrower is given 90 days with the prime plus 10 percent to pay whatever it is that he or she owes. Many people do not know that this mechanism exists in NRS to protect them. This bill says that we want lenders to post this information in the business, underneath

the business license. As you know, most people do not read everything posted on the walls in businesses. I realized that that was an error on my part in reaching out to the Legislative Counsel Bureau (LCB) in requesting that. I think the appropriate place—and this is included in my first amendment—is to include default language in the actual contract. Consumers will have better protection if we ensure that they know what default is, what default protects when it is triggered, and including this in the contract will not allow the lenders to say one thing while NRS says something else. This change will force lenders to work in unison with what the NRS intended.

*Nevada Revised Statutes* (NRS) 604A.450 specifically pertains to title loans. Current language in that section allows lenders to make a title loan to a customer secured by a vehicle that is not legally owned by the customer. This bill amends that language and says that the lender will not approve the title loan unless the customer owns the vehicle. Section 7, subsection 3 says, "... determining that the customer has the ability to repay the title loan, as required by section 1 of this act. In complying with this subsection, the licensee shall not consider the income of any person who is not a legal owner of the vehicle securing the title loan." In other words, if I go to a title loan company and try to get a loan, the income of my spouse or another household member will not be taken into consideration in lending me the money. I want to amend this section of the bill, because it was my intent for that to apply to the entire statute, not just to payday lending. In other words, if we talk about any high-interest loan, I want lenders to consider only the income, assets, and collateral of the individual applying for the loan. In any scenario with a high-interest loan, if an individual tried to get a loan, they cannot use their spouse's income, social security, or anything else. If the spouse or other household member wants to use their income or assets for a loan, then they need to apply for the loan themselves. I wanted to keep that language in section 7, but I also want it to be reflected in all of the NRS pertaining to high-interest loans.

With that said, Madam Chair, may I ask Ms. Pereira to come in? Again, she sees very specific examples of these issues every single day on the front lines.

**Chair Bustamante Adams:**

Yes, and who do I have in Las Vegas at the table? Is that another person?

**Assemblyman Flores:**

Yes. I would like to ask permission that they speak after Ms. Pereira.

**Tennille K. Pereira, Attorney, Consumer Rights Project, Legal Aid Center of Southern Nevada:**

[Tennille Pereira spoke from prepared text ([Exhibit D](#).)] I am an attorney at the Legal Aid Center of Southern Nevada. I work defending consumers and do a lot of defense in payday and title loans. Before I begin, I would like to thank you for this opportunity to testify in regards to this important legislation. I would like to share a little bit of my background with the Committee so that you better understand the lens through which I view this issue.

I was on active duty in the Navy for ten years prior to going to law school, and during that time I fell into payday loans. My income was very low when I lived in California, and I found myself trapped in debt. Fortunately, I was able to get out. I finished my ten years in the Navy, and I went to law school. I now work at the Legal Aid Center of Southern Nevada and my clients tell me, on a daily basis, their stories about their experiences with payday and title loans. I am very grateful and honored to work in this area and to be able to help them, knowing that I have been there and I have felt the way they felt. I would like to give you some specific examples that illustrate everything Assemblyman Flores talked about.

Assemblyman Flores explained defaults. Default is supposed to occur the day after a borrower misses a payment or any obligation that has come due. This is so important because, when a borrower cannot make a payment, we want to find them a way out. We want to get the borrower off the off-ramp so they do not end up in a debt cycle with payday and title loans. If default is not triggered, the entire contract interest runs for the entire length of the loan and the client is worse off than where they were at the beginning. When default is triggered, contract interest stops, which means that the huge, original interest rate drops down to prime plus 10 percent, which is essentially 15 percent. Default then gives the borrower 90 days to repay the loan so they have a way out and do not end up in eventual litigation or garnishment.

Let me give you one example. There was a businessman who owned a small business, and the business was going under [page 3, ([Exhibit D](#))]. He did not have the revenue to support the business but he was desperate, so he took his car title for his family vehicle, and got a title loan. He made a couple of payments when they first came due, but then it became very evident that he could not make any more payments and he stopped making them. He called the title lender and asked if there was anything that they could do for him, and the lender told him he needed to bring his loan current. They told him that the contract said that was what had to be paid. To make a long story short, the lender never put him in default. He should have been in default for about four months, and perhaps he could have had a way out and could have kept his vehicle. The lender never did that; they waited until the entire contract had run and they could not collect any more interest under the law, and then they said they would see if they could work with him, but otherwise he would have to turn in the car. Under this scenario, if default had been triggered it would have been affordable for him and he could have paid off his loan. Now he was in a situation where not only did he lose his business, but he could potentially lose his car as well.

I want to talk about assets and collateral next. In one example, I had a client who had fallen on very hard times. Her husband was on unemployment, and she was not employed at all. She did own her car, which she was using to look for work. Unfortunately, she went in to a title lender. She used her vehicle as collateral and when they asked if she had the ability to repay, she told them that she did not have a job or any income. They asked her if there was anyone in her household who had some income. She told them that her husband had unemployment income so they gave her the loan. Her husband got his unemployment income and, probably as no surprise to anyone here, said that he was not going to use his



unemployment income to pay a title loan. She came into our office and we were able to help her, but that income never should have been considered to give her that loan.

The last and final example I have concerns the ability to repay. I have a client who makes about \$804 a month off disability and food stamps he receives. He also owns a 1997 Ford Taurus. He fell on desperate times, went to a payday title lender, and got a loan for \$1,000 on his vehicle. He did not have the ability to repay as he only makes \$804 a month. Even if the lender said that he could pay 25 percent of his income, how was he supposed to actually do that? His expenses were already eating up his entire income; there was no way he could pay it. He went back to the title lender and told them that he could not make the payments. They said that it was okay because they thought there was still some value in his car, so they gave him another \$1,000, and now he had a \$2,000 title loan. This went on, and he got four more payday loans from that same lender. His monthly obligation was more than double what his monthly income was by the time he was done. Fortunately he found my office, came in, and we are now working to help him. The ability to repay is a very important provision. We all heard Commissioner Burns talk about that provision and its importance. Right now, payday loans can only be made for up to 25 percent of a borrower's gross income, but that does not take into account the borrower's other liabilities. Does the borrower have six children at home or two mortgages? What are the borrower's liabilities? If we are giving people loans that they cannot afford, these loans do not help them.

I wanted to touch on one other thing Commissioner Burns talked about. I want to put on the record that we really appreciate Mr. Burns and his efforts to help us in this industry. At one point, the Commissioner was asked about the number of complaints that he sees. I just want to state that, based on my experience with my clients; borrowers do not know that avenue exists. When they finally make it to my office, I direct them down that avenue and hope that they all file complaints, but I find it very unlikely that the numbers are accurate, based on the number of clients I see in my office who are having problems with these loans.

That is all I have for the Committee. Venicia Considine, another attorney from our office, is in Las Vegas and has some information on this topic. I will take any questions that the Committee has.

**Chair Bustamante Adams:**

Assemblyman Flores, do you want to take the testimony in Las Vegas?

**Assemblyman Flores:**

I am going to ask that she just identify herself. She has a lot of expertise she can bring to the table that will help the dialogue, but I do not think her testimony will be necessary, in the interest of time.

**Venicia Considine, Attorney, Legal Aid of Southern Nevada:**

I work with Legal Aid Center of Southern Nevada, and I am here in support of A.B. 163 because I have worked with several people who have taken out a short-term loan and ended

up in a long-term nightmare. I have some comments specifically about sections 3 and 4, and the purpose for clearing up the language and clarifying "grace period," along with an example. My testimony has been filed ([Exhibit E](#)).

**Chair Bustamante Adams:**

Thank you so much; I appreciate that. In the interest of time, we are going to go ahead and take questions from the Committee members before we go into opposition testimony.

**Assemblyman Paul Anderson:**

I had a question about default. When someone goes into default, however it is defined, they still owe the principal, the contracted fee—whatever that was—and then anything that they are not paying on or the remainder of the loan balance drops to that prime plus ten percent. Am I stating that accurately?

**Tennille Pereira:**

That is correct. The contract interest under the contract can run for the entire life of the contract. If you have a 90-day loan but the borrower defaults in the first two weeks and cannot pay off the loan, they will not be responsible for the remaining days of interest left on the contract. As far as interest, they would be responsible for the prime plus 10 percent, which is 15 percent.

**Assemblyman Paul Anderson:**

What would be a borrower's motivation not to just default two weeks in, get a cheaper rate, and then pay it off over the following 90 days?

**Tennille Pereira:**

I understand that concern and I understand that question, but I have to tell you the clients that I have really want to pay their bills and did not enter into the contract to not pay it. My clients want to pay it off. Unfortunately, I think we are all optimistic when we enter into contracts and we think we can do anything in two weeks. Unfortunately, life happens and we are not always able to meet our commitments.

**Assemblyman Flores:**

If I may add to that, this goes to the essence of the ability to repay. If companies do a much better job with the language defining ability to repay, they will actually look at a borrower's ability to repay. That is one of the reasons why we want to include this in the law. Ability to repay should not just be a protection for the borrower but for the lender as well. If a lender has a customer with a mountain of debt and the lender knows the customer is going to default within a week—because there is no way they can make that payment—that should be a signal that this is not someone lenders should be lending money to.

**Assemblyman Paul Anderson:**

Do you have any complaints from lenders that say that they need more protections to ensure borrowers can pay these loans back? These companies make their money on the turn. Lenders want customers to pay loans back so lenders are going to protect the dollars floating

around in the economy. I am assuming that this is the case. Lenders cannot stay in business by helping people default. I recognize this is a cycle that many people are stuck in, and I do not want to discount them or not show sympathy and empathy to those situations, but I do not think the lenders are looking for additional support in recognizing a customer's ability to pay. I am sure they do their best due diligence to make sure that is the case. I appreciate the clarification in the default language and what that would entail.

The Commissioner talked about a reduction in complaints over the last three years. From the Legal Aid side of things, I do not know what that means, as far as the size of the reduction. He also mentioned, anecdotally, that some people do not file complaints. From your perspective at Legal Aid, do you see those complaints even if the Commissioner does not? Have you also seen a reduction in complaints or are you seeing a different situation in the industry?

**Assemblyman Flores:**

I will ask Ms. Pereira to jump in and help me answer the second part of your question, as she has a better perspective. I want to go back and make another point of clarification. As to whether lenders are protected and whether that is a concern, I want to assure you that there is another protection mechanism in NRS, which is the extension. Lenders use this mechanism now, with the purpose of extending the high interest they want, and we are not stopping them. Assembly Bill 163 focuses specifically on the misuse of the grace period.

I also wanted to clarify that you are right—no business could ever operate if they were losing money, lending people money, and not getting their money back. I want to make sure that we make it very clear that lenders are getting their money back and they are getting interest, no matter what, even if the default is triggered. The fact that we have so many of these businesses operating is because it is very profitable and because it works. More importantly, including language about the default trigger takes the burden off the borrower, but it will not stop the extension period. The change in language is only to clarify that the grace period was not supposed to be used to allow companies to continue charging high interest rates. An example of this would be a lender creating a second loan to justify and pay off a first loan after default, which allows the lender to continue charging high interest. This happens frequently.

Lenders know this was the original intent of the law and, in order to bypass that, many businesses created a loophole and purposefully started doing these things. Lenders did not do it because the law allowed them to; they did it as a mechanism to find a way to go outside the bounds of what they agreed to in 2005 and 2007. With this bill, we are going back and clarifying the original intent of 2005 and 2007, even though we think the intent is clear. We also want to close the loopholes that allow this behavior.

**Assemblyman Paul Anderson:**

Are you suggesting that every entity engages in this behavior, or that there are some bad actors in the field?

**Assemblyman Flores:**

Not at all. I think there are only a few bad actors. In fact, I am not even suggesting that the lobbyists in this room represent the bad actors. They may represent only the good actors, but the bad actors exist and are the ones we are concerned about.

**Tennille Pereira:**

I wanted to address the question about whether I have seen a reduction in the number of complaints: I have not. In any given week, about three to seven people find their way to my office, and these are just the people who find their way to my office. They say they are in desperate times and they need help because they found themselves in this mess.

I also think the number of lawsuits we are seeing speaks volumes. The majority of those lawsuits end up with default judgments. I think it speaks volumes about the rights and options borrowers think they have in the circumstances. Borrowers tend to sit back because they do not think that they have a defense or an option. They figure, Well, I did get the loan, but I was not able to pay it. Numerous people out there would have a complaint to make that do not realize that they may do so.

**Assemblyman Paul Anderson:**

The clarification I was looking for was this: do you automatically file a complaint with the Commissioner when people come to your office seeking help, or do you find that they are in default and they just need some help working through that to get out of the cycle.

**Tennille Pereira:**

Both.

**Assemblyman Paul Anderson:**

That does not clarify anything for me. I am trying to figure out how many claims are not reported. The Commissioner said some people are either afraid to report or do not want to report, so I am trying to get a better understanding of the true scope of the problem versus just the complaints that end up in the Commissioner's office. I apologize for not making that clear.

**Tennille Pereira:**

That is okay. Many people end up in counseling because the Legal Aid Center has income guidelines. I can only take lower income cases for people who meet my income guidelines. There are a number of people that are given the information—you can file a complaint, you can do this, here are some of the legal defenses we are seeing, but unfortunately, we cannot take your case. Many people are turned away for that reason.

For people who come in and have a case, we often help them fill out the FID complaints or they say they will go ahead and do it on their own. That is what I meant when I said "both."

**Assemblyman Paul Anderson:**

Thank you, I appreciate that.

**Assemblywoman Jauregui:**

I have a quick question because I know one of the prongs was not making loans to people whose names are not on the title. If two people are on a title, will both people need to be present to secure a title loan?

**Assemblyman Flores:**

In that scenario, I think that they are considered the owner of the title and both people would not need to be present. I am not saying that those scenarios do not happen, because I am sure they happen all the time, but my biggest concern is not multiple individuals on a title; my concern is an individual who is not on any title yet they are still taking out loans.

**Chair Bustamante Adams:**

Thank you. Are there any other questions from the Committee? [There were none.] As a request by the bill's sponsor, we are going to go to opposition testimony first, then neutral, and then testimony in support. For those who are in opposition of A.B. 163, please tell me specifically what it is about this bill, including the section, and what you think should be different.

We have a three-minute time limit during this part of the meeting. I like to make sure that I communicate that so that we have enough time to make sure we hear from everyone.

**William C. Horne, representing Advance America, Cash Advance Centers Incorporated; and Jackson Vaughn Public Strategies:**

I am here representing Advance America and Jackson Vaughn Public Strategies in opposition to A.B. 163. My apologies, Madam Chair, if I tend to go over the three minutes. I have an expert in the industry who flew in from back East for this hearing, so I hope that you will grant him a little liberty.

**Chair Bustamante Adams:**

Yes. Thank you for coming from the East Coast. I know that was difficult, but I absolutely appreciate your being here.

**William Horne:**

I would like to start by recognizing that the number one duty of policymakers is the protection of their constituents and the people in the state of Nevada at large. My clients in the industry understand that this is the intended motive of the bill's sponsor. Unfortunately, good intentions aside, this bill could have unintended consequences that could harm Nevadans by creating an environment that may lead would-be borrowers to non-U.S. lenders who are not under regulatory authority. This body worked so hard in 2005 and 2007 to put protections in place. I also want to mention that many of the protections the sponsor seeks to address are already codified in provisions in NRS Chapter 604A. My clients in the industry are prepared, and always have been prepared, to sit at the table with the sponsor to identify these protections, especially if we may have fallen short of what was intended when they were placed in law.

In moving forward, it is important to remember that while trying to find a remedy for consumers, we must also preserve the fiscal contingency for those who must utilize short-term and title lenders. This industry helps those that lack access to credit, earn low wages, or experience an unforeseen, emergency expense.

The industry also fulfills a role of traditional lenders, in that traditional lenders refuse to provide small, short-term loans. This well-regulated industry has provided indispensable funds for the single parent who has had to miss a few days at work due to a sick child and whose check is now shorter than usual. The industry has provided funds to repair a heating, ventilating and air conditioning unit that went out in the height of the Las Vegas summer. Unfortunately, short-term lenders have provided funds to assist the burial of a loved one. The fact is 90 percent of consumers who use these services only use them for the short term for which they are intended.

This industry is not unique in that there will always be a few bad actors, as Assemblyman Flores stated, but protections against this already exist in NRS. Outlier cases should not guide policy decisions. Indeed, the vast majority of the industry are good community partners that strive to deliver a much-needed service to a community in need, at their most difficult time.

I want to note that, in his testimony, Commissioner Burns stated that the number of complaints is down. I believe he said there were around 163 complaints in three years, and I would like to point out to the Committee that we are talking about hundreds of thousands of loan transactions over that period of time. I think it is amazing that we had less than 200 complaints in that regard. With respect to Ms. Pereira, she says that she does not see the reduction in numbers and says she refers her clients to the Commissioner; unfortunately, the numbers do not mesh.

With the Chair's permission, I would like to have Mr. Dennis Shaul, Chief Executive Officer of the Community Financial Services Association, give his testimony. Then Susie Schooff, Director of Government Affairs of Advance America will testify. Mr. Shaul is a graduate of Harvard Law School, and he has a master's in economics from the University of Oxford. He also served more than ten years in the United States Congress as a senior advisor to Congressman Barney Frank. He worked extensively on the Dodd-Frank Wall Street Reform and Consumer Protection Act, and served as a chief financial regulator for Governor John Gilligan, establishing the first consumer protection law in Ohio.

We have been in meetings with Assemblyman Flores this session, and today we gave him some language ideas that we could work with in his bill. Those were, as it was noted today, for the ability to repay ". . . current or reasonably expected income of the customer," as stated in section 1, subsection 2(a); "current employment status" in section 1, subsection 2(b); and "The amount due under the original term of the loan, the monthly payment on the loan, if the loan is an installment loan, or the potential repayment plan if the customer defaults on the loan" in section 1, subsection 2(e).