ASSEMBLY BILL NO. 109–COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF ATTORNEY GENERAL)

FEBRUARY 4, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to deceptive trade practices. (BDR 52-292)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to deceptive trade practices; revising the definition of “organization” for the purposes of determining the applicability of certain provisions relating to deceptive trade practices; and providing other matters properly relating thereto.

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

Section 1. NRS 598.281 is hereby amended to read as follows:

598.281 As used in NRS 598.281 to 598.289, inclusive, unless the context otherwise requires:

1. “Buyer” means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. “Commissioner” means the commissioner of consumer affairs.

3. “Division” means the consumer affairs division of the department of business and industry.

4. “Extension of credit” means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. “Organization”:

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer’s credit record, history or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless ~~[such]~~ ***that*** counseling or assistance is provided by and is within the scope of the authorized practice of a debt adjuster licensed pursuant to chapter 676 of NRS.

(4) Providing advice or assistance to a buyer with regard to ~~[either]~~ subparagraph (1) or (2).

(b) Does not include ***:*** ~~[any of the following:]~~

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) ~~[A nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.~~

~~(4)]~~ A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license ~~[.~~

~~(5)]~~ ***, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.***

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering ~~[such]~~ ***those*** services in the course and scope of employment by or other affiliation with an organization.

~~[(6)]~~ ***(5)*** A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

~~[(7)]~~ ***(6)*** A person licensed as a debt adjuster pursuant to chapter 676 of NRS.

~~[(8)]~~ ***(7)*** A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.