

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

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

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 10:06 a.m. on Monday, May 9, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Sandra J. Tiffany
Senator Joe Heck
Senator Michael Schneider
Senator Maggie Carlton
Senator John Lee

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley, Assembly District No. 8

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

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

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CHAIR TOWNSEND:

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

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

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

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

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

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

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

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

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

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

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

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

SENATOR HECK:

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

ASSEMBLYWOMAN BUCKLEY:

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

SENATOR HECK:

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

ASSEMBLYWOMAN BUCKLEY:

Yes.

SCOTT YOUNG (Committee Policy Analyst):

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

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

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

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

SENATOR CARLTON:

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

MR. MARCHESI:

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

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

SENATOR CARLTON:

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

MR. MARCHESI:

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

SENATOR CARLTON:

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

SENATOR LEE:

In section 28 of [Exhibit H](#), why are you deleting subsection 2?

MR. MARCHESI:

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

SENATOR HECK:

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

MR. MARCHESI:

This was not our suggestion.

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

We support the amendments offered in [Exhibit C](#). We are neutral on any other amendments.

KIM KOSTER (Koster Finance):

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

KEITH LEE (Consumer Lending Alliance):

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

ASSEMBLYWOMAN BUCKLEY:

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

MR. LEE:

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

ASSEMBLYWOMAN BUCKLEY:

The intention was that it would not.

MS. KOSTER:

I misunderstood the repayment provision. I withdraw my objection.

NOEL SHECKELLS (Budget Loans):

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

JOHN M. VERGIELS (Nevada Financial Services Association):

With that clarification, we will withdraw the two changes suggested in [Exhibit H](#).

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CHAIR TOWNSEND:

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

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

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: _____