
ASSEMBLY BILL NO. 384—ASSEMBLYMEN BUCKLEY,
GIUNCHIGLIANI, OCEGUERA, PARKS AND ARBERRY JR.

MARCH 24, 2005

JOINT SPONSORS: SENATORS CARE AND HORSFORD

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to certain short-term,
high-interest loans. (BDR 52-806)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to financial services; establishing uniform standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, payday loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the uniform standards and procedures; providing remedies and administrative penalties; and providing other matters properly relating thereto.

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
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 86, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 17,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Cashing” means providing currency or a negotiable*
9 *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 licensee 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, payday loan services or title loan services from a licensee.

Sec. 8. "Default" means the failure of a customer to pay a loan in compliance with the terms contained in a lawful loan agreement.

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

1. A customer tenders to a licensee:

(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 licensee:

(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 licensee 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. "Licensee" means any person who has been issued one or more licenses to operate a check-cashing service, deferred deposit loan service, payday loan service or title loan service pursuant to the provisions of this chapter.



1 **Sec. 13.** *“Loan” means any deferred deposit loan, payday*
2 *loan or title loan made by a licensee at a place of business for*
3 *which he is licensed, or through the Internet or other electronic*
4 *means.*

5 **Sec. 14.** *“Payday loan” has the meaning ascribed to it by the*
6 *Commissioner pursuant to section 21 of this act.*

7 **Sec. 15.** *“Payday loan service” means any licensee engaged*
8 *in the business of providing payday loans for a fee, service charge*
9 *or other consideration.*

10 **Sec. 16.** *“Title loan” means a loan made to a customer who*
11 *secures the loan with the title to a motor vehicle.*

12 **Sec. 17.** *“Title loan service” means any licensee engaged in*
13 *the business of providing title loans for a fee, service charge or*
14 *other consideration.*

15 **Sec. 18.** *1. The provisions of this chapter must be*
16 *interpreted so as to effectuate their general purpose to provide for,*
17 *to the extent practicable, uniform regulation of the loans and*
18 *transactions that are subject to the provisions of this chapter.*

19 *2. If there is a conflict between the provisions of this chapter*
20 *and the provisions of any other general law regulating loans and*
21 *similar transactions, the provisions of this chapter control.*

22 **Sec. 19.** *This chapter or any part thereof may be modified,*
23 *amended or repealed so as to effect a cancellation or alteration of*
24 *any license or right of a licensee under this chapter, provided that*
25 *such cancellation or alteration shall not impair or affect the*
26 *obligation of any preexisting lawful loan agreement between any*
27 *licensee and any customer.*

28 **Sec. 20.** *The provisions of this chapter do not apply to:*

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

34 *2. A person licensed to make installment loans pursuant to*
35 *chapter 675 of NRS, if the Commissioner determines that the*
36 *person is not subject to the provisions of this chapter.*

37 *3. A person who is primarily engaged in the retail sale of*
38 *goods or services who:*

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

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

43 *4. A person while performing any act authorized by a license*
44 *issued pursuant to chapter 671 of NRS.*



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

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

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

9 8. A pawnbroker, unless the pawnbroker operates a check-
10 cashing service, deferred deposit loan service, payday loan service
11 or title loan service.

12 9. A real estate investment trust, as defined in 26 U.S.C. §
13 856.

14 10. An employee benefit plan, as defined in 29 U.S.C. §
15 1002(3), if the loan is made directly from money in the plan by the
16 plan's trustee.

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

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

23 13. Any firm or corporation:

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

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

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

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

32 15. A seller of real property who offers credit secured by a
33 mortgage of the property sold.

34 **Sec. 21.** 1. The Commissioner shall adopt by regulation a
35 definition of the term:

36 (a) "Motor vehicle" as that term is used in the definition of
37 "title loan" for this chapter.

38 (b) "Payday loan," including, without limitation, regulations
39 that define a payday loan as a loan made by a licensee to a
40 customer who secures the loan with a promissory note.

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

43 **Sec. 22.** 1. Except as otherwise provided in section 23 of
44 this act, each application for a license pursuant to the provisions
45 of this chapter must be accompanied by a surety bond payable to



1 *the State of Nevada in the amount of \$50,000 for the use and*
2 *benefit of any customer receiving the services of the licensee.*

3 *2. The bond must be in a form satisfactory to the*
4 *Commissioner, issued by a bonding company authorized to do*
5 *business in this State and must secure the faithful performance of*
6 *the obligations of the licensee respecting the provision of the*
7 *services.*

8 *3. A licensee shall, within 10 days after the commencement of*
9 *any action or notice of entry of any judgment against him by any*
10 *creditor or claimant arising out of business regulated by this*
11 *chapter give notice thereof to the Commissioner by certified mail*
12 *with details sufficient to identify the action or judgment. The*
13 *surety shall, within 10 days after it pays any claim or judgment to*
14 *a creditor or claimant, give notice thereof to the Commissioner by*
15 *certified mail with details sufficient to identify the creditor or*
16 *claimant and the claim or judgment so paid.*

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

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

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

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

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

31 *(a) The death of the licensee or the dissolution or liquidation*
32 *of his business; or*

33 *(b) The termination of the bond,*
34 *↪ whichever event occurs first.*

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

42 **Sec. 23.** *1. In lieu of any surety bond, or any portion of the*
43 *principal sum thereof as required pursuant to the provisions of*
44 *this chapter, a licensee may deposit with the State Treasurer or*
45 *with any bank, credit union or trust company authorized to do*



1 *business in this State as the licensee may select, with the approval*
2 *of the Commissioner:*

3 *(a) Interest-bearing stocks;*

4 *(b) Bills, bonds, notes, debentures or other obligations of the*
5 *United States or any agency or instrumentality thereof, or*
6 *guaranteed by the United States; or*

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

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

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

17 **Sec. 24. 1.** *Except as otherwise provided in subsection 3, an*
18 *officer or employee of the Division of Financial Institutions of the*
19 *Department of Business and Industry shall not:*

20 *(a) Be directly or indirectly interested in or act on behalf of*
21 *any licensee;*

22 *(b) Receive, directly or indirectly, any payment from any*
23 *licensee;*

24 *(c) Be indebted to any licensee;*

25 *(d) Engage in the negotiation of loans for others with any*
26 *licensee; or*

27 *(e) Obtain credit or services from a licensee conditioned upon*
28 *a fraudulent practice or undue or unfair preference over other*
29 *customers.*

30 *2. An employee of the Division of Financial Institutions in*
31 *the unclassified service of the State shall not obtain new*
32 *extensions of credit from a licensee while in office.*

33 *3. Any officer or employee of the Division of Financial*
34 *Institutions may be indebted to a licensee on the same terms as are*
35 *available to the public generally.*

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

42 **Sec. 25. 1.** *An application for a license pursuant to the*
43 *provisions of this chapter must be made in writing, under oath and*
44 *on a form prescribed by the Commissioner. The application must*
45 *include:*



1 (a) If the applicant is a natural person, the name and address
2 of the applicant.

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

5 (1) Partner;

6 (2) Officer;

7 (3) Director;

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

10 (5) Registered agent,
11 ↳ of the business entity.

12 (c) Such other information, as the Commissioner determines
13 necessary, concerning the financial responsibility, background,
14 experience and activities of the applicant and its:

15 (1) Partners;

16 (2) Officers;

17 (3) Directors; and

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

20 (d) The address of each location at which the applicant
21 proposes to do business.

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

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

27 (a) A nonrefundable application fee;

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

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

32 ↳ All money received by the Commissioner pursuant to this
33 subsection must be placed in the Investigative Account for
34 Financial Institutions created by NRS 232.545.

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

37 **Sec. 26.** A person may apply for a license for an office or
38 other place of business located outside this State from which the
39 applicant will conduct business in this State if the applicant or a
40 subsidiary or affiliate of the applicant has a license issued
41 pursuant to this chapter for an office or other place of business
42 located in this State and if the applicant submits with the
43 application for a license a statement signed by the applicant which
44 states that the applicant agrees to:



1 1. Make available at a location within this State the books,
2 accounts, papers, records and files of the office or place of
3 business located outside this State to the Commissioner or a
4 representative of the Commissioner; or

5 2. Pay the reasonable expenses for travel, meals and lodging
6 of the Commissioner or a representative of the Commissioner
7 incurred during any investigation or examination made at the
8 office or place of business located outside this State.

9 ↪ The person must be allowed to choose between the provisions of
10 subsection 1 or 2 in complying with the provisions of this section.

11 **Sec. 27.** 1. Upon the filing of the application and the
12 payment of the fees required pursuant to section 25 of this act,
13 the Commissioner shall investigate the facts concerning the
14 application and the requirements provided for in section 29 of this
15 act.

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

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

28 **Sec. 28.** If the Commissioner finds that any applicant does
29 not possess the requirements specified in this chapter, he shall:

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

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

35 **Sec. 29.** 1. The Commissioner shall enter an order granting
36 an application if he finds that the financial responsibility,
37 experience, character and general fitness of the applicant are such
38 as to command the confidence of the public and to warrant belief
39 that the business will be operated lawfully, honestly, fairly and
40 efficiently.

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

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



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

4 3. *Each licensee shall prominently display his license at the*
5 *location where he does business. Not more than one place of*
6 *business may be maintained under the same license. The*
7 *Commissioner may issue additional licenses to the same licensee*
8 *for other business locations upon compliance with all the*
9 *provisions of this chapter governing the issuance of a single*
10 *license. Nothing in this subsection requires a license for any place*
11 *of business devoted to accounting, recordkeeping or administrative*
12 *purposes only.*

13 4. *Each license shall:*

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

16 (b) *State fully:*

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

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

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

22 5. *A license is not transferable or assignable.*

23 **Sec. 30.** 1. *A license issued pursuant to the provisions of*
24 *this chapter expires annually on the anniversary of the issuance of*
25 *the license. A licensee must renew his license on or before the date*
26 *on which the license expires by paying:*

27 (a) *A renewal fee; and*

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

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

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

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

37 **Sec. 31.** 1. *A licensee shall immediately notify the*
38 *Commissioner of any change of control of the licensee.*

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



1 *satisfied, he may deny the application and forbid the applicant*
2 *from participating in the business of the licensee.*

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

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

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

9 **Sec. 32.** A licensee shall not:

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

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

21 3. Take any note or promise to pay which does not disclose
22 the date and amount of the loan, a schedule or description of the
23 payments to be made thereon and the rate or aggregate amount of
24 the interest, charges and fees negotiated and agreed to by the
25 licensee and customer.

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

29 5. Make any transaction contingent on the purchase of
30 insurance or any other goods or services.

31 6. Accept as security for a loan under this chapter an
32 assignment of wages, salary, commissions or other compensation
33 for services, whether earned or to be earned, or accept a check as
34 security for a payday loan or title loan.

35 7. Include in any written agreement:

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

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

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

40 (d) A waiver of any claim or defense arising out of the loan
41 agreement or a waiver of any provision of this chapter.

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



1 9. Commence a civil action before a customer defaults on his
2 loan pursuant to the payment plan negotiated and agreed to by the
3 licensee and customer.

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

7 11. Use or attempt to use an affiliate or agent to avoid the
8 requirements or prohibitions of this chapter.

9 12. Engage in a deceptive trade practice, including, without
10 limitation, making a false representation.

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

14 **Sec. 33.** A licensee shall not conduct the business of making
15 loans under any name or at any place other than that stated in the
16 license. Nothing in this section shall prevent the making of loans
17 by mail or prohibit accommodations to a customer when
18 necessitated by hours of employment, sickness or other emergency
19 situations.

20 **Sec. 34.** 1. Except as otherwise provided in subsection 2, a
21 licensee may not conduct the business of making loans within any
22 office, suite, room or place of business in which any other
23 business is solicited or engaged in, except an insurance agency or
24 notary public, or in association or conjunction with any other
25 business, unless authority to do so is given by the Commissioner.

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

28 (a) A mortgage broker if:

29 (1) The licensee and the mortgage broker:

30 (I) Operate as separate legal entities;

31 (II) Maintain separate accounts, books and records;

32 (III) Are subsidiaries of the same parent corporation;

33 and

34 (IV) Maintain separate licenses; and

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

39 (b) A mortgage banker if:

40 (1) The licensee and the mortgage banker:

41 (I) Operate as separate legal entities;

42 (II) Maintain separate accounts, books and records;

43 (III) Are subsidiaries of the same parent corporation;

44 and

45 (IV) Maintain separate licenses; and



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

6 **Sec. 35.** 1. *A licensee who wishes to change the address of*
7 *an office or other place of business for which he has a license*
8 *pursuant to the provisions of this chapter must, at least 10 days*
9 *before changing the address, give written notice of the proposed*
10 *change to the Commissioner.*

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

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

17 **Sec. 36.** 1. *Each licensee shall keep and use in his business*
18 *such books and accounting records as are in accord with sound*
19 *and accepted accounting practices.*

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

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

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

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

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

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

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

44 **Sec. 37.** 1. *A licensee shall post in a conspicuous place in*
45 *every location at which he conducts business under his license, a*



1 *notice that states the fees he charges for providing check-cashing*
2 *services, deferred deposit loan services, payday loan services or*
3 *title loan services.*

4 2. *If a licensee offers loans to customers through the Internet*
5 *or other electronic means, he shall post in a conspicuous place*
6 *where customers will see it before entering into a loan, a notice*
7 *that states:*

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

10 (b) *A list of states where the licensee is licensed or authorized*
11 *to offer loans through the Internet or other electronic means.*

12 **Sec. 38.** 1. *Before making any loan to a customer, a*
13 *licensee shall provide to the customer a written loan agreement*
14 *which is in English and may be kept by the customer.*

15 2. *The Commissioner shall prescribe by regulation the form*
16 *and contents of the loan agreement required pursuant to this*
17 *section. The loan agreement must include, without limitation, the*
18 *following information:*

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

20 (b) *The date of the loan;*

21 (c) *The nature of the security for the loan;*

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

25 (e) *The description or schedule of payments on the loan;*

26 (f) *A disclosure of the right of the customer to rescind a loan*
27 *pursuant to the provisions of this chapter;*

28 (g) *A disclosure of the right of the customer to pay his loan in*
29 *full or in part with no additional charge pursuant to the provisions*
30 *of this chapter;*

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

33 (i) *Disclosures required under any applicable state statute or*
34 *regulation.*

35 **Sec. 39.** *If a customer defaults on a loan, the licensee shall*
36 *collect the loan in a professional, fair and lawful manner and in*
37 *accordance with the federal Fair Debt Collection Practices Act, 15*
38 *U.S.C. §§ 1692 et seq.*

39 **Sec. 40.** *Any loan lawfully made outside this State as*
40 *permitted by the laws of the state in which the loan was made may*
41 *be collected or otherwise enforced in this State in accordance with*
42 *its terms.*

43 **Sec. 41.** 1. *If a customer is called to active duty in the*
44 *military, a licensee shall:*



1 (a) *Defer for the duration of the active duty all collection*
2 *activity against the customer; and*

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

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

8 (a) *Garnish any wages or salary paid to a customer for active*
9 *service in the military; or*

10 (b) *Contact the military chain of command of a customer in an*
11 *effort to collect the defaulted loan.*

12 3. *As used in this section, "military" means the Armed Forces*
13 *of the United States, a reserve component thereof or the National*
14 *Guard.*

15 **Sec. 42.** 1. *A person may apply to the Commissioner for an*
16 *exemption from the provisions of this chapter governing the*
17 *making of a loan.*

18 2. *The Commissioner may grant the exemption if he finds*
19 *that:*

20 (a) *The making of the loan would not be detrimental to the*
21 *financial condition of the licensee, customer or person who is*
22 *providing the money for the loan;*

23 (b) *The licensee, customer or person who is providing the*
24 *money for the loan has established a record of sound*
25 *performance, efficient management, financial responsibility and*
26 *integrity;*

27 (c) *The making of the loan is likely to increase the availability*
28 *of capital for a sector of the state economy; and*

29 (d) *The making of the loan is not detrimental to the public*
30 *interest.*

31 3. *The Commissioner:*

32 (a) *May revoke an exemption unless the loan for which the*
33 *exemption was granted has been made;*

34 (b) *Shall issue a written statement setting forth the reasons for*
35 *his decision to grant, deny or revoke an exemption; and*

36 (c) *Shall adopt regulations which provide the application*
37 *forms to be used to apply for an exemption and establish the fees*
38 *to be paid with the application.*

39 **Sec. 43.** 1. *For the purpose of discovering violations of this*
40 *chapter or of securing information lawfully required under this*
41 *chapter, the Commissioner or his duly authorized representatives*
42 *may at any time investigate the business and examine the books,*
43 *accounts, papers and records used therein of:*

44 (a) *Any licensee;*



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

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

8 2. For the purpose of examination, the Commissioner or his
9 authorized representatives shall have and be given free access to
10 the offices and places of business, and the files, safes and vaults of
11 such persons.

12 3. For the purposes of this section, any person who advertises
13 for, solicits or holds himself out as willing to make any deferred
14 deposit loan, payday loan or title loan is presumed to be engaged
15 in the business of making loans.

16 **Sec. 44.** 1. The Commissioner may require the attendance
17 of any person and examine him under oath regarding:

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

20 (b) The subject matter of any audit, examination, investigation
21 or hearing; and

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

25 **Sec. 45.** At least once each year, the Commissioner or his
26 authorized representatives shall make an examination of the place
27 of business of each licensee and of the loans, transactions, books,
28 accounts, papers and records of the licensee so far as they pertain
29 to the business for which he is licensed pursuant to the provisions
30 of this chapter.

31 **Sec. 46.** 1. The Commissioner shall charge and collect
32 from each licensee a fee of \$40 per hour for any supervision,
33 audit, examination, investigation or hearing conducted pursuant
34 to this chapter or any regulations adopted pursuant thereto.

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

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



1 **Sec. 47.** *If the Commissioner finds that probable cause for*
2 *revocation of any license exists and that enforcement of the*
3 *provisions of this chapter requires immediate suspension of a*
4 *license pending investigation, he may, upon 5 days' written notice*
5 *and a hearing, enter an order suspending a license for a period*
6 *not exceeding 20 days, pending a hearing upon the revocation.*

7 **Sec. 48.** *1. Whenever the Commissioner has reasonable*
8 *cause to believe that any person is violating or is threatening to or*
9 *intends to violate any provision of this chapter, he may, in addition*
10 *to all actions provided for in this chapter and without prejudice*
11 *thereto, enter an order requiring the person to desist or to refrain*
12 *from such violation.*

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

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

30 **Sec. 49.** *1. If the Commissioner has reason to believe that*
31 *grounds for revocation or suspension of a license exist, he shall*
32 *give 20 days' written notice to the licensee stating the*
33 *contemplated action and, in general, the grounds therefor and set*
34 *a date for a hearing.*

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

36 *(a) Enter a written order either dismissing the charges,*
37 *revoking the license, or suspending the license for a period of not*
38 *more than 60 days, which period must include any prior*
39 *temporary suspension. The Commissioner shall send a copy of the*
40 *order to the licensee by registered or certified mail.*

41 *(b) Impose upon the licensee a fine of \$500 for each violation*
42 *by the licensee of any provision of this chapter or any regulation*
43 *adopted pursuant thereto.*



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

4 3. *The grounds for revocation or suspension of a license are*
5 *that:*

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

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

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

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

15 (e) *The licensee failed to open an office for the conduct of the*
16 *business authorized by his license within 120 days after the date*
17 *his license was issued, or has failed to remain open for the*
18 *conduct of the business for a period of 120 days without good*
19 *cause therefor.*

20 4. *Any revocation or suspension applies only to the license*
21 *granted to a person for the particular office for which grounds for*
22 *revocation or suspension exist.*

23 5. *An order suspending or revoking a license becomes*
24 *effective 5 days after being entered unless the order specifies*
25 *otherwise or a stay is granted.*

26 **Sec. 50.** *A licensee may surrender any license issued*
27 *pursuant to the provisions of this chapter by delivering it to the*
28 *Commissioner with written notice of its surrender, but a surrender*
29 *does not affect his civil or criminal liability for acts committed*
30 *prior thereto.*

31 **Sec. 51.** *A revocation, suspension, expiration or surrender of*
32 *any license does not impair or affect the obligation of any*
33 *preexisting lawful loan agreement between the licensee and any*
34 *customer. Such a loan agreement and all lawful charges thereon*
35 *may be collected by the licensee, its successors or assigns.*

36 **Sec. 52.** 1. *Annually, on or before April 15, each licensee*
37 *shall file with the Commissioner a report of operations of the*
38 *licensed business for the preceding calendar year.*

39 2. *The licensee shall make the report under oath and on a*
40 *form prescribed by the Commissioner.*

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

43 **Sec. 53.** 1. *A court of this State may exercise jurisdiction*
44 *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. 54. 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 of 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. 55. In addition to any other remedy or penalty, if a licensee violates any provision of this chapter 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;

4. Reasonable attorney's fees and costs; and

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



1 **Sec. 56.** *As used in sections 56 to 69, inclusive, of this act,*
2 *unless the context otherwise requires, "licensee" means any*
3 *person who has been issued a license to operate a check-cashing*
4 *service or deferred deposit loan service.*

5 **Sec. 57.** *A person shall not operate a check-cashing service*
6 *or deferred deposit loan service unless the person is licensed with*
7 *the Commissioner pursuant to the provisions of this chapter.*

8 **Sec. 58.** *A licensee who provides check-cashing services*
9 *shall give written notice to each customer of the fees he charges*
10 *for cashing checks. The customer must sign the notice before the*
11 *licensee provides the check-cashing service.*

12 **Sec. 59. 1.** *A person shall not act as an agent for or assist a*
13 *licensee in the making of a deferred deposit loan unless the*
14 *licensee complies with all applicable federal and state laws and*
15 *regulations.*

16 **2.** *The provisions of this section do not apply to the agent or*
17 *assistant to a state or federally chartered bank, thrift company,*
18 *savings and loan association or industrial loan company if the*
19 *state or federally chartered bank, thrift company, savings and loan*
20 *association or industrial loan company:*

21 *(a) Initially advances the loan proceeds to the customer;*

22 *(b) Does not sell, assign or transfer a preponderant economic*
23 *interest in the deferred deposit loan to the agent or assistant or an*
24 *affiliate or subsidiary of the state or federally chartered bank,*
25 *thrift company, savings and loan association or industrial loan*
26 *company, unless selling, assigning or transferring a preponderant*
27 *economic interest is expressly permitted by the primary regulator*
28 *of the state or federally chartered bank, thrift company, savings*
29 *and loan association or industrial loan company; and*

30 *(c) Develops the product on its own.*

31 **3.** *If a licensee acts as an agent for or assists a state or*
32 *federally chartered bank, thrift company, savings and loan*
33 *association or industrial loan company in the making of a*
34 *deferred deposit loan and the licensee can show that the standards*
35 *set forth in subsection 2 are satisfied, the licensee must comply*
36 *with all other provisions in this chapter to the extent they are not*
37 *preempted by other state or federal law.*

38 **Sec. 60.** *A licensee shall not:*

39 **1.** *Charge any fee to cash a check which represents the*
40 *proceeds of a deferred deposit loan.*

41 **2.** *Make more than one deferred deposit loan to the same*
42 *customer at one time.*

43 **3.** *Accept more than one check or authorization for the*
44 *electronic transfer of money for each deferred deposit loan.*

45 **4.** *Accept any collateral for a deferred deposit loan.*



1 **Sec. 61. 1.** *A customer may rescind a deferred deposit loan*
2 *on or before the close of business on the next day of business at*
3 *the location where the deferred deposit loan was initiated. To*
4 *rescind the deferred deposit loan, the customer must deliver to the*
5 *licensee:*

6 *(a) A sum of money equal to the face value of the check or the*
7 *amount specified in the written authorization for an electronic*
8 *transfer of money which the customer gave to the licensee to*
9 *initiate the deferred deposit loan, less any fee charged to the*
10 *customer to initiate the deferred deposit loan; or*

11 *(b) The original check, if any, which the licensee gave to the*
12 *customer pursuant to the deferred deposit loan. Upon receipt of*
13 *the original check, the licensee shall refund any fee charged to the*
14 *customer to initiate the deferred deposit loan.*

15 **2.** *If a customer rescinds a deferred deposit loan pursuant to*
16 *this section, the licensee:*

17 *(a) Shall not charge the customer any fee for rescinding the*
18 *deferred deposit loan; and*

19 *(b) Upon receipt of the sum of money or check pursuant to*
20 *subsection 1, shall:*

21 *(1) Return to the customer the check or written*
22 *authorization for the electronic transfer of money which the*
23 *customer gave to the licensee to initiate the deferred deposit loan;*
24 *and*

25 *(2) Give to the customer a receipt showing the account paid*
26 *in full.*

27 **Sec. 62. 1.** *A customer may pay his deferred deposit loan in*
28 *full at any time, without an additional charge or fee, before the*
29 *date his final payment on the loan is due as set forth in the loan*
30 *agreement.*

31 **2.** *If a customer pays the deferred deposit loan in full,*
32 *including all interest, charges and fees negotiated and agreed to*
33 *by the licensee and customer, the licensee shall:*

34 *(a) Return to the customer the check or written authorization*
35 *for the electronic transfer of money which the customer gave to*
36 *the licensee to initiate the deferred deposit loan; and*

37 *(b) Give to the customer a receipt with the following*
38 *information:*

39 *(1) The name and address of the licensee;*

40 *(2) The identification number assigned to the loan*
41 *agreement;*

42 *(3) The date of the payment;*

43 *(4) The amount paid;*

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

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



1 (7) *If more than one deferred deposit loan was outstanding*
2 *at the time the payment was made, a statement indicating to which*
3 *loan the payment was applied.*

4 **Sec. 63.** 1. *A customer may make a partial payment on his*
5 *deferred deposit loan at any time without an additional charge or*
6 *fee.*

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

9 (a) *The name and address of the licensee;*

10 (b) *The identification number assigned to the loan agreement;*

11 (c) *The date of the payment;*

12 (d) *The amount paid;*

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

14 (f) *The balance due on the loan; and*

15 (g) *If more than one deferred deposit loan was outstanding at*
16 *the time the payment was made, a statement indicating to which*
17 *loan the payment was applied.*

18 **Sec. 64.** 1. *If a customer defaults on an original deferred*
19 *deposit loan, the licensee shall provide, not later than 3 business*
20 *days after the date of default, written notice to the customer that*
21 *the customer has the right to enter into a repayment plan. The*
22 *written notice must clearly explain in English that:*

23 (a) *To enter into a repayment plan, the customer and licensee*
24 *must sign a written agreement;*

25 (b) *The licensee shall not charge the customer any fees or*
26 *costs to enter into the repayment plan, including, without*
27 *limitation, collection fees, transaction fees, late fees and postage*
28 *costs;*

29 (c) *To repay the outstanding loan, the customer:*

30 (1) *Must make all payments within 8 weeks after the date of*
31 *default of the original loan; and*

32 (2) *May make three or more payments over that period; and*

33 (d) *If the customer does not repay the outstanding loan within*
34 *8 weeks after the date of default of the original loan, the licensee*
35 *may:*

36 (1) *If the customer gave to the licensee a check to initiate*
37 *the deferred deposit loan, deposit the check; or*

38 (2) *If the customer gave to the licensee a written*
39 *authorization for an electronic transfer of money to initiate the*
40 *deferred deposit loan, execute the electronic transfer of money for*
41 *the amount specified in the written authorization.*

42 2. *The written agreement establishing the repayment plan*
43 *must contain the following information:*

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



1 (b) *The identification number assigned to the original loan*
2 *agreement;*

3 (c) *The balance due on the outstanding loan;*

4 (d) *The interest, charges and fees accrued before the date of*
5 *default;*

6 (e) *The interest rate being charged on the outstanding loan;*

7 (f) *The date each payment is due; and*

8 (g) *The date by which the customer must make the final*
9 *payment to comply with paragraph (c) of subsection 1.*

10 3. *As used in this section, "business day" means any day the*
11 *licensee is open for business at the location where the customer*
12 *entered into the deferred deposit loan.*

13 **Sec. 65.** *If a customer agrees to establish or extend the*
14 *period for the repayment, renewal, refinancing or consolidation of*
15 *an outstanding deferred deposit loan by using the proceeds of a*
16 *new loan to pay the balance of the outstanding loan, the licensee*
17 *shall not establish or extend such a period beyond 8 weeks after*
18 *the date of default on the original loan.*

19 **Sec. 66.** 1. *If a customer defaults on a deferred deposit*
20 *loan, or on any extension thereof, whichever is later, the licensee*
21 *may collect only the following amounts from the customer:*

22 (a) *The principal of the loan;*

23 (b) *The interest, charges and fees accrued before the date of*
24 *default;*

25 (c) *Any fees imposed pursuant to section 68 of this act; and*

26 (d) *After the date of default, a rate of interest not to exceed the*
27 *prime rate at the largest bank in Nevada, as ascertained by the*
28 *Commissioner, on January 1 or July 1, as the case may be,*
29 *immediately preceding the date of default, plus 10 percent, upon*
30 *all money from the date of default.*

31 2. *After the date of default, the licensee shall not charge the*
32 *customer any other fees or costs, including, without limitation,*
33 *collection fees, transaction fees, late fees and postage costs.*

34 **Sec. 67.** 1. *A licensee who provides a cash loan to a*
35 *customer shall not charge the customer who defaults on the loan*
36 *an amount of interest and other fees which exceeds the amount of*
37 *the principal loaned to the customer.*

38 2. *For the first 8 weeks of the loan, the licensee may charge*
39 *the customer an interest rate agreed upon in writing by the*
40 *customer and licensee.*

41 3. *After 8 weeks, the licensee shall not charge the customer:*

42 (a) *A rate of interest which exceeds the prime rate at the*
43 *largest bank in Nevada, as ascertained by the Commissioner, on*
44 *January 1 or July 1, as the case may be, immediately preceding*
45 *the date of the loan, plus 10 percent; and*



1 (b) Any other fees or costs, including, without limitation,
2 collection fees, transaction fees, late fees and postage costs.

3 **Sec. 68. 1.** If a customer gives to a licensee a check or a
4 written authorization for an electronic transfer of money to
5 initiate a deferred deposit loan, the licensee may collect a fee of
6 not more than \$25 if the check is not paid upon presentment or the
7 written authorization for an electronic transfer of money cannot
8 be executed because the account of the customer:

9 (a) Contains insufficient funds;

10 (b) Contains an order to stop payment on that check or
11 electronic transfer of money;

12 (c) Has been closed; or

13 (d) Denies payment for any other similar reason.

14 2. The licensee may collect only two fees of \$25 each
15 regardless of the number of times the check is presented for
16 payment or the electronic transfer of money is attempted if the
17 account of the customer contains insufficient funds.

18 3. The licensee may collect only one fee of \$25 regardless of
19 the number of times the check is presented for payment or the
20 electronic transfer of money is attempted if the account of the
21 customer:

22 (a) Contains an order to stop payment on that check or
23 electronic transfer of money;

24 (b) Has been closed; or

25 (c) Denies payment for any other similar reason.

26 4. A customer is not liable for damages pursuant to NRS
27 41.620 or to criminal prosecution for a violation of chapter 205 of
28 NRS unless the customer acted fraudulently or with criminal
29 intent.

30 **Sec. 69.** The Commissioner may establish by regulation the
31 fees that a licensee who provides check-cashing services may
32 impose for cashing checks.

33 **Sec. 70.** As used in sections 70 to 77, inclusive, of this act,
34 unless the context otherwise requires, "licensee" means a person
35 who has been issued a license to operate a payday loan service.

36 **Sec. 71.** A person shall not operate a payday loan service
37 unless the person is licensed with the Commissioner pursuant to
38 the provisions of this chapter.

39 **Sec. 72. 1.** A customer may rescind a payday loan on or
40 before the close of business on the next day of business at the
41 location where the payday loan was initiated. To rescind the
42 payday loan, the customer must deliver to the licensee:

43 (a) A sum of money equal to the face value of the promissory
44 note which the customer gave to the licensee to initiate the payday



1 *loan, less any fee charged to the customer to initiate the payday*
2 *loan; or*

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

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

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

11 *(b) Upon receipt of the sum of money or check pursuant to*
12 *subsection 1, shall return to the customer:*

13 *(1) The promissory note; and*

14 *(2) A receipt showing the account paid in full.*

15 **Sec. 73.** *1. A customer may pay his payday loan in full at*
16 *any time, without an additional charge or fee, before the date his*
17 *final payment on the loan is due as set forth in the loan*
18 *agreement.*

19 *2. If a customer pays the payday loan in full, including all*
20 *interest, charges and fees negotiated and agreed to by the licensee*
21 *and customer, the licensee shall:*

22 *(a) Return the promissory note which the customer gave to the*
23 *licensee to initiate the payday loan; and*

24 *(b) Give to the customer a receipt with the following*
25 *information:*

26 *(1) The name and address of the licensee;*

27 *(2) The identification number assigned to the loan*
28 *agreement;*

29 *(3) The date of the payment;*

30 *(4) The amount paid;*

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

32 *(6) A statement that the payday loan is paid in full; and*

33 *(7) If more than one payday loan was outstanding at the*
34 *time the payment was made, a statement indicating to which*
35 *payday loan the payment was applied.*

36 **Sec. 74.** *1. A customer may make a partial payment on his*
37 *payday loan at any time without a charge or fee.*

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

40 *(a) The name and address of the licensee;*

41 *(b) The identification number assigned to the payday loan*
42 *agreement;*

43 *(c) The date of the payment;*

44 *(d) The amount paid;*

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



- 1 (f) *The balance due on the payday loan; and*
2 (g) *If more than one payday loan was outstanding at the time*
3 *the payment was made, a statement indicating to which loan the*
4 *payment was applied.*

5 **Sec. 75. 1.** *If a customer defaults on an original payday*
6 *loan, the licensee shall provide, not later than 3 business days*
7 *after the date of default, written notice to the customer that the*
8 *customer has the right to enter into a repayment plan. The written*
9 *notice must clearly explain in English that:*

10 (a) *To enter into a repayment plan, the customer and licensee*
11 *must sign a written agreement;*

12 (b) *The licensee shall not charge the customer any fees or*
13 *costs to enter into the repayment plan, including, without*
14 *limitation, collection fees, transaction fees, late fees and postage*
15 *costs;*

16 (c) *To repay the outstanding loan, the customer:*

17 (1) *Must make all payments within 8 weeks after the date of*
18 *default of the original loan; and*

19 (2) *May make three or more payments over that period; and*

20 (d) *If the customer does not repay the outstanding loan within*
21 *8 weeks after the date of default of the original loan, the licensee*
22 *may execute the promissory note which the customer gave to the*
23 *licensee to initiate the payday loan.*

24 **2.** *The written agreement establishing the repayment plan*
25 *must contain the following information:*

26 (a) *The name and address of the licensee;*

27 (b) *The identification number assigned to the original loan*
28 *agreement;*

29 (c) *The balance due on the outstanding loan;*

30 (d) *The interest, charges and fees accrued before the date of*
31 *default;*

32 (e) *The interest rate being charged on the outstanding loan;*

33 (f) *The date each payment is due; and*

34 (g) *The date by which the customer must make the final*
35 *payment to comply with paragraph (c) of subsection 1.*

36 **3.** *As used in this section, "business day" means any day the*
37 *licensee is open for business at the location where the customer*
38 *entered into the payday loan.*

39 **Sec. 76.** *If a customer agrees to establish or extend the*
40 *period for the repayment, renewal, refinancing or consolidation of*
41 *an outstanding payday loan by using the proceeds of a new loan to*
42 *pay the balance of the outstanding loan, the licensee shall not*
43 *establish or extend such a period beyond 8 weeks after the date of*
44 *default on the original loan.*



1 **Sec. 77. 1. If a customer defaults on a payday loan, or on**
2 **any extension thereof, whichever is later, the licensee may collect**
3 **only the following amounts from the customer:**

4 **(a) The principal of the loan;**

5 **(b) The interest, charges and fees accrued before the date of**
6 **default; and**

7 **(c) After the date of default, a rate of interest not to exceed the**
8 **prime rate at the largest bank in Nevada, as ascertained by the**
9 **Commissioner, on January 1 or July 1, as the case may be,**
10 **immediately preceding the date of default, plus 10 percent, upon**
11 **all money from the date of default.**

12 **2. After the date of default, the licensee shall not charge the**
13 **customer any other fees or costs, including, without limitation,**
14 **collection fees, transaction fees, late fees and postage costs.**

15 **Sec. 78. As used in sections 78 to 86, inclusive, of this act,**
16 **unless the context otherwise requires, "licensee" means a person**
17 **who has been issued a license to operate a title loan service.**

18 **Sec. 79. A person shall not operate a title loan service unless**
19 **the person is licensed with the Commissioner pursuant to the**
20 **provisions of this chapter.**

21 **Sec. 80. A licensee shall not:**

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

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

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

30 **(a) The person has provided the licensee with true and correct**
31 **information concerning the customer's income, obligations and**
32 **employment; and**

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

34 **Sec. 81. 1. A customer may rescind a title loan on or before**
35 **the close of business on the next day of business at the location**
36 **where the title loan was initiated. To rescind the title loan, the**
37 **customer must deliver to the licensee:**

38 **(a) A sum of money equal to the value of the title loan, less any**
39 **fee charged to the customer to initiate the title loan; or**

40 **(b) The original check, if any, which the licensee gave to the**
41 **customer pursuant to the title loan. Upon receipt of the original**
42 **check, the licensee shall refund any fee charged to the customer to**
43 **initiate the title loan.**

44 **2. If a customer rescinds a title loan pursuant to this section,**
45 **the licensee:**



1 (a) Shall not charge the customer any fee for rescinding the
2 title loan; and

3 (b) Upon receipt of the sum of money or check pursuant to
4 subsection 1, shall return to the customer:

5 (1) The title of the motor vehicle which the customer gave
6 to the licensee to initiate the title loan; and

7 (2) A receipt showing the account paid in full.

8 **Sec. 82.** 1. A customer may pay his title loan in full at any
9 time, without an additional charge or fee, before the date his final
10 payment on the loan is due as set forth in the loan agreement.

11 2. If a customer pays the title loan in full, including all
12 interest, charges and fees negotiated and agreed to by the licensee
13 and customer, the licensee shall:

14 (a) Return the motor vehicle title which the customer gave to
15 the licensee to initiate the title loan; and

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

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

19 (2) The identification number assigned to the loan
20 agreement;

21 (3) The date of the payment;

22 (4) The amount paid;

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

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

25 (7) If more than one title loan was outstanding at the time
26 the payment was made, a statement indicating to which title loan
27 the payment was applied.

28 **Sec. 83.** 1. A customer may make a partial payment on his
29 title loan at any time without a charge or fee.

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

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

33 (b) The identification number assigned to the loan agreement;

34 (c) The date of the payment;

35 (d) The amount paid;

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

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

38 (g) If more than one title loan was outstanding at the time the
39 payment was made, a statement indicating to which title loan the
40 payment was applied.

41 **Sec. 84.** 1. If a customer defaults on an original title loan,
42 the licensee shall provide, not later than 3 business days after the
43 date of default, written notice to the customer that the customer
44 has the right to enter into a repayment plan. The written notice
45 must clearly explain in English that:



1 (a) *To enter into a repayment plan, the customer and licensee*
2 *must sign a written agreement;*

3 (b) *The licensee shall not charge the customer any fees or*
4 *costs to enter into the repayment plan, including, without*
5 *limitation, collection fees, transaction fees, late fees and postage*
6 *costs;*

7 (c) *To repay the outstanding loan, the customer:*

8 (1) *Must make all payments within 8 weeks after the date of*
9 *default of the original loan; and*

10 (2) *May make three or more payments over that period; and*
11 (d) *If the customer does not repay the outstanding loan within*
12 *8 weeks after the date of default of the original loan, the licensee*
13 *may repossess and sell the motor vehicle which the customer used*
14 *to secure the title loan.*

15 2. *The written agreement establishing the repayment plan*
16 *must contain the following information:*

17 (a) *The name and address of the licensee;*

18 (b) *The identification number assigned to the original loan*
19 *agreement;*

20 (c) *The balance due on the outstanding loan;*

21 (d) *The interest, charges and fees accrued before the date of*
22 *default;*

23 (e) *The interest rate being charged on the outstanding loan;*

24 (f) *The date each payment is due; and*

25 (g) *The date by which the customer must make the final*
26 *payment to comply with paragraph (c) of subsection 1.*

27 3. *As used in this section, "business day" means any day the*
28 *licensee is open for business at the location where the customer*
29 *entered into the title loan.*

30 **Sec. 85.** *If a customer agrees to establish or extend the*
31 *period for the repayment, renewal, refinancing or consolidation of*
32 *an outstanding title loan by using the proceeds of a new loan to*
33 *pay the balance of the outstanding loan, the licensee shall not*
34 *establish or extend such a period beyond 8 weeks after the date of*
35 *default on the original loan.*

36 **Sec. 86.** 1. *Except as otherwise provided in this section, if a*
37 *customer defaults on a title loan, the sole remedy of the licensee is*
38 *to seek repossession and sale of the motor vehicle which the*
39 *customer used to secure the title loan. The licensee may not*
40 *pursue the customer personally for:*

41 (a) *Payment of the loan; or*

42 (b) *Any deficiency after repossession and sale of the motor*
43 *vehicle which the customer used to secure the title loan.*

44 2. *After repossession and sale of the motor vehicle securing*
45 *the title loan, the licensee shall return to the customer any*



1 *proceeds from the sale of the motor vehicle which exceed the*
2 *amount owed on the title loan.*

3 3. *If a customer uses fraud to secure a title loan, the licensee*
4 *may bring a civil action against the customer for any or all of the*
5 *following relief:*

6 (a) *The amount of the loan obligation, including, without*
7 *limitation, the aggregate amount of the interest, charges and fees*
8 *negotiated and agreed to by the licensee and customer;*

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

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

12 4. *As used in this section, "fraud" means an intentional*
13 *misrepresentation, deception or concealment of a material fact*
14 *known to the customer with the intent to deprive the licensee of his*
15 *rights or property or to otherwise injure the licensee. The term*
16 *includes giving to a licensee as security for a title loan the title to a*
17 *motor vehicle which does not belong to the customer.*

18 **Sec. 87.** NRS 232.545 is hereby amended to read as follows:

19 232.545 1. An Investigative Account for Financial
20 Institutions is hereby created in the State General Fund. The
21 Account consists of money which is:

22 (a) Received by the Department of Business and Industry in
23 connection with the licensing of financial institutions and the
24 investigation of persons associated with those institutions; and

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

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

29 (a) In investigating applications for licensing of financial
30 institutions and in investigating persons associated with those
31 institutions;

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

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

36 3. As used in this section, "financial institution" means an
37 institution for which licensing or registration is required by the
38 provisions of titles 55 and 56 ~~[and chapters 604 and 649]~~ of NRS ~~[]~~
39 *, chapter 649 of NRS and sections 2 to 86, inclusive, of this act.*

40 **Sec. 88.** NRS 363A.050 is hereby amended to read as follows:

41 363A.050 1. Except as otherwise provided in subsection 2,
42 "financial institution" means:

43 (a) An institution licensed, registered or otherwise authorized to
44 do business in this State pursuant to the provisions of *title 55 or 56*
45 *of NRS or* chapter ~~[604,]~~ 645B, 645E or 649 of NRS or ~~[title 55 or~~



1 ~~56 of NRS,]~~ *sections 2 to 86, inclusive, of this act*, or a similar
2 institution chartered or licensed pursuant to federal law and doing
3 business in this State;

4 (b) Any person primarily engaged in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (15) Owning or leasing franchises, patents and copyrights
45 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. 89. 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 645, 645A, 645C, 645E or 649 of NRS or ~~title 55 or 56 of NRS~~ sections 2 to 86, inclusive, of this act.*

Sec. 90. 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 86, 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;



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

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

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

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

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

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

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

16 2. The Commissioner shall determine the total amount of all
17 assessments to be collected from the entities identified in subsection
18 1, but that amount must not exceed the amount necessary to recover
19 the cost of legal services provided by the Attorney General to the
20 Commissioner and to the Division of Financial Institutions. The
21 total amount of all assessments collected must be reduced by any
22 amounts collected by the Commissioner from an entity for the
23 recovery of the costs of legal services provided by the Attorney
24 General in a specific case.

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

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

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

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

37 5. Money collected by the Commissioner pursuant to this
38 section must be deposited in the State Treasury pursuant to the
39 provisions of NRS 658.091.

40 **Sec. 91.** NRS 675.040 is hereby amended to read as follows:

41 675.040 This chapter does not apply to:

42 1. A person doing business under the authority of any law of
43 this State or of the United States relating to banks, savings banks,
44 trust companies, savings and loan associations, credit unions,



1 development corporations, mortgage brokers, mortgage bankers,
2 thrift companies, pawnbrokers or insurance companies.

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

4 3. An employee benefit plan, as defined in 29 U.S.C. §
5 1002(3), if the loan is made directly from money in the plan by the
6 plan's trustee.

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

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

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

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

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

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

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

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

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

27 ***10. A person licensed to do business pursuant to sections 2 to***
28 ***86, inclusive, of this act.***

29 **Sec. 92.** NRS 675.060 is hereby amended to read as follows:

30 675.060 1. No person may engage in the business of lending
31 in this State without first having obtained a license from the
32 Commissioner ***pursuant to this chapter or sections 2 to 86,***
33 ***inclusive, of this act*** for each office or other place of business at
34 which the person engages in such business.

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

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

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

43 **Sec. 93.** NRS 604.010, 604.020, 604.030, 604.040, 604.050.
44 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120,



- 1 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166,
2 604.170, 604.180 and 604.190 are hereby repealed.
- 3 **Sec. 94.** If, on October 1, 2005, a person:
- 4 1. Holds a valid license or certificate of registration that was
5 issued by the Commissioner of Financial Institutions pursuant to
6 chapter 604 or 675 of NRS before October 1, 2005; and
- 7 2. Satisfies the definition of “licensee” as set forth in the
8 amendatory provisions of section 12 of this act,
9 ➔ the person shall be deemed to hold a valid license issued by the
10 Commissioner of Financial Institutions pursuant to the amendatory
11 provisions of sections 2 to 86, inclusive, of this act.

LEADLINES OF REPEALED SECTIONS

- 604.010 Definitions.
- 604.020 “Cashing” defined.
- 604.030 “Check” defined.
- 604.040 “Check-cashing service” defined.
- 604.050 “Commissioner” defined.
- 604.060 “Deferred deposit” defined.
- 604.070 “Deferred deposit service” defined.
- 604.080 “Licensee” defined.
- 604.090 Registration required; applicability of chapter.
- 604.100 Application for registration: Contents; fee.
- 604.110 Surety bond.
- 604.120 Deposit of securities in lieu of surety bond.
- 604.130 Certificate of registration: Issuance; form and size;
contents; display.
- 604.140 Expiration and renewal of certificate of
registration.
- 604.150 Change of control of licensee: Notification and
application to Commissioner.
- 604.160 Licensee to post and give written notice of fees
charged; signature of customer required on notice.
- 604.162 Limitations on fees for check not paid upon
presentment because of insufficient funds.
- 604.164 Licensee deferring deposits to provide each
customer with written agreement; contents.
- 604.166 Licensee may pursue collection proceedings upon
default on loan made in form of deferred deposit; charges and
interest.
- 604.170 Regulations.



604.180 Prohibited acts by licensee relating to deferred deposit.

604.190 Commissioner to charge licensee fee for supervision, examination, audit, investigation or hearing; billing and payment; penalty for late payment; failure to pay grounds for revocation of certificate of registration.



