

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

MARCH 24, 2005

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JOINT SPONSORS: SENATORS CARE AND HORSFORD

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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.

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

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AN ACT relating to financial services; revising the standards and procedures for the licensing and regulation of check-cashing services, deferred deposit loan services, certain short-term loan services and title loan services; repealing provisions governing check-cashing services and deferred deposit loans to conform with the revised standards and procedures; revising provisions relating to certain unfair lending practices; providing remedies and administrative penalties; and providing other matters properly relating thereto.

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 74, inclusive, of this act.

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



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

4     **(a) Is automated;**

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

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

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

17     **Sec. 3. “Cashing” means providing currency or a negotiable**  
18 *instrument in exchange for a check.*

19     **Sec. 4. 1. “Check” means:**

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

22     **(b) A cashier’s check or teller’s check.**

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

25     **Sec. 5. “Check-cashing service” means any person engaged**  
26 *in the business of cashing checks for a fee, service charge or other*  
27 *consideration.*

28     **Sec. 6. “Commissioner” means the Commissioner of**  
29 *Financial Institutions.*

30     **Sec. 7. “Customer” means any person who receives or**  
31 *attempts to receive check-cashing services, deferred deposit loan*  
32 *services, short-term loan services or title loan services from*  
33 *another person.*

34     **Sec. 8. 1. “Default” means the failure of a customer to:**

35     **(a) Make a scheduled payment on a loan on or before the due**  
36 *date for the payment under the terms of a lawful loan agreement*  
37 *and any grace period that complies with the provisions of section*  
38 *23 of this act or under the terms of any lawful extension or*  
39 *repayment plan relating to the loan and any grace period that*  
40 *complies with the provisions of section 23 of this act; or*

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

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



1       (2) *The due date of any lawful extension or repayment plan*  
2 *relating to the loan and any grace period that complies with the*  
3 *provisions of section 23 of this act, provided that the due date of*  
4 *the extension or repayment plan does not violate the provisions of*  
5 *this chapter.*

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

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

10       1. *A customer tenders to another person:*

11       (a) *A personal check drawn upon the account of the customer;*  
12 *or*

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

15       2. *The other person:*

16       (a) *Provides to the customer an amount of money that is equal*  
17 *to the face value of the check or the amount specified in the*  
18 *written authorization for an electronic transfer of money, less any*  
19 *fee charged for the transaction; and*

20       (b) *Agrees, for a specified period, not to cash the check or*  
21 *execute an electronic transfer of money for the amount specified*  
22 *in the written authorization.*

23       **Sec. 10.** *"Deferred deposit loan service" means any person*  
24 *engaged in the business of making deferred deposit loans for a fee,*  
25 *service charge or other consideration.*

26       **Sec. 11.** *"Electronic transfer of money" means any transfer*  
27 *of money, other than a transaction initiated by a check or other*  
28 *similar instrument, that is initiated through an electronic terminal,*  
29 *telephone, computer or magnetic tape for the purpose of ordering,*  
30 *instructing or authorizing a financial institution to debit or credit*  
31 *an account.*

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

36       2. *The term does not include a grace period.*

37       **Sec. 13.** *"Grace period" means any period of deferment*  
38 *offered gratuitously by a licensee to a customer if the licensee*  
39 *complies with the provisions of section 23 of this act.*

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

44       **Sec. 15.** *"Loan" means any deferred deposit loan, short-term*  
45 *loan or title loan, or any extension or repayment plan relating to*



1 *such a loan, made at any location or through any method,*  
2 *including, without limitation, at a kiosk, through the Internet,*  
3 *through any telephone, facsimile machine or other*  
4 *telecommunication device or through any other machine, network,*  
5 *system, device or means.*

6 **Sec. 15.5.** *“Refund anticipation loan” means a loan offered*  
7 *or made to a taxpayer by a lender or through a facilitator based on*  
8 *the taxpayer’s anticipated federal income tax refund.*

9 **Sec. 16.** *“Regulation Z” means the federal regulations, as*  
10 *amended, 12 C.F.R. Part 226, adopted pursuant to the Truth in*  
11 *Lending Act and commonly known as Regulation Z.*

12 **Sec. 17. 1.** *“Short-term loan” means a loan made to a*  
13 *customer pursuant to a loan agreement which, under its original*  
14 *terms:*

15 (a) *Charges an annual percentage rate of more than 40*  
16 *percent; and*

17 (b) *Requires the loan to be paid in full in less than 1 year.*

18 **2.** *The term does not include:*

19 (a) *A deferred deposit loan;*

20 (b) *A title loan; or*

21 (c) *A refund anticipation loan.*

22 **Sec. 18.** *“Short-term loan service” means any person*  
23 *engaged in the business of providing short-term loans for a fee,*  
24 *service charge or other consideration.*

25 **Sec. 19. 1.** *“Title loan” means a loan made to a customer*  
26 *pursuant to a loan agreement which, under its original terms:*

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

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

35 **2.** *The term does not include:*

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

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

41 **Sec. 20.** *“Title loan service” means any person engaged in*  
42 *the business of providing title loans for a fee, service charge or*  
43 *other consideration.*

44 **Sec. 21.** *“Title to a vehicle” or “title” means a certificate of*  
45 *title or ownership issued pursuant to the laws of this State that*



1 identifies the legal owner of a vehicle or any similar document  
2 issued pursuant to the laws of another jurisdiction.

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

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

8 2. *The term includes, without limitation:*

- 9 (a) *Passenger vehicles;*  
10 (b) *Recreational vehicles; and*  
11 (c) *House trailers and travel trailers.*

12 3. *The term does not include:*

- 13 (a) *Farm vehicles;*  
14 (b) *Vehicles of a common or contract carrier;*  
15 (c) *Commercial vehicles;*  
16 (d) *Construction vehicles;*  
17 (e) *Military vehicles;*  
18 (f) *Vehicles used exclusively upon stationary rails or tracks; or*  
19 (g) *Any other vehicles which are similar in nature to the*  
20 *vehicles listed in paragraphs (a) to (f), inclusive, and which the*  
21 *Commissioner, by regulation, excludes from the definition of*  
22 *“vehicle.”*

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

- 26 (a) *“Amount financed.”*  
27 (b) *“Annual percentage rate.”*  
28 (c) *“Finance charge.”*  
29 (d) *“Payment schedule.”*  
30 (e) *“Total of payments.”*

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

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

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

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



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

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

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

10       **Sec. 25.** This chapter or any part thereof may be modified,  
11       amended or repealed by the Legislature so as to effect a  
12       cancellation or alteration of any license or right of a licensee  
13       under this chapter, provided that such cancellation or alteration  
14       shall not impair or affect the obligation of any preexisting lawful  
15       loan agreement between any licensee and any customer.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

12       12. Any firm or corporation:

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

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

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

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

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

23       15. A person who makes a refund anticipation loan, unless  
24 the person operates a check-cashing service, deferred deposit loan  
25 service, short-term loan service or title loan service.

26       **Sec. 28. 1.** The Commissioner may establish by regulation  
27 the fees that a licensee who provides check-cashing services may  
28 impose for cashing checks.

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

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

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

44       3. A person shall not operate a deferred deposit loan service  
45 or short-term loan service through any automated loan machine,





1 *and the Commissioner shall not issue a license that authorizes the*  
2 *licensee to conduct business through any automated loan*  
3 *machine.*

4 **Sec. 30.** 1. *A licensee shall post in a conspicuous place in*  
5 *every location at which he conducts business under his license:*

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

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

12 *↪ The Commissioner shall adopt regulations prescribing the form*  
13 *and size of the notices required by this subsection.*

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

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

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

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

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

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

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

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

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

40 (b) *The nature of the security for the loan, if any;*

41 (c) *The date and amount of the loan, amount financed, annual*  
42 *percentage rate, finance charge, total of payments, payment*  
43 *schedule and a description and the amount of every fee charged,*  
44 *regardless of the name given to the fee and regardless of whether*





1 *the fee is required to be included in the finance charge under the*  
2 *Truth in Lending Act and Regulation Z;*

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

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

8 *(f) A disclosure stating that, if the customer defaults on the*  
9 *loan, the customer has the opportunity within 30 days of the date*  
10 *of default to enter into a repayment plan with a term of at least 90*  
11 *days, and that the licensee must offer the repayment plan to the*  
12 *customer before the licensee commences any civil action or*  
13 *process of alternative dispute resolution or, if appropriate for the*  
14 *loan, before the licensee repossesses a vehicle; and*

15 *(g) Any other disclosures required under the Truth in Lending*  
16 *Act and Regulation Z or under any other applicable federal or*  
17 *state statute or regulation.*

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

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

27 *(a) Court costs;*

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

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

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

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

42 *(b) The customer resides in the county where the loan was*  
43 *made,*

44 *↳ the licensee is required to commence the civil action in the*  
45 *justice's court for the township where the loan was made unless,*



1 *after the date of default and before the licensee commences*  
2 *the civil action, the customer signs an affidavit agreeing to try the*  
3 *action in another justice's court having jurisdiction over the*  
4 *subject matter and the parties. A licensee shall not, directly or*  
5 *indirectly, require, intimidate, threaten or coerce a customer to*  
6 *sign such an affidavit.*

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

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

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

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

18 (a) *Garnish or threaten to garnish any wages or salary paid to*  
19 *a customer for active service in the military; or*

20 (b) *Contact or threaten to contact the military chain of*  
21 *command of a customer in an effort to collect the defaulted loan.*

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

25 **Sec. 33.5. 1.** *A licensee shall not:*

26 (a) *Make a deferred deposit loan that exceeds 25 percent of the*  
27 *expected gross monthly income of the customer when the loan is*  
28 *made; or*

29 (b) *Make a short-term loan which, under the terms of the loan*  
30 *agreement, requires any monthly payment that exceeds 25 percent*  
31 *of the expected gross monthly income of the customer.*

32 **2.** *A licensee is not in violation of the provisions of this*  
33 *section if the customer presents evidence of his gross monthly*  
34 *income to the licensee and represents to the licensee in writing*  
35 *that:*

36 (a) *For a deferred deposit loan, the loan does not exceed 25*  
37 *percent of his expected gross monthly income when the loan is*  
38 *made; or*

39 (b) *For a short-term loan, the monthly payment required*  
40 *under the terms of the loan agreement does not exceed 25 percent*  
41 *of his expected gross monthly income.*

42 **Sec. 34.** *A licensee shall not make more than one deferred*  
43 *deposit loan or short-term loan to the same customer at one time*  
44 *or before any outstanding balance is paid in full on an existing*  
45 *loan made by that licensee to the customer unless:*



1     1. The customer is seeking multiple loans that do not exceed  
2     the limits set forth in section 33.5 of this act;

3     2. The licensee charges the same or a lower annual  
4     percentage rate for any additional loans as he charged for the  
5     initial loan;

6     3. Except for that part of the finance charge which consists of  
7     interest only, the licensee does not impose any other charge or fee  
8     to initiate any additional loans, except that a licensee who makes  
9     deferred deposit loans or short-term loans in accordance with the  
10    provisions of subsection 2 of section 43 of this act may charge a  
11    reasonable fee for preparing documents in an amount that does  
12    not exceed \$50; and

13    4. If the additional loans are deferred deposit loans and the  
14    customer provides one or more additional checks that are not paid  
15    upon presentment, the licensee does not charge any fees to the  
16    customer pursuant to section 45 of this act, except for the fees  
17    allowed pursuant to that section for the first check that is not paid  
18    upon presentment.

19    **Sec. 35. A licensee shall not:**

20    1. Accept:

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

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

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

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

29    (e) A check or written authorization for an electronic transfer  
30    of money for any deferred deposit loan in an amount which  
31    exceeds the total of payments set forth in the disclosure statement  
32    required by the Truth in Lending Act and Regulation Z that is  
33    provided to the customer.

34    2. Take any note or promise to pay which does not disclose  
35    the date and amount of the loan, amount financed, annual  
36    percentage rate, finance charge, total of payments, payment  
37    schedule and a description and the amount of every fee charged,  
38    regardless of the name given to the fee and regardless of whether  
39    the fee is required to be included in the finance charge under the  
40    Truth in Lending Act and Regulation Z.

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



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

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

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

9     **Sec. 36.** *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. *Commence a civil action or any process of alternative*  
14 *dispute resolution or repossess a vehicle before the customer*  
15 *defaults under the original term of a loan agreement or before the*  
16 *customer defaults under any repayment plan, extension or grace*  
17 *period negotiated and agreed to by the licensee and customer,*  
18 *unless otherwise authorized pursuant to this chapter.*

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

22    4. *Include in any written agreement:*

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

24      (b) *A confession of judgment by the customer;*

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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



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

2       (a) *By the licensee or his employees, the licensee shall make*  
3 *reasonably available to the customer any personal property in or*  
4 *upon the vehicle; or*

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

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

12       (a) *The amount of the loan obligation, including, without*  
13 *limitation, the aggregate amount of the interest, charges and fees*  
14 *negotiated and agreed to by the licensee and customer as permitted*  
15 *under this chapter, less any prior payments made by the customer;*

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

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

19       5. *As used in this section, "fraud" means an intentional*  
20 *misrepresentation, deception or concealment of a material fact*  
21 *known to the customer with the intent to deprive the licensee of his*  
22 *rights or property or to otherwise injure the licensee. The term*  
23 *includes, without limitation, giving to a licensee as security for a*  
24 *title loan the title to a vehicle which does not belong to the*  
25 *customer.*

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

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

32       (b) *The original check, if any, which the licensee gave to the*  
33 *customer pursuant to the loan. Upon receipt of the original check,*  
34 *the licensee shall refund any fee charged to the customer to*  
35 *initiate the loan.*

36       2. *If a customer rescinds a loan pursuant to this section, the*  
37 *licensee:*

38       (a) *Shall not charge the customer any fee for rescinding the*  
39 *loan; and*

40       (b) *Upon receipt of the sum of money or check pursuant to*  
41 *subsection 1, shall give to the customer a receipt showing the*  
42 *account paid in full and:*

43       (1) *If the customer gave to the licensee a check or a written*  
44 *authorization for an electronic transfer of money to initiate a*



1 *deferred deposit loan, the check or written authorization stamped*  
2 *“void”;*

3 (2) *If the customer gave to the licensee a promissory note to*  
4 *initiate a short-term loan, a copy of the promissory note stamped*  
5 *“void” or the receipt stamped “paid in full”; or*

6 (3) *If the customer gave to the licensee a title to a vehicle to*  
7 *initiate the title loan, the title.*

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

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

15 (a) *Give to the customer:*

16 (1) *If the customer gave to the licensee a check or a written*  
17 *authorization for an electronic transfer of money to initiate a*  
18 *deferred deposit loan, the check or the written authorization*  
19 *stamped “void”;*

20 (2) *If the customer gave to the licensee a promissory note to*  
21 *initiate a short-term loan, the promissory note stamped “void” or a*  
22 *receipt stamped “paid in full”; or*

23 (3) *If the customer gave to the licensee a title to a vehicle to*  
24 *initiate a title loan, the title; and*

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

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

28 (2) *The identification number assigned to the loan*  
29 *agreement or other information that identifies the loan;*

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

31 (4) *The amount paid;*

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

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

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

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

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

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

43 (b) *The identification number assigned to the loan agreement*  
44 *or other information that identifies the loan;*

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





- (d) The amount paid;*
- (e) An itemization of interest, charges and fees;*
- (f) The balance due on the loan; and*
- (g) If more than one loan made by the licensee to the customer was outstanding at the time the payment was made, a statement indicating to which loan the payment was applied.*

**Sec. 42.** *1. Before a licensee attempts to collect the outstanding balance on a loan in default by commencing any civil action or process of alternative dispute resolution or by repossessing a vehicle, the licensee shall offer the customer an opportunity to enter into a repayment plan. The licensee:*

*(a) Is required to make the offer available to the customer for a period of at least 30 days after the date of default; and*

*(b) Is not required to make such an offer more than once for each loan.*

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

*(a) Be in English, if the initial transaction was conducted in English, or in Spanish, if the initial transaction was conducted in Spanish;*

*(b) State the date by which the customer must act to enter into a repayment plan;*

*(c) Explain the procedures the customer must follow to enter into a repayment plan;*

*(d) If the licensee requires the customer to make an initial payment to enter into a repayment plan, explain the requirement and state the amount of the initial payment and the date the initial payment must be made;*

*(e) State that the customer has the opportunity to enter into a repayment plan with a term of at least 90 days after the date of default; and*

*(f) Include the following amounts:*

*(1) The total of payments or the remaining balance on the original loan;*

*(2) Any payments made on the loan;*

*(3) Any charges added to the loan amount allowed pursuant to the provisions of this chapter; and*

*(4) The total amount due if the customer enters into a repayment plan.*

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

*(a) The customer must enter into the repayment plan not later than 30 days after the date of default, unless the licensee allows a longer period;*



1       (b) *The licensee must allow the period for repayment to extend*  
2 *at least 90 days after the date of default, unless the customer*  
3 *agrees to a shorter term;*

4       (c) *The licensee may require the customer to make an initial*  
5 *payment of not more than 20 percent of the total amount due*  
6 *under the terms of the repayment plan;*

7       (d) *For a deferred deposit loan:*

8           (1) *The licensee may require a customer to provide, as*  
9 *security, one or more checks or written authorizations for an*  
10 *electronic transfer of money which equal the total amount due*  
11 *under the terms of the repayment plan;*

12          (2) *The licensee shall, if the customer makes a payment in*  
13 *the amount of a check or written authorization taken as security*  
14 *for that payment, return to the customer the check or written*  
15 *authorization stamped "void" or destroy the check or written*  
16 *authorization; and*

17          (3) *The licensee shall not charge any fee to the customer*  
18 *pursuant to section 45 of this act for a check which is provided as*  
19 *security during the repayment plan and which is not paid upon*  
20 *presentment if, in connection with that loan, the licensee has*  
21 *previously charged at least one such fee.*

22       4. *If the licensee and customer enter into a repayment plan*  
23 *pursuant to this section, the licensee shall honor the terms of the*  
24 *repayment plan, and the licensee shall not:*

25       (a) *Except as otherwise provided by this chapter, charge any*  
26 *other amount to a customer, including, without limitation, any*  
27 *amount or charge payable directly or indirectly by the customer*  
28 *and imposed directly or indirectly by the licensee as an incident to*  
29 *or as a condition of entering into a repayment plan. Such an*  
30 *amount includes, without limitation:*

31           (1) *Any interest, regardless of the name given to the*  
32 *interest, other than the interest charged pursuant to the original*  
33 *loan agreement at a rate which does not exceed the annual*  
34 *percentage rate charged during the term of the original loan*  
35 *agreement; or*

36           (2) *Any origination fees, set-up fees, collection fees,*  
37 *transaction fees, negotiation fees, handling fees, processing fees,*  
38 *late fees, default fees or any other fees, regardless of the name*  
39 *given to the fee;*

40       (b) *Except as otherwise provided in this section, accept any*  
41 *additional security or collateral from the customer to enter into the*  
42 *repayment plan;*

43       (c) *Sell to the customer any insurance or require the customer*  
44 *to purchase insurance or any other goods or services to enter into*  
45 *the repayment plan;*



1       (d) Make any other loan to the customer, unless the customer  
2       is seeking multiple loans that do not exceed the limit set forth in  
3       section 33.5 of this act;

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

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

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

12      (a) Prepare a written agreement establishing the repayment  
13      plan; and

14      (b) Give the customer a copy of the written agreement. The  
15      written agreement must:

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

17          (2) Contain all of the terms of the repayment plan,  
18          including, without limitation, the total amount due under the  
19          terms of the repayment plan.

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

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

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

26          (c) The date of the payment;

27          (d) The amount paid;

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

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

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

38      **Sec. 43.** 1. Except as otherwise provided in subsection 2, if  
39      a customer agrees to establish or extend the period for the  
40      repayment, renewal, refinancing or consolidation of an  
41      outstanding loan by using the proceeds of a new deferred deposit  
42      loan or short-term loan to pay the balance of the outstanding loan,  
43      the licensee shall not establish or extend such a period beyond 60  
44      days after the expiration of the initial loan period.



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

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

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

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

(3) *Requires the loan to be paid in full in not less than 150 days; and*

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

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

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

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

(e) *Participates in good faith with a counseling agency that is:*

(1) *Accredited by the Council on Accreditation for Services for Families and Children, Inc., or its successor organization; and*

(2) *A member of the National Foundation for Credit Counseling, or its successor organization; and*

(f) *Does not commence any civil action or process of alternative dispute resolution on a defaulted loan or any extension or repayment plan thereof.*

**Sec. 44. 1.** *Except as otherwise provided in section 36.5 of this act, if a customer defaults on a loan or on any extension or repayment plan relating to the loan, whichever is later, the licensee may collect only the following amounts from the customer, less all payments made before and after default:*

(a) *The principal amount of the loan.*

(b) *The interest accrued before the expiration of the initial loan period at the annual percentage rate set forth in the disclosure statement required by the Truth in Lending Act and Regulation Z that is provided to the customer. If there is an extension relating to the loan, the licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 60 days after the expiration of the initial loan period, unless otherwise allowed by section 43 of this act.*

(c) *The interest accrued after the expiration of the initial loan period or after any extension or repayment plan that is allowed*



pursuant to this chapter, whichever is later, at an annual percentage rate not to exceed the prime rate at the largest bank in Nevada, as ascertained by the Commissioner, on January 1 or July 1, as the case may be, immediately preceding the expiration of the initial loan period, plus 10 percent. The licensee may charge and collect interest pursuant to this paragraph for a period not to exceed 90 days. After that period, the licensee shall not charge or collect any interest on the loan.

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

2. Except for the interest and fees permitted pursuant to subsection 1 and any other charges expressly permitted pursuant to sections 34, 36.5 and 42 of this act, the licensee shall not charge any other amount to a customer, including, without limitation, any amount or charge payable directly or indirectly by the customer and imposed directly or indirectly by the licensee as an incident to or as a condition of the extension of the period for the payment of the loan or the extension of credit. Such an amount includes, without limitation:

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

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

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

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

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

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

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

1. The name and address of the licensee;

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

3. The date of the payment;



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

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

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

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

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

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

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

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

35     (a)   *If the applicant is a natural person, the name and address*  
36   *of the applicant.*

37     (b)   *If the applicant is a business entity, the name and address*  
38   *of each:*

39       (1)   *Partner;*

40       (2)   *Officer;*

41       (3)   *Director;*

42       (4)   *Manager or member who acts in a managerial capacity;*

43    and

44       (5)   *Registered agent,*

45    ↪ *of the business entity.*



1       (c) *Such other information, as the Commissioner determines*  
2 *necessary, concerning the financial responsibility, background,*  
3 *experience and activities of the applicant and its:*

4       (1) *Partners;*

5       (2) *Officers;*

6       (3) *Directors; and*

7       (4) *Managers or members who act in a managerial*  
8 *capacity.*

9       (d) *The address of each location at which the applicant*  
10 *proposes to do business under the license, including, without*  
11 *limitation, each location where the applicant will operate at a*  
12 *kiosk, through the Internet, through any telephone, facsimile*  
13 *machine or other telecommunication device or through any other*  
14 *machine, network, system, device or means, except that the*  
15 *applicant shall not propose to do business through any automated*  
16 *loan machine prohibited by section 29 of this act.*

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

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

22       (a) *A nonrefundable application fee;*

23       (b) *Such additional expenses incurred in the process of*  
24 *investigation as the Commissioner deems necessary; and*

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

27       ↪ *All money received by the Commissioner pursuant to this*  
28 *subsection must be placed in the Investigative Account for*  
29 *Financial Institutions created by NRS 232.545.*

30       3. *The Commissioner shall adopt regulations establishing the*  
31 *amount of the fees required pursuant to this section.*

32       4. *The Commissioner shall consider an application to be*  
33 *withdrawn if the Commissioner has not received all information*  
34 *and fees required to complete the application within 6 months*  
35 *after the date the application is first submitted to the*  
36 *Commissioner or within such later period as the Commissioner*  
37 *determines in accordance with any existing policies of joint*  
38 *regulatory partners. If an application is deemed to be withdrawn*  
39 *pursuant to this subsection or if an applicant otherwise withdraws*  
40 *an application, the Commissioner may not issue a license to the*  
41 *applicant unless the applicant submits a new application and pays*  
42 *any required fees.*

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

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

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

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

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

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

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

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

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

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

42 7. *A licensee or his surety shall not cancel or alter a bond*  
43 *except after notice to the Commissioner by certified mail. The*  
44 *cancellation or alteration is not effective until 10 days after*  
45 *receipt of the notice by the Commissioner. A cancellation or*



1 *alteration does not affect any liability incurred or accrued on the*  
2 *bond before the expiration of the 30-day period designated in*  
3 *subsection 6.*

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

10 (a) *Interest-bearing stocks;*

11 (b) *Bills, bonds, notes, debentures or other obligations of the*  
12 *United States or any agency or instrumentality thereof, or*  
13 *guaranteed by the United States; or*

14 (c) *Any obligation of this State or any city, county, town,*  
15 *township, school district or other instrumentality of this State or*  
16 *guaranteed by this State,*

17 *↪ in an aggregate amount of, based upon principal amount or*  
18 *market value, whichever is lower, of not less than the amount of*  
19 *the required surety bond or portion thereof.*

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

24 **Sec. 51.** 1. *A person may apply for a license for an office or*  
25 *other place of business located outside this State from which the*  
26 *applicant will conduct business in this State if the applicant or a*  
27 *subsidiary or affiliate of the applicant has a license issued*  
28 *pursuant to this chapter for an office or other place of business*  
29 *located in this State and if the applicant submits with the*  
30 *application for a license a statement signed by the applicant which*  
31 *states that the applicant agrees to:*

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

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

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

43 2. *This section applies, without limitation, to any office or*  
44 *other place of business located outside this State from which the*  
45 *applicant will conduct business in this State at a kiosk, through*



1 *the Internet, through any telephone, facsimile machine or other*  
2 *telecommunication device or through any other machine, network,*  
3 *system, device or means, except that the applicant shall not*  
4 *conduct business in this State through any automated loan*  
5 *machine prohibited by section 29 of this act.*

6 **Sec. 52.** 1. *Upon the filing of the application and the*  
7 *payment of the fees required pursuant to section 48 of this act,*  
8 *the Commissioner shall investigate the facts concerning the*  
9 *application and the requirements provided for in sections 53.5 and*  
10 *54 of this act.*

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

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

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

25 1. *Enter an order denying the application and notify the*  
26 *applicant of the denial.*

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

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

33 (a) *Has a good reputation for honesty, trustworthiness and*  
34 *integrity and is competent to transact the business for which the*  
35 *applicant seeks to be licensed in a manner which protects the*  
36 *interests of the general public.*

37 (b) *Has not made a false statement of material fact on the*  
38 *application for the license.*

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

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

43 (e) *Has not been convicted of, or entered a plea of nolo*  
44 *contendere to, a felony or any crime involving fraud,*  
45 *misrepresentation or moral turpitude.*



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. *Each license must:*



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

3       (b) *State fully:*

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

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

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

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

10      **Sec. 55.** 1. *A license issued pursuant to the provisions of*  
11 *this chapter expires annually on the anniversary of the issuance of*  
12 *the license. A licensee must renew his license on or before the date*  
13 *on which the license expires by paying:*

14       (a) *A renewal fee; and*

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

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

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

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

24      **Sec. 56.** 1. *A licensee shall immediately notify the*  
25 *Commissioner of any change of control of the licensee.*

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

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

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

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

41      **Sec. 57.** 1. *A licensee shall not conduct the business of*  
42 *making loans under any name, at any place or by any method,*  
43 *including, without limitation, at a kiosk, through the Internet,*  
44 *through any telephone, facsimile machine or other*  
45 *telecommunication device or through any other machine, network,*



1 *system, device or means, except as permitted in the license or*  
2 *branch license issued to the licensee.*

3 2. *A licensee must obtain the approval of the Commissioner*  
4 *before using or changing a business name.*

5 3. *A licensee shall not:*

6 (a) *Use any business name which is identical or similar to a*  
7 *business name used by another licensee under this chapter or*  
8 *which may mislead or confuse the public.*

9 (b) *Use any printed forms which may mislead or confuse the*  
10 *public.*

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

17 2. *A licensee may conduct the business of making loans in*  
18 *the same office or place of business as:*

19 (a) *A mortgage broker if:*

20 (I) *The licensee and the mortgage broker:*

21 (I) *Maintain separate accounts, books and records;*

22 (II) *Are subsidiaries of the same parent corporation;*

23 *and*

24 (III) *Maintain separate licenses; and*

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

29 (b) *A mortgage banker if:*

30 (I) *The licensee and the mortgage banker:*

31 (I) *Maintain separate accounts, books and records;*

32 (II) *Are subsidiaries of the same parent corporation;*

33 *and*

34 (III) *Maintain separate licenses; and*

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

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



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

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

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

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

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

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

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

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

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

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

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

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





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

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

6     *(b) Receive, directly or indirectly, any payment from any*  
7 *licensee;*

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

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

11     *(e) Obtain credit or services from a licensee conditioned upon*  
12 *a fraudulent practice or undue or unfair preference over other*  
13 *customers.*

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

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

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

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

31     *(a) Any licensee;*

32     *(b) Any other person engaged in the business of making loans*  
33 *or participating in such business as principal, agent, broker or*  
34 *otherwise; and*

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

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

43     **3.** *For the purposes of this section, any person who advertises*  
44 *for, solicits or holds himself out as willing to make any deferred*



1 *deposit loan, short-term loan or title loan is presumed to be*  
2 *engaged in the business of making loans.*

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

5 *(a) Any check-cashing service or loan service regulated*  
6 *pursuant to the provisions of this chapter; or*

7 *(b) The subject matter of any audit, examination, investigation*  
8 *or hearing.*

9 2. *The Commissioner may require the production of books,*  
10 *accounts, papers and records for any audit, examination,*  
11 *investigation or hearing.*

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

18 2. *If, after auditing one or more branch locations of the*  
19 *licensee, the Commissioner or his authorized representatives*  
20 *conclude that the loans, disclosures, loan practices, computer*  
21 *processes, filing systems and records are identical at each branch*  
22 *location, the Commissioner may make an examination of only*  
23 *those branch locations he deems necessary.*

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

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

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

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

43 **Sec. 66.** *If the Commissioner finds that probable cause for*  
44 *revocation of any license exists and that enforcement of the*  
45 *provisions of this chapter requires immediate suspension of a*



1 *license pending investigation, he may, upon 5 days' written notice*  
2 *and a hearing, enter an order suspending a license for a period*  
3 *not exceeding 20 days, pending a hearing upon the revocation.*

4 **Sec. 67. 1.** *Whenever the Commissioner has reasonable*  
5 *cause to believe that any person is violating or is threatening to or*  
6 *intends to violate any provision of this chapter, he may, in addition*  
7 *to all actions provided for in this chapter and without prejudice*  
8 *thereto, enter an order requiring the person to desist or to refrain*  
9 *from such violation.*

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

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

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

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

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

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

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

44 **3.** *The grounds for revocation or suspension of a license are*  
45 *that:*



- (a) *The licensee has failed to pay the annual license fee;*
- (b) *The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;*
- (c) *The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;*
- (d) *Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or*

(e) *The licensee:*

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

35 **Sec. 74.** *1. Subject to the affirmative defense set forth in*  
36 *subsection 3, in addition to any other remedy or penalty, if a*  
37 *person violates any provision of section 29, 31 to 47, inclusive, 49,*  
38 *50, 57 or 58 of this act or any regulation adopted pursuant thereto,*  
39 *the customer may bring a civil action against the person for any or*  
40 *all of the following relief:*

41 *(a) Actual and consequential damages;*

42 *(b) Punitive damages, which are subject to the provisions of*  
43 *NRS 42.005;*

44 *(c) Reasonable attorney's fees and costs; and*



1     (d) *Any other legal or equitable relief that the court deems*  
2 *appropriate.*

3     2. *Subject to the affirmative defense set forth in subsection 3,*  
4 *in addition to any other remedy or penalty, the customer may*  
5 *bring a civil action against a person pursuant to subsection 1 to*  
6 *recover an additional amount, as statutory damages, which is*  
7 *equal to \$1,000 for each violation if the person knowingly:*

8     (a) *Operates a check-cashing service, deferred deposit loan*  
9 *service, short-term loan service or title loan service without a*  
10 *license, in violation of section 29 of this act;*

11     (b) *Fails to include in a loan agreement a disclosure of the*  
12 *right of the customer to rescind the loan, in violation of section 31*  
13 *of this act;*

14     (c) *Violates any provision of section 33 of this act;*

15     (d) *Accepts collateral or security for a deferred deposit loan, in*  
16 *violation of section 35 of this act, except that a check or written*  
17 *authorization for an electronic transfer of money shall not be*  
18 *deemed to be collateral or security for a deferred deposit loan;*

19     (e) *Uses or threatens to use the criminal process in this State*  
20 *or any other state to collect on a loan made to the customer, in*  
21 *violation of section 36 of this act;*

22     (f) *Includes in any written agreement a promise by the*  
23 *customer to hold the person harmless, a confession of judgment by*  
24 *the customer or an assignment or order for the payment of wages*  
25 *or other compensation due the customer, in violation of section 36*  
26 *of this act;*

27     (g) *Violates any provision of section 44 of this act; or*

28     (h) *Violates any provision of section 45 of this act.*

29     3. *A person may not be held liable in any civil action brought*  
30 *pursuant to this section if the person proves, by a preponderance*  
31 *of evidence, that the violation:*

32     (a) *Was not intentional;*

33     (b) *Was technical in nature; and*

34     (c) *Resulted from a bona fide error, notwithstanding the*  
35 *maintenance of procedures reasonably adapted to avoid any such*  
36 *error.*

37     4. *For the purposes of subsection 3, a bona fide error*  
38 *includes, without limitation, clerical errors, calculation errors,*  
39 *computer malfunction and programming errors and printing*  
40 *errors, except that an error of legal judgment with respect to the*  
41 *person's obligations under this chapter is not a bona fide error.*

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

43     598D.130 A mortgage, deed of trust or other instrument that  
44 encumbers home property as security for repayment of a home loan  
45 must expressly indicate in writing in *a size equal to at least 14-point*



1 *bold type on the front page of* the mortgage, deed of trust or other  
2 instrument that the home loan is a home loan as defined in NRS  
3 598D.040 ~~[.]~~ *and is subject to the provisions of § 152 of the Home*  
4 *Ownership and Equity Protection Act of 1994, 15 U.S.C. §*  
5 *1602(aa), and the regulations adopted by the Board of Governors*  
6 *of the Federal Reserve System pursuant thereto, including,*  
7 *without limitation, 12 C.F.R. § 226.32.*

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

9 41.620 1. ~~[Any]~~ *Except as otherwise provided in section 45*  
10 *of this act, any* person who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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





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

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

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

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

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

(b) Any person primarily engaged in:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

(17) Investing; or

(18) Any combination of the activities described in this paragraph,

↳ who is doing business in this State;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

675.040 This chapter does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

675.060 1. No person may engage in the business of lending in this State without first having obtained a license from the Commissioner *pursuant to this chapter* for each office or other place of business at which the person engages in such business **§**,



1 *except that if a person intends to engage in the business of lending*  
2 *in this State as a deferred deposit loan service, short-term loan*  
3 *service or title loan service, as those terms are defined in sections*  
4 *2 to 74, inclusive, of this act, the person must obtain a license from*  
5 *the Commissioner pursuant to sections 2 to 74, inclusive, of this*  
6 *act before the person may engage in any such business.*

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

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

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

15 **Sec. 82.** NRS 604.010, 604.020, 604.030, 604.040, 604.050,  
16 604.060, 604.070, 604.080, 604.090, 604.100, 604.110, 604.120,  
17 604.130, 604.140, 604.150, 604.160, 604.162, 604.164, 604.166,  
18 604.170, 604.180 and 604.190 are hereby repealed.

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

20 (a) On July 1, 2005, holds a valid certificate of registration or  
21 license that was issued by the Commissioner of Financial  
22 Institutions pursuant to chapter 604 or 675 of NRS before July 1,  
23 2005; and

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

28 ➔ the person's certificate of registration or license shall be deemed  
29 to be a license issued by the Commissioner of Financial Institutions  
30 pursuant to the provisions of sections 2 to 74, inclusive, of this act  
31 until the date on which the person would have been required to  
32 renew his certificate of registration or license pursuant to chapter  
33 604 or 675 of NRS.

34 2. Except as otherwise provided in subsections 3 and 4, a  
35 person described in subsection 1 shall:

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

41 (b) On and after October 1, 2005, comply with all other  
42 provisions of sections 2 to 74, inclusive, of this act, except that the  
43 person does not have to renew his certificate of registration or  
44 license until the date on which the person would have been required



1 to renew his certificate of registration or license pursuant to chapter  
2 604 or 675 of NRS.

3 3. A person described in subsection 1 is not required to comply  
4 with the following provisions of sections 2 to 74, inclusive, of this  
5 act sooner than October 1, 2005, or the date of any extension  
6 granted by the Commissioner of Financial Institutions pursuant to  
7 subsection 4:

8 (a) Any provision requiring the use of the Spanish language; and

9 (b) Any provision requiring changes to or replacement of  
10 existing computer software or major modifications to existing  
11 business processes, as determined by the Commissioner.

12 4. If the person is unable to comply with any provision  
13 described in paragraph (a) or (b) of subsection 3 by October 1, 2005,  
14 the person may request an extension from the Commissioner. The  
15 Commissioner may grant such an extension, to a date not later than  
16 January 1, 2006, if the person establishes that compliance by  
17 October 1, 2005:

18 (a) Is not economically feasible;

19 (b) Is prevented by factors beyond the control of the person; or

20 (c) Is prevented by any other factors that the Commissioner  
21 deems to be an appropriate justification for an extension.

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

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## LEADLINES OF REPEALED SECTIONS

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**604.010 Definitions.**

**604.020 “Cashing” defined.**

**604.030 “Check” defined.**

**604.040 “Check-cashing service” defined.**

**604.050 “Commissioner” defined.**

**604.060 “Deferred deposit” defined.**

**604.070 “Deferred deposit service” defined.**

**604.080 “Licensee” defined.**

**604.090 Registration required; applicability of chapter.**

**604.100 Application for registration: Contents; fee.**

**604.110 Surety bond.**

**604.120 Deposit of securities in lieu of 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.





